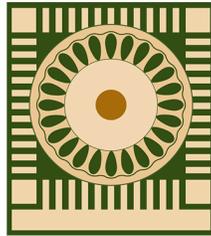


CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
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CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, October 13, 2015

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 Lamin
Council Member Elisa Márquez

SPECIAL CITY COUNCIL MEETING**Council Chambers – 7:00 PM****CALL TO ORDER Pledge of Allegiance: Council Member Lamnin****ROLL CALL****CLOSED SESSION ANNOUNCEMENT****PRESENTATION**

Certificate of Commendation Presented to The Life West Gladiators

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. [MIN 15-015](#) Approval of Minutes of the City Council Meeting on September 15, 2015

Attachments: [Attachment I Draft Minutes](#)

2. [MIN 15-016](#) Approval of Minutes of the Special Joint City Council/Redevelopment Successor Agency Meeting on September 22, 2015

Attachments: [Attachment I Draft Minutes](#)

3. [CONS 15-223](#) Adoption of a Resolution Approving a Side Letter Agreement between the City of Hayward and the Hayward Fire Officers Association 1909 (“HFOA”) to revise Current Contributions to the Voluntary Employee Beneficiary Association (VEBA) Plan
- Attachments:** [Attachment I Resolution Approving A Side Letter Agreement with HFOA](#)
4. [CONS 15-225](#) Adoption of Ordinance Amending Hayward Municipal Code Chapter 10, Article 1, Zoning Ordinance, Related to Recycling Facilities for Redemption or Donation of Reusable Materials to Include Regulations for Unattended Collection Boxes
- Attachments:** [Attachment I Summary of Ordinance Published on 10/10/15](#)
[Attachment II Revised Ordinance](#)
5. [CONS 15-226](#) Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.3510 et seq., Zoning Ordinance Uses and Activities Defined, Related to Unattended Collection Boxes
- Attachments:** [Attachment I Summary of Ordinance Published on 10/10/15](#)
6. [CONS 15-227](#) Adoption of Ordinance Amending Hayward Municipal Code Section 5-7.20 et seq., Public Nuisances, to Reference New Zoning Regulations Related to Unattended Collection Boxes
- Attachments:** [Attachment I Summary of Ordinance Published on 10/10/15](#)
7. [CONS 15-228](#) Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement with Godbe Research for the 2016 Community Input and Feedback Survey
- Attachments:** [Attachment I Resolution](#)
[Attachment II Scope of Services](#)
8. [CONS 15-247](#) Firehouse Clinic Memorandum of Understanding
- Attachments:** [Attachment I Resolution](#)
[Attachment II Firehouse Clinic MOU](#)
[Attachment II-a Capital Award Agreement](#)

9. [CONS 15-251](#) Recycled Water Project: Adoption of Reimbursement Resolution and Pledged Revenues and Funds Resolution for the State Revolving Fund Loan Application

Attachments: [Attachment I Reimbursement Resolution](#)
[Attachment II Pledged Revenues and Funds Resolution](#)

PUBLIC HEARING

10. [PH 15-082](#) Approval of Temporary Appointment of Administrative Secretary (Report from Director of Human Resources Collins and Chief of Police Urban)

Attachments: [Attachment I Temporary Appointment of Administrative Secretary](#)
[Attachment II Employment Offer Letter](#)

11. [PH 15-085](#) State Model Water Efficient Landscape Ordinance Revisions: Introduction of an Ordinance repealing Article 12 of Chapter 10 of the Hayward Municipal Code (HMC), known as the Bay-Friendly Water Efficient Landscape Ordinance, adding a new Article 12 to Chapter 10 relating to landscape requirements for new and rehabilitated development projects, and amending Section 11-2.46 of the HMC relating to the Hayward Municipal Water System (Report from Director of Utilities & Environmental Services Ameri and Director of Development Services Rizk)

Attachments: [Attachment I Table 1 Applicability Thresholds](#)
[Attachment II Proposed Bay Friendly Landscape Ordinance](#)
[Attachment III Proposed Hayward Municipal Water System Ordinance](#)
[Attachment IV Landscape Design Comparison](#)

12. [PH 15-089](#) Approval of Temporary Appointment of Solid Waste Manager (Report from Director of Human Resources Collins and Director of Utilities & Environmental Services Ameri)

Attachments: [Attachment I Resolution](#)
[Attachment II Employment Offer Letter](#)

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, OCTOBER 27, 2015, 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
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Staff Report

File #: MIN 15-015

Attached is a copy of the Draft Minutes of the City Council Meeting on September 15, 2015.



**MINUTES OF THE CITY COUNCIL MEETING OF THE
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City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 15, 2015, 7:00 p.m.**

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Halliday.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR Halliday
Absent: None

There was a moment of silence in memory of Sergeant Scott Paul Lunger.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

City Clerk Lens noted the LiveManager System had been tested in the morning and it was ready for the City Council meeting.

City Attorney advised the City Council of a media inquiry regarding a lawsuit filed by the ACLU against the City regarding a Public Records Act request.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council convened in closed session regarding four items: 1) conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups; 2) conference with legal counsel pursuant to Government Code 54956.9 regarding two anticipated cases; 3) conference with legal counsel pursuant to Government Code 54956.9 regarding pending litigations: a) Huynh v. City of Hayward, et al., Alameda County Superior Court No. RG10510409; b) City of Hayward, et. al. v. Board of Trustees of California State University, et. al., Alameda County Superior Court case numbers RG09480852 and RG09481095; 4) conference with property negotiators pursuant to Government Code 54956 regarding 22280 City Center Dr, Hayward, CA 94541, APN 415-0250-015-07 and 22320 City Center Dr, Hayward, CA 94541, APN 415-0250-018-11. City Attorney Lawson noted there was no reportable action.

PRESENTATION

Mayor Halliday read a Certificate of Commendation presented to Mr. Rich LaPlante in honor of his dedication and commitment to the Keep Hayward Clean and Green Task Force.

PUBLIC COMMENTS

Mr. Joe Dolley, Hayward resident, suggested that the Twin Bridges Park be renamed in honor of Sergeant Lunger.

Mr. Frank Goulart, Hayward resident, announced the Summer History Walks: Railroad of Hayward and a historic Open House and Ribbon Cutting hosted by the Hayward Odd Fellows on September 26, 2015.

Ms. Wynn Grcich, Hayward resident, spoke about water recycling and Assembly Bill 277-school mandated vaccination.

Ms. Gail Lundholm, Hayward resident, announced a forum on the proposed changes to Proposition 13 hosted by League of Women Voters of the Eden Area on September 25, 2015.

Mr. Charlie Peters, with Clean Air Performance Professionals in Hayward, provided documents related to ethanol in gasoline and global warming.

Ms. Renee Rettig, invited all to the Open House and Ribbon Cutting hosted by the Hayward Odd Fellows on September 26, 2015.

Council Member Mendall noted that due to a back surgery he had in the past, he needed to stand during the meetings.

Mr. SJ Samiul, aka Citizen Sam, Hayward resident, suggested converting the Centennial Tower into condominium units, and also recommended naming the new library in memory of Sergeant Lunger.

Ms. Patra Rae Nesseth-Steffes, Hayward resident, announced an art show at the Sun Gallery on September 26, 2015.

Mr. Jim Drake, Hayward resident, expressed concern about a taqueria, located between Harder and Franklin Avenue, and its liquor license.

BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCE

1. Appointments and Reappointments to Council's Appointed Bodies

Staff report submitted by City Clerk Lens, dated September 15, 2015, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Márquez, and carried unanimously, to adopt the following:



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Resolution 15-164, "Resolution Confirming the Appointment and Reappointment of Members of Various Boards, Commissions, Committees and Task Forces"

City Clerk Lens administered the oath of office to the newly appointed and reappointed members of the Council's appointed bodies.

CONSENT

Consent Item No. 11 was removed to allow for discussion and for separate vote.

Council Member Márquez disclosed she would be participating on Consent Items No. 11 and No. 13 because she did not have a conflict of interest.

2. Approval of Minutes of the Special Joint City Council/Hayward Public Financing Authority/Hayward Housing Authority Meeting on July 21, 2015

It was moved by Council/HPFA/HHA Member Peixoto, seconded by Council/HPFA/HHA Member Mendall, and carried unanimously, to approve the minutes of the Special Joint City Council/Hayward Public Financing Authority/Hayward Housing Authority Meeting on July 21, 2015.

3. Approval of Minutes of the Special City Council Meeting on July 28, 2015

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to approve the minutes of the Special City Council Meeting on July 28, 2015.

4. Request for Water Service for a Property at 3996 Star Ridge Road in Unincorporated Alameda County, requiring Adoption of a Resolution Authorizing the City Manager to File an application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements; Utility Service Agreement Application No. USA 15-01; Majdi El-Khatib (Owner)

Staff report submitted by Development Review Engineer Rei, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-165, "Resolution Authorizing the City Manager to Apply to the Alameda County Local Agency Formation Commission for Approval to Allow the City to Provide Water Service to the Property Fronting Star Ridge Road, Bearing

Assessor's Parcel Number 425-0050-013-03, and Further Authorizing the City Manager to Execute Utility Service (USA 15-01) and Public Street Improvements Agreements"

5. Request for Water Service for a Property at 26526 Fairview Avenue in Unincorporated Alameda County, requiring Adoption of a Resolution Authorizing the City Manager to File an Application with the Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement and to Execute Utility Service and Public Street Improvement Agreements; Utility Service Agreement Application No. USA 15-02; Charanjit Kahlon (Owner)

Staff report submitted by Development Review Engineer Rei, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-166, "Resolution Authorizing the City Manager to Apply to the Alameda County Local Agency Formation Commission for Approval to Allow the City to Provide Water Service to the Property Fronting Fairview Avenue, Bearing Assessor's Parcel Number 085A-6100-012, and Further Authorizing the City Manager to Execute Utility Service (USA 15-02) and Public Street Improvements Agreements"

6. Sanitary Sewer System Repair at Various Locations: Approval of Addendum and Award of Contract

Staff report submitted by Senior Utilities Engineer Louie, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-167, "Resolution Awarding Contract to JMB Construction, Inc., for the 2015 Sanitary Sewer System Repair at Various Locations Project, Project Nos. 07551, 07562 & 07667"

Resolution 15-168, "Resolution Amending Resolution 15-116, As Amended, the Budget Resolution for Capital Improvements Projects for Fiscal Year 2016, Relating to Appropriation of Funds from the Sewer Replacement Fund (611) to the Sanitary Sewer System Repair at Various Locations Project, Project No. 07667"

7. Hayward Executive Airport - Southside New Access Road: Award of Construction Contract



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Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-169, "Resolution Increasing the Administrative Change Order Amount for the Hayward Executive Airport – Southside New Access Road Project, Project No. 06822, and Awarding the Construction Contract to Teichert Construction"

8. Adoption of a Resolution to Accept a Housing Related Parks Program Funding Allocation

Staff report submitted by Housing Development Specialist Cortez, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-170, "Resolution Authorizing Acceptance of a Housing-Related Parks Program Funding Allocation and the Execution of Related Documentation"

9. BART Hayward Maintenance Complex (HMC) Water Main Looping Project: Award of Contract

Staff report submitted by Senior Utilities Engineer Louie, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-171, "Resolution Awarding Contract to Proven Management, Inc., for Installing a Water Main Loop to Supply BART Hayward Maintenance Complex, City Project No. 07180"

10. New Garin Reservoir and Pump Station Improvements: Authorization for the City Manager to Execute a Professional Services Agreement

Staff report submitted by Senior Utilities Engineer Louie, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-172, "Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Kleinfelder, Inc. for the Design of New Garin Reservoir and Pump Station Improvements, Project No. 07183"

11. 21st Century Library and Community Learning Center and Heritage Plaza Arboretum - Approval of Addenda and Award of Construction Contract

Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

The following speakers spoke in favor of the approval of award of construction contract for the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum as proposed by City staff. It was noted that there was a robust outreach and discussion prior to the passage of Measure C, the current library building was deteriorating, and any interruption would compromise the project.

Mr. Bill Quirk, Twentieth District Assembly Member
Ms. Lisa Brunner, Hayward resident and former Library Commissioner
Mr. Kim Huggett, President of the Hayward Chamber of Commerce
Ms. Kelly Greene, Hayward resident and former Library Commissioner
Ms. Judith Harrison, Hayward resident, submitted a petition for the record
Ms. Kary McAllister, Library Commissioner
Ms. Helen Carr, Hayward resident and Treasurer for the Friends of the Hayward Library
Mr. Rick Imsdahl, Hayward resident
Ms. Linda Bennett, Hayward resident and former Library Commissioner
Ms. Freya Robinson
Mr. John Berggren, Hayward resident
Mr. O Bray Van Buren, representing the Building & Construction Trades Council
Ms. Shelby Bergeron, Library Commissioner
Ms. Tedi Valdez, Hayward resident and teacher
Ms. Mimi Bauer, Hayward resident

The following speakers spoke in opposition to the demolition of the existing main library for the following reasons: further study and consideration was needed for other uses such as a meeting place, art facility, art studio, or community center; the bathroom issue for the plaza had not been resolved; and the library was a historic building. Speakers urged the Council to separate the demolition of the existing main library from the construction of the new library.



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Ms. Gail Steel, Hayward resident and former Alameda County Supervisor
Mr. Frank Goulart, Hayward business owner
Mr. Michael Wallace, President of the Hayward Arts Council
Ms. Gail Lundholm, Hayward resident and Alameda County Arts Commissioner
Ms. Dorsi Diaz, Executive Director of the Sun Gallery and Alameda County Arts Commissioner
Ms. Winda Shimizu, President of ART Inc., and Office Manager of the Hayward Arts Council
Mr. Didacus Ramos, Hayward resident
Ms. Lucero Wallace, Director of University of Scheduling at CSU East Bay and member of the Hayward Arts Council
Mr. Bruce Roberts, Hayward resident
Ms. Marci Timbermen, Hayward resident
Mr. Carl Gorringer, Hayward resident
Mr. Ray Baker, Hayward business owner
Ms. Heather Reyes, Hayward resident
Ms. Patra Rae Nesseth-Steffes, Hayward resident

Mr. SJ Samiul aka citizen Sam, Hayward resident, suggested naming the new library Sergeant Lunger Memorial Library.

Discussion ensued among Council Members and City staff regarding separating the construction of the new library and the demolition of the existing library; the ongoing facility maintenance, repair, and utilities cost of the existing library; the California Environmental Quality Act (CEQA) study; rainwater for re-use; and an alternative venue for arts and cultural center. Staff strongly discouraged separating the demolition of the existing building because such action would add to the cost of the overall project and would delay the construction of the new library.

Council Member Mendall offered a motion per staff recommendation noting the proposed project had included a robust public process and delaying the project would cost money and time.

Council Member Peixoto seconded the motion noting the electorate had voted for the proposed project and delaying the construction of the new library would be fiscally imprudent.

Council Member Lamnin offered a friendly amendment to move forward with the proposed project with the understanding that there would be a discussion with the contract awardee, T. B. Penick & Sons, Inc., about reducing the project cost to the amount that was approved by the Measure C ballot language.

Discussion ensued regarding the proposed friendly amendment, the construction contingency, and solar panels.

Council Member Mendall did not accept the friendly amendment.

Council Member Zermeño expressed he had initially favored separating the contract for the demolition of the existing library, but after learning that the separation would constitute delaying the construction, he was no longer in support of separating the contract. Mr. Zermeño added that the project still did not include a bathroom for the plaza.

Council Member Jones supported the motion and noted the plaza was fundamental to the downtown and favored returning it back to its historical resource. Mr. Jones encouraged the public to continue to be engaged on items of interest to the community.

Council Member Márquez supported the motion with excitement because of the new opportunities that the new library would create for the community, and added that there would be opportunity for discussion regarding the bathrooms for the plaza.

Mayor Halliday noted that while she was an early proponent of retaining the existing library, she did not support delaying the project because it would not be cost effective. Ms. Halliday was excited about the new library and returning the plaza to its historical purpose and noted that discussion about bathrooms for the plaza was going to continue.

Council Members generally appreciated the public participation and concurred there was a robust public outreach throughout the discussion of the project; recognized the community needed a performing arts facility and all needed to work in partnership.

It was moved by Council Member Mendall, seconded by Council Member Peixoto, and carried with Council Member Lamnin voting no, to adopt the following:

Resolution 15-175, “Resolution Approving Addenda No. 1-5 for the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum Project, Project No. 06992, Rejecting the Bid Protest of Alten Construction, Inc, and Awarding the Contract to T.B. Penick & Sons, Inc.”

Resolution 15-176, “Resolution Amending Resolution 15-116, As Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2016, Relating to an Appropriation of Funds from the Measure C Capital Fund (Fund 406) to the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum Project, Project No. 06988”

12. Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 - Districts 1 and 8: Approval of Plans and Specifications and Call for Bids



**MINUTES OF THE CITY COUNCIL MEETING OF THE
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Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-173, "Resolution Approving Plans and Specifications for Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 – Districts 1 and 8, Project, Project Nos. 05267 and 05121, and Call for Bids"

13. Municipal Parking Lot Nos. 3 and 4 Improvement Project - Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated September 15, 2015, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously, to adopt the following:

Resolution 15-174, "Resolution Approving Plans and Specifications for the Municipal Parking Lots Nos. 3 and 4 Improvement Project, Project No. 05273, and Call for Bids"

WORK SESSION

14. Amendments to Hayward's Livestock Regulations Related to Keeping of Chickens and Other Fowl

Staff report submitted by Assistant Planner Christensen, dated September 15, 2015, was filed.

Development Services Director Rizk announced the report and introduced Assistant Planner Christensen who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff about: the two permitting options related to the keeping of chicken and other fowl; Zoning Conformance Permit fee and cost recovery; self-certification form; education requirement for animal keepers prior to issuance of a permit; beekeeping and possible allergies; and pigeons.

Council Members Zermeño and Jones favored alternative two which would not require a permit to allow chickens. Council Member Jones added he would favor adding regulatory measures if the keeping of chickens became a nuisance.

Council Members Márquez, Lamnin, Mendall and Mayor Halliday favored alternative one which would allow chickens and other fowl subject to the approval of a Zoning Conformance Permit. They also recommended that the fee be minimal and require minimum staff time. Council Member Mendall supported making the permit revocable.

Council Member Peixoto did not have a preference, but was concerned about how staff would respond to complaints.

PUBLIC HEARING

15. Proposed Subdivision and Construction of Four Office/Light Industrial Buildings on a 14.41-acre site at 28803 Marina Drive, requiring Adoption of a Resolution and Introduction of an Ordinance for a Zone Change from Business Park to Planned Development, Tentative Parcel Map 10363, and an Addendum to the previously certified Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Elizabeth Cobb, Shea Properties (Applicant), Eden Shores Associates I, LLC (Owner)

Staff report submitted by Senior Planner Ajello and Economic Development Specialist Nguyen, dated September 15, 2015, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Ajello who provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding the following: left turn access out of the proposed site; Building 4 at the corner of Marina Drive and Industrial Boulevard; "Class A" industrial space; revenue generation and cost for services; day care in close proximity to Costco; sound walls; Business Park v. Planned Development uses; easier access to I-880/SR 92 interchange; and pedestrian travel path around the complex.

Mayor Halliday opened the public hearing at 11:05 p.m.

Ms. Elizabeth Cobb, Vice-President of Development for Shea Properties, delivered a presentation about Shea Properties and its proposal for Eden Shores and addressed questions raised regarding Building 4, pedestrian access around the site, and access to bay trail.

Mr. Mark Spencer, Principal of Traffic Engineer with W-Trans, spoke about access and traffic circulation for the site and noted that left turn access out of the site was not safe nor an effective circulation plan.



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Mayor Halliday closed the public hearing at 11:27 p.m.

Council Member Zermeño offered a motion per staff recommendation.

Council Member Márquez seconded the motion.

Council Member Lamnin supported the motion and offered the following recommendations: consider day care and lunch places and park space; consider gray water infrastructure and green roofs; and recommend that tenants be encouraged to engage with various educational institutions to keep jobs in Hayward.

Council Member Mendall supported the motion and noted he was pleased by the tenant restrictions put in place and was hopeful that Building 4 would be built and become a "Class A" office space.

Mayor Halliday noted support for the motion and noted appreciation for the consideration of a day care facility.

It was moved by Council Member Zermeño, seconded by Council Member Márquez, and carried unanimously, to adopt the following:

Resolution 15-177, "Resolution Adopting an Addendum to the Previously Certified Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Approving Tentative Parcel Map and Zone Change Application 201501690 Pertaining to the Subdivision and Construction of Four Industrial Business Park Buildings at 28803 Marina Drive"

Introduction of an Ordinance 15-_, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201501690 Relating to the Construction of Four Industrial Business Park Buildings at 28803 Marina Drive"

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Márquez acknowledged organizers of the successful Vintage Alley Car Show held on September 12, 2015.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 11:37 p.m., in memory of former Hayward Police Chief Lloyd Lowe and Mr. Gilbert Zaballos. Chief Police Lowe joined the Police Department as a reserve in 1981 and took over the reigns as Chief in 2005 until his retirement in 2008. Mr. Gilbert "Gil" Zaballos was a partner in R. Zaballos & Sons and an active member of the Hayward Chamber of Commerce, Hayward Rotary Club, and numerous Hayward business and philanthropic organizations. It was noted that staff would work with both families to plant trees in their memories.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

Hayward City Hall
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Staff Report

File #: MIN 15-016

Attached is a copy of the Draft Minutes of the Special Joint City Council/Redevelopment Successor Agency Meeting on September 22, 2015.



**MINUTES OF THE JOINT CITY COUNCIL/REDEVELOPMENT
SUCCESSOR AGENCY MEETING OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 22, 2015, 7:00 p.m.

The Special Joint City Council/Redevelopment Successor Agency meeting was called to order by Mayor/Chair Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RSA Member Peixoto.

ROLL CALL

Present: COUNCIL/RSA MEMBERS Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR/CHAIR Halliday
Absent: None

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Mayor Halliday announced the Alameda-Contra Costa Transit District-Central County Policy Advisory Committee was going to convene a meeting and the Committee needed two elected representatives from the City; and asked interested Council Members to contact her office. Ms. Halliday spoke about the visit of students from Funabashi.

Assistant City Manager McAdoo announced the City had partnered with an organization called Moves the Needle to bring lean innovation methodologies to City employees and the lean innovation boot camp would be held September 23 to 25, 2015.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council convened in closed session regarding three items: 1) conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups; 2) conference with legal counsel pursuant to Government Code 54956.9 regarding a) Gerry Price, OAH Case No. 2014120867, b) Chrysler, et al v. City of Hayward, Alameda County Superior Court No. RG14722275, c) C.E.W., et al v. City of Hayward, et al., U.S. District Court, N.D.CA., No. CV 13-4516(LB), d) Russell City Energy Company v. City of Hayward, California Court of Appeal, 1st District, No. A144749, e) National Lawyers Guild, etc. v. Urban, Alameda County Superior Court, No. RG15785743; and 3) conference with property negotiators pursuant to Government Code 54956 regarding 29263 to 29339 Mission Blvd. APN 078C 0438 007 00, 381 Valle Vista Ave. APN 078C 0438 005 00, and 29530 Dixon St. APN 078C 0438 019 01. Mr. Lawson announced there was no reportable action on Items 1, 2 (b) (c) (d), 3. Regarding Item 2(a), Mr. Lawson noted the Council adopted the proposed decision of the Office of Administrative Hearings' administrative law judge.

PRESENTATION

Mayor Halliday read a proclamation in memorium of Sergeant Scott Paul Lunger in honor of his dedication and commitment to the City of Hayward. Mayor Halliday presented the

proclamation to Sergeant Lunger's family in attendance.

PROCLAMATION

Mayor Halliday read a proclamation proclaiming National Domestic Violence Awareness Month. The proclamation was presented to two organizations: Ruby's Place and SAVE – Safe Alternatives to Violent Environments. Ms. Tina Fernandez, Director of Community Engagement, accepted the proclamation on behalf of SAVE and Ms. Jennifer Malvoux, Director of Programs, accepted the proclamation on behalf of Ruby's Place.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, was concerned that the Fire Chief was allowed to keep his job despite flaws that were identified.

Ms. Chris Orrey, Ruby's Place Board President, announced the event "Purple Purse Challenge" from October 1 to 27, 2015, and encouraged all to participate.

Ms. Marcy Timberman, Hayward resident, recommended that public comments for work sessions be taken after staff's presentation. Related to Work Session No. 15, she noted that the topic of restroom access was not unique to the homeless and added that the map was not accurate.

Ms. Betty DeForest, Hayward resident, was concerned about the forecasted wet winter and the lack of an emergency shelter for people living on the streets.

Mr. Kim Huggett President of the Hayward Chamber of Commerce, announced two events: the 6th Annual Mariachi Festival on October 2, 2015 at Hayward City Hall, and the 30th Annual Business Expo on October 7, 2015 at the St. Rose Hospital's Grand White Tent.

Ms. Sue Merrill, Executive Director of South Hayward Parish, noted that the anticipated El Niño climate change would warrant an immediate need of showers, bathrooms, shelters, and places for lockers.

Ms. Vivian Wan, Associate Director at Abode Services, suggested the City needed to make sure the homeless were safe, work in partnership with the County for available services, and leverage Federal funding.

Reverend Arlene Nehring, Reverend at Eden United Church of Christ, urged the Council to take into consideration housing needs for refugees and immigrants.

Sean Reinhart, Library and Community Services Director, spoke about the groundbreaking celebration for Hayward's 21st Century Library and Heritage Plaza on October 3, 2015.

Mr. SJ Samiul, aka citizen Sam, commented on Tesla electric vehicles; a newspaper article entitled "Water CEO may get a 15% raise"; a Shirdi Sai Parivaar Health Fair; and naming the



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new library in honor of Sergeant Lunger.

CONSENT

Consent Item No. 3 was pulled for separate vote to highlight the report.

1. Approval of Final Map Tract 8219 - Camden Place – Sylvester Development by Standard Pacific Corp. (Applicant/Owner): The Project is a fourteen (14) lot subdivision on a 1.0 acre site at 1561 Middle Lane and 23572 Saklan Road in the Mt. Eden area. **CONS 15-094**

Staff report submitted by Development Review Engineer Rei, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-178, “Resolution Approving Final Map for Tract 8219 and Authorizing the City Manager to Execute a Subdivision Agreement”

2. Approval of Final Map Tract 8222 - Camden Place II – Ignacio Development by Standard Pacific Corp. (Applicant/Owner): The Project is a nine (9) lot subdivision on a 0.60 acre site at 23877 Eden Avenue in the Mt. Eden area. **CONS 15-095**

Staff report submitted by Development Review Engineer Rei, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-179, “Resolution Approving Final Map for Tract 8222 and Authorizing the City Manager to Execute a Subdivision Agreement”

3. Approval of Recognized Obligation Payment Schedule for the Period January 1, 2016 through June 30, 2016 and the Successor Agency Administrative Budget for the period July 1, 2015 through June 30, 2016 (Report will be available on Monday, September 21, 2015) **CONS 15-122**

Staff report submitted by Management Analyst Stefanski, dated September 22, 2015, was filed.

It was moved by Mayor Halliday, seconded by Council Member Márquez, and carried unanimously, to adopt the following:

RSA Resolution 15-05, “A Resolution of the City Council of the City of Hayward, Acting as the Governing Board of the Hayward Successor Agency, A Separate Legal Entity, Approving the Recognized Obligation Payment Schedule for the Period January through June 2016 (“ROPS 15-16B”) and the Administrative Budget for the 2015-16 Fiscal Year and Directing the City Manager to Take All Actions Necessary to Effectuate Requirements Associated with this Approval”

4. Adoption of a Resolution Approving Modifications to Employment Agreements with the City Manager, City Attorney and City Clerk and Authorizing the Mayor to Execute Those Agreements on Behalf of the Council **CONS 15-153**

Staff report submitted by Director of Human Resources Collins, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-180, “Resolution Approving the Modification of the City Manager’s Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council”

Resolution 15-181, “Resolution Approving the Modification of the City Attorney’s Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council”

Resolution 15-182, “Resolution Approving the Modification of the City Clerk’s Employment Agreement and Authorizing the Mayor to Execute the Agreement on Behalf of the Council”

5. Authorization of an Agreement with the State Board of Equalization for Implementation of the Local Prepaid Mobile Telephony Services Collection Act and Authorization of Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records **CONS 15-175**

Staff report submitted by Deputy Director of Finance Claussen, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:



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Resolution 15-183, "A Resolution of the City Council of the City of Hayward Authorizing the City Manager to Execute an Agreement with the State Board of Equalization for Implementation of the Local Prepaid Mobile Telephony Services Collection Act"

Resolution 15-184, "A Resolution Authorizing the Examination of Prepaid Mobile Telephone Services Surcharge and Local Charge Records"

6. FY 2015 Gann Limit Correcting Resolution **CONS 15-176**

Staff report submitted by Deputy Director of Finance Claussen, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-185, "Adoption of Correcting Resolution to the Previously Established Appropriations Limit for Fiscal Year 2015 Pursuant to Article XIII B of the Constitution of the State of California"

7. Approval of Right of Entry to the Cinema Place Property and City Property to Monitor Remediation Efforts at Hayward Gas Mart Property **CONS 15-187**

Staff report submitted by Management Analyst Stefanski, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-186, "A Resolution of the City Council of the City of Hayward Approving and Authorizing Execution of a Right of Entry Agreement for Cinema Place Property"

Redevelopment Successor Agency Resolution 15-06, "A Resolution of the City Council of the City of Hayward, Acting as the Governing Board of the Hayward Successor Agency, A Separate Legal Entity, Approving and Authorizing Execution of a Right of Entry Agreement for Cinema Place Property"

8. Approval of Resolution Ratifying Re-Entry Agreement Approval **CONS 15-189**

Staff report submitted by Management Analyst Stefanski, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Redevelopment Successor Agency Resolution 15-07, “A Resolution of the City Council of the City of Hayward, Acting as the Governing Board of the Hayward Successor Agency, A Separate Legal Entity, Ratifying Oversight Board’s Approval of the Re-Entry Agreement Pursuant to Health and Safety Code Sections 34178(a) and 34180(h), Clarifying the Outstanding Balance Under the Re-Entry Agreement and Directing the City Manager to Take All Actions Necessary to Effectuate Requirements Associated with this Resolution”

9. Adoption of an Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201501690 Relating to the Construction of Four Industrial Business Park Buildings at 28803 Marina Drive **CONS 15-191**

Staff report submitted by City Clerk Lens, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Adoption of Ordinance 15-21, “An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201501690 Relating to the Construction of Four Industrial Business Park Buildings at 28803 Marina Drive”

10. Resignation of Justin King from the Personnel Commission **CONS 15-192**

Staff report submitted by City Clerk Lens, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-187, “Resolution Accepting the Resignation of Justin King from the Personnel Commission”



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-
11. Adoption of a Resolution for Acceptance of the Properties Located at 22675 and 22695 Mission Blvd from the Hayward Successor Agency (This report will be available on Monday, September 21, 2015) **CONS 15-208**

Staff report submitted by Assistant City Manager McAdoo, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-188, "Resolution of the City Council of the City of Hayward Accepting Transfer of Specified Governmental Use Properties Pursuant to the Hayward Successor Agency's Approved Long-Range Property Management Plan for Continued Governmental Use, Operation, and Maintenance"

12. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2016 **CONS 15-209**

Staff report submitted by Director of Human Resources Collins, dated September 22, 2015, was filed.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 15-189, "Resolution Approving the Amended Fiscal Year 2015 Salary Plan Designating Positions of Employment in the City Government of the City of Hayward and Salary Range; and Superseding Resolution No. 15-159 and All Amendments Thereto"

WORK SESSION

13. Review of 4th Quarter Progress for Police Department **WS 15-026**

Staff report submitted by Program Analyst Turner, dated September 22, 2015, was filed.

Police Chief Urban provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding: the findings in the quarterly update; the impact of realignment; the officers funded through Measure C; fact sheet about car theft; programs for the youth as alternatives to gang and crime activity; traffic stops;

body cameras; police force and recruitment of qualified individuals; hot spots; latent print examinations; professional development; and collisions in downtown.

14. Update on Regional Efforts to Address Homelessness in Alameda County and Next Steps in the City of Hayward's Participation in Those Efforts. **WS 15-027**

Staff report submitted by Community Services Manager Jaeger, Administrative Analyst McNamara, and Administrative Analyst Davis, dated September 22, 2015, was filed.

City Manager David announced the report and introduced Director of Library and Community Services Reinhart who provided a synopsis of the staff report.

Discussion ensued among Council Members and City staff regarding current efforts to address homelessness.

Council Member Jones noted that committing resources to create an emergency shelter and partnering with social service providers such as the County should be a priority.

Council Member Lamnin offered the following suggestions to staff: consider the TEN-4 Program from the City of Fontana as a possible solution model to the homelessness problem; survey the placed homeless as part of the next AC Impact Program evaluation; and add the voice of the homeless and other stakeholders to the working group. Ms. Lamnin noted that by collaboratively identifying the right solution, the City would know its role and the right funding allocation.

Council Member Zermeño suggested converting a vacant Caltrans house into a job training center that would be staffed by a City employee who would oversee a shower bus, coordinate a bathroom bus, teach the homeless to be self-sufficient, help set-up food banks, and coordinate with social service providers and volunteers.

Council Member Mendall recommended focusing efforts on sub-strategies that the City was willing to invest in. Mr. Mendall noted the City should be a partner in addressing homelessness and noted he would be amenable to exploring dedicating certain Social Services funding to major social problems.

Council Member Peixoto noted that the homelessness issue was a regional challenge and the County needed to play a leading role; and added that CDBG and Social Services funding was meant to support various social issues.

Council Member Márquez noted that the City needed to give priority to chronic homelessness and attention to individuals who were on the verge of becoming homeless. Ms. Márquez recommended that the Community Services Commission work with the Working Group to consider objectives for certain CDBG funding geared toward the homeless; and suggested that the Interdisciplinary Working Group include a representative from Council.



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Mayor Halliday urged staff to continue to work with all social service providers/stakeholders in finding a collaborative solution and follow HUD's direction as to how CDBG and other funding sources should be used to address the homelessness issue. Ms. Halliday noted that a center was needed and suggested giving priority to children and individuals with children.

PUBLIC HEARING

15. Establishment of New Regulations for Unattended Collection Boxes: Introduction of Ordinances and Adoption of a Resolution Related to Amendments to Chapter 5, Article 7 (Community Preservation and Improvement), and Chapter 10, Article 1 (Zoning Ordinance), of the Hayward Municipal Code; the proposed project is exempt from the California Environmental Quality Act (CEQA) under CEQA Section 15061(b)(3); City of Hayward (applicant) **PH 15-046**

Staff report submitted by Senior Planner Schmidt, dated September 22, 2015, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Schmidt who provided a synopsis of the report.

Discussion ensued among Council Members and City staff regarding the proposed regulations for unattended collection boxes.

Council Member Zermeño recommended that the seven boxes, outlined in the first tier of implementation process, be moved after a certain period in order to be in compliance with the regulations; and suggested changing the area that needs to be maintained by the responsible party from ten to twenty feet.

Mayor Halliday opened the public hearing at 10:24 p.m.

Mr. Henry Rogers, USAgain representative, supported the proposed Ordinance overall, and noted that the twelve month period would allow his company enough time to adjust to the new regulations.

Ms. Alexandra Hoffman, Recycle for Change representative, provided a document for the record and expressed strong opposition to the proposed Ordinance due to its restrictive exclusion of unattended boxes from portions of the City and urged the Council to disapprove the Ordinance as currently written.

Mayor Halliday closed the public hearing at 10:32 p.m.

In response to Council Member Jones' inquiry about the number of potential locations for boxes that would comply with the 1,000 foot buffer, Senior Planner Schmidt noted it was approximately 68 unattended collection boxes which could double if volume so warranted.

Council Member Zermeño offered a motion per staff recommendation with a modification for the responsible party to maintain a minimum of twenty feet of area surrounding the unattended collection box.

Council Member Jones seconded the motion.

Council Member Mendall supported the motion noting the 136 allowable boxes was reasonable and the proposal was balanced and gave providers the opportunity to adjust to the new regulations. Mr. Mendall offered a friendly amendment for staff to bring the regulations for Unattended Collection Boxes back for review in two years.

Council Member Zermeño and Jones accepted the friendly amendment.

Mayor Halliday supported the motion and appreciated the earlier input that was incorporated into the proposed Ordinance and the outreach that was done to Unattended Collection Box providers.

It was moved by Council Member Zermeño, seconded by Council Member Mendall, and carried unanimously, to adopt the following with an amendment to Sec. 10-1.2735(i)(3)(c)(v) to read as follows "The Responsible Party shall maintain a minimum of twenty feet of area surrounding the unattended collection box free of donated materials, junk, trash and debris or other salvageable personal property placed on the site." The amendment included direction to staff to bring the regulations for Unattended Collection Boxes back for review in two years.

Resolution 15-190, "Resolution Adopting Findings Supporting Amendments to the City of Hayward Municipal Code Establishing Regulations for Unattended Collection Boxes and Amending Regulations Related to Recycling Collection Facilities"

Introduction of an Ordinance 15-_, "Ordinance Amending Hayward Municipal Code Chapter 10, Article 1, Zoning Ordinance, Related to Recycling Facilities for Redemption or Donation of Reusable Materials to Include Regulations for Unattended Collection Boxes"

Introduction of an Ordinance 15-_, "Ordinance Amending Hayward Municipal Code Section 10-1.3510 *Et Seq.*, Zoning Ordinances Uses and Activities Defined, Related to Unattended Collection Boxes"

Introduction of an Ordinance 15-_, "Ordinance Amending Hayward Municipal Code Section 5-7.20 *Et Seq.*, Public Nuisances,



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to Reference New Zoning Regulations Related to Unattended
Collection Boxes”

CITY MANAGER'S COMMENTS

There were none.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Mendall requested an update on the camera recording/video policy.

Council Member Zermeño announced the Keep Hayward Clean and Green Community Beautification & Clean-Up event on September 26, 2015, at 27836 Loyola Avenue.

Mayor Halliday noted that there would be a closed session meeting on September 29, 2015, and the next special meeting would be on October 13, 2015. Mayor Halliday added that the City Council would be attending the 38th Annual Volunteer Recognition and Awards Dinner at the St. Rose Hospital's Grand White Tent on October 6, 2015.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:52 p.m., in memory of Sergeant Scott Paul Lunger for his dedication and commitment to the City of Hayward. Mayor Halliday asked staff to work with his family to find a suitable place to plant a tree in his memory and to consider dedicating a tree and a bench in his honor.

APPROVED:

Barbara Halliday
Mayor, City of Hayward
Chair, Redevelopment Successor Agency

ATTEST:

Miriam Lens
City Clerk, City of Hayward
Secretary, Redevelopment Successor Agency



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-223

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT

Adoption of a Resolution Approving a Side Letter Agreement between the City of Hayward and the Hayward Fire Officers Association 1909 (“HFOA”) to revise Current Contributions to the Voluntary Employee Beneficiary Association (VEBA) Plan

RECOMMENDATION

That the City Council adopts the attached Resolution (Attachment I) authorizing a side letter agreement between the City of Hayward and the Hayward Fire Officers Association 1909 (“HFOA”) for an increase in current contributions to the Voluntary Employee Beneficiary Association (VEBA) Plan.

BACKGROUND AND DISCUSSION

VEBA is an entity established as a tax-exempt trust under Section 501(c)(9) of the Internal Revenue Service (IRS) Code. The purpose of the VEBA program is to provide employees with the ability to plan for future health care expenses. Participants, their spouses, and eligible dependents are able to receive reimbursement for qualified medical expenses while actively employed, following separation of employment, and during retirement.

The City of Hayward contracts with California Government Voluntary Employee Beneficiary Association (CALGOVEBA) to provide a healthcare funding vehicle for employees to make tax-free contributions to a trust for accumulating funds for the reimbursement of health care costs. Employees who participate in the VEBA program realize a tax benefit because both eligible contributions and the reimbursed expenses are tax-exempt.

In 2011, the City of Hayward restructured its Plan to comply with the existing law that stated all employees within a bargaining group must contribute equally. The amount is predetermined based on the terms of the agreement with that group. While participation in the Plan is up to the bargaining unit, should the bargaining unit opt to participate, contributions must be uniform. The bargaining unit must work with its membership to determine what the contribution levels will be.

The HFOA decided to participate in the VEBA Plan; beginning May 22, 2012, members of the HFOA were given fifteen (15) days to opt in or out of the VEBA program. The decision to opt in or opt out of the program is irrevocable. The agreement in May 2012 set bi-weekly contributions at an amount of fifty dollars (\$50).

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Contributions at separation are 100% of sick, vacation and compensatory leave payouts at retirement and there is no contribution for non-retirement separations.

Modifications to the contribution levels must approved by a majority vote of the bargaining unit. . On March 6, 2015, employees represented by the HFOA met and voted on a modification of the existing VEBA Plan contributions. Effective September 22, 2015, the agreement sets bi-weekly contributions at an amount ranging from \$50-\$200 based on years of service. Contributions remain unchanged at separation.

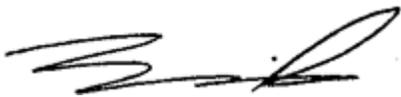
FISCAL IMPACT

There is no fiscal impact associated with the agreement authorizing the HFOA to increase contributions to the VEBA Plan. All VEBA contributions are funded through employee contributions to the Plan. The City does not contribute to the Plan. Costs associated with administering payroll deductions for participating employees are minimal and are not expected to change as a result of this agreement.

Prepared by: Vanessa Lopez, Senior Human Resources Analyst

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

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution Approving A Side Letter Agreement with HFOA for
Revision of Current Contributions to the VEBA Plan

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION APPROVING A SIDE LETTER AGREEMENT WITH THE HAYWARD FIRE OFFICERS ASSOCIATION 1909 FOR REVISION OF CURRENT CONTRIBUTIONS TO THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to The Hayward Fire Officers Association 1909, and its members (collectively, "HFOA") a Voluntary Employee Beneficiary Association ("VEBA") Plan; and

WHEREAS, VEBA is an entity established as a tax exempt Trust under Section 501(c)(9) of the Internal Revenue Service (IRS) Code; and

WHEREAS, the City has contracted with California Government Voluntary Employees' Benefit Association (CALGOVEBA) since 2006 to provide a healthcare funding vehicle where employees make tax-free contributions to a trust for accumulating funds for reimbursement of health care costs in accordance with Section 501(c)(9) of the IRS Code; and

WHEREAS, the City and HFOA have reached a tentative agreement which details the terms of participation in the VEBA Plan for members of the HFOA; and

WHEREAS, the tentative agreement provides that members of the HFOA who opt-in to participate in the VEBA Plan shall contribute between fifty dollars (\$50) and two-hundred (\$200) dollars, depending on years of service, per pay period to the Plan; and

WHEREAS, the tentative agreement further provides that members of the HFOA who opt-in to participate in the VEBA Plan shall also contribute 100% of the total of all eligible sick leave payout after any sick leave hours have been converted to CalPERS service credit in accordance with Government Code Section 20965, 100% of vacation leave payout and 100% of compensatory time payout; and

WHEREAS, the membership of the HFOA ratified the terms of the VEBA agreement as of March 16, 2015..

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA Plan between it and the HFOA effective October 13, 2015.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

Hayward City Hall
777 B Street
Hayward, CA 94541
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Staff Report

File #: CONS 15-225

DATE: October 13, 2015

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Hayward Municipal Code Chapter 10, Article 1, Zoning Ordinance, Related to Recycling Facilities for Redemption or Donation of Reusable Materials to Include Regulations for Unattended Collection Boxes

RECOMMENDATION

That the City Council adopts the Ordinance introduced on September 22, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the September 22, 2015, 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 motion was carried with an amendment to SEC. 10-1.2735(i)(3)(c)(v) to read as follows:

SEC. 10-1.2735(i)(3)(c)(v) "The Responsible Party shall maintain a minimum of twenty feet of area surrounding the unattended collection box free of donated materials, junk, trash and debris or other salvageable personal property placed on the site."

The amendment included direction to staff to bring the regulations for Unattended Collection Boxes back for review in two years.

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, October 10, 2015. Adoption at this time is therefore appropriate.

File #: CONS 15-225

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read "Fran David", written in a cursive style.

Fran David, City Manager

Attachments:

Attachment I
Attachment II

Summary of Ordinance Published on 10/10/15
Draft Ordinance

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE CHAPTER 10,
ARTICLE 1, ZONING ORDINANCE, RELATED TO RECYCLING FACILITIES
FOR REDEMPTION OR DONATION OF REUSABLE MATERIALS TO INCLUDE
REGULATIONS FOR UNATTENDED COLLECTION BOXES

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 15-190, approving the text changes requested in Zoning Text Amendment Application 2015-00056.

Section 2. Zoning Ordinance Section 10-1.2735.i, Recycling Facilities for Redemption or Donation of Reusable Materials, is hereby amended to add to certain text (as indicated by underline) and delete certain provisions (as indicated by strikethrough), related to recycling facilities and Unattended Collection Boxes, introduced herewith and as specifically shown in this ordinance.

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 September 22, 2015, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on October 13, 2015, 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: October 10, 2015
Miriam Lens, City Clerk
City of Hayward

ORDINANCE NO.

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
CHAPTER 10, ARTICLE 1, ZONING ORDINANCE, RELATED
TO RECYCLING FACILITIES FOR REDEMPTION OR
DONATION OF REUSABLE MATERIALS TO INCLUDE
REGULATIONS FOR UNATTENDED COLLECTION BOXES

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, _____ approving the text changes requested in Zoning Text Amendment Application 2015-00056.

Section 2. Zoning Ordinance Section 10-1.2735.i, Recycling Facilities for Redemption or Donation of Reusable Materials, is hereby amended to add to certain text (as indicated by underline) and delete certain provisions (as indicated by strikethrough), related to recycling facilities and Unattended Collection Boxes, introduced herewith and as specifically shown in this ordinance.

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 a regular meeting of the City Council of the City of Hayward,
held the _____ day of _____, 2015 by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the ____ day of _____, 2015, 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

SEC. 10-1.2700 GENERAL REGULATIONS

Sections:

Section 10-1.2705	Purpose.
Section 10-1.2710	Certain Uses Not Permitted.
Section 10-1.2715	Certain Uses Permitted.
Section 10-1.2720	Special Lot Requirements.
Section 10-1.2725	Special Yard Requirements.
Section 10-1.2730	Special Height Limit Requirements.
Section 10-1.2735	Special Standards and Conditions for Certain Uses.

SEC. 10-1.2705 PURPOSE.

These general regulations apply to all districts and to all uses permitted in the districts. The provisions are intended to amplify and to supplement district regulations. In the event of conflict with the specific district regulations, whichever regulations are more restrictive shall apply, unless otherwise determined by the Planning Director.

SEC. 10-1.2710 CERTAIN USES NOT PERMITTED.

Cemeteries. The use of property for cemeteries, memorial parks, mausoleums, columbariums, or other places for the burial or other deposit of human dead is not such a use as is permitted under the provisions of this ordinance, provided, however, that any property which on March 24, 1959 was being used or held for use for any one or more of the purposes mentioned herein, or any property annexed to the City of Hayward subsequent to said date, which at the date of annexation, is being used or held for use for any one or more of such purposes, may be continued to be used for such purposes. Crematoriums are permitted only as stipulated above or associated directly with mortuaries.

SEC. 10-1.2715 CERTAIN USES PERMITTED.a. **Governmental Agencies and Public Utilities.**

The provisions hereof shall not apply to towers, poles, lines, pipelines, canals and similar distribution and transmission facilities maintained by a governmental agency, or by a public utility in accordance with applicable regulations of the Public Utilities Commission of the State of California within rights-of-way, easements, franchises, or ownerships of such governmental agencies or public utilities, with the exception of cellular telephone transmission towers which shall comply with the provisions of Chapter 10, Article 13 of the Hayward Municipal Code.

b. **Telecommunication Facilities.**

Telecommunications facilities are allowed subject to the requirements of this ordinance and those contained in Chapter 10, Article 13 of the Hayward Municipal Code.

c. **Temporary Construction Facilities.**

The use of land for offices, sheds, construction trailers, sleeping quarters for security personal, structures and storage in connection with ongoing construction work for commercial, industrial and multi-family residential development, and single-family subdivisions may be used as approved by the Planning Director.

d. **Temporary Use.**

A “Temporary Use” may be permitted in specified zoning districts, subject to a 12-month maximum time limit, and subject to issuance of an Administrative Use Permit. Two one-year extensions may be considered, subject to Planning Director approval and applicable notification procedures.

SEC. 10-1.2720 SPECIAL LOT REQUIREMENTS.

No parcel of land shall hereafter be reduced or divided so as to provide less than the minimum lot size or dimensions required in the district in which such land is situated unless otherwise authorized by provisions of this ordinance and/or the Subdivision Regulations.

a. **Minimum Lot Frontage.**

Except as provided herein, each lot shall have a minimum frontage of 35 feet.

b. **Lot Frontage Exception for Flag Lot(s).**

In the case of a flag lot(s) that has been approved in accordance with the provisions of the Chapter 10, Article 3, of the Hayward Municipal Code (Subdivision Ordinance), minimum frontage requirements may be reduced as follows:

- (1) Frontage for one lot shall be 22 feet, with access via a 16-foot-wide strip of land that provides for a 12-foot-wide paved travelway;
- (2) Frontage for two or more lots shall be 28 feet, with access via a 24-foot-wide strip of land that provides for an 18-foot-wide paved travelway.
- (3) As determined by the Planning Director or other approval authority, where feasible, adjoining flag lots may share a common access so long as the above standards are met.
- (4) The use of a flag lot(s) should generally be avoided where other lot designs are possible and they should not be used solely to increase the maximum number of lots. See City Standard Detail #SD-109 and Design Guidelines for additional flag lot criteria.

c. **Lot Size Exception for Certain Substandard Lots.**

Any lot or parcel less than the minimum lot size or dimensions required may nevertheless be used as a building site if the lot or parcel was shown of record by the County Recorder as a lawfully created separate lot or parcel on the date the lot became substandard. In addition, either of the following circumstances must exist:

- (1) The lot or parcel is not less than 80 percent of the size and average lot width requirements of the zoning district; or
- (2) The lot or parcel is less than 80 percent of the size and average lot width requirements of the zoning district and there was no land abutting the lot or parcel under the same ownership on the date the lot became substandard.

d. **Lot Size Exception for Lots made Substandard by Official Plan Line.**

Any lot or parcel made sub-standard in size or average lot width by an official plan line shall be deemed to comply with minimum requirements of area or average lot width required herein.

e. **Lot Size Exception for Lots made Substandard by Rezonings from Agricultural District to Agricultural Combining Districts.**

Any lot or parcel made substandard in size or average lot width by a rezoning from an A (Agricultural) District to an AB (Agricultural Combining) District shall be deemed to comply with minimum requirements of area or average lot width required herein.

SEC. 10-1.2725 SPECIAL YARD REQUIREMENTS.

Except as herein provided, every required yard shall be open and unobstructed and shall not be reduced or diminished in area so as to be smaller than prescribed by this ordinance. All uses shall be conducted indoors unless a use permit for outside storage has been approved.

a. **Yards Measured from Official Plan Line.**

Wherever an official plan line has been established for any street or future right-of-way, required yards shall be measured from such line.

b. **Yard Calculations.**

Open area required for one building, lot, or use shall not be calculated as required open area or yard for any other building, lot or use. Except where part of an approved development plan, or authorized by other regulation herein or the Planning Director, no structure shall be located in a required yard area.

c. **Yards on Dual Frontage Lots.**

Where the front and rear of a lot both have street frontage on approximately parallel streets, no above-ground structure shall be located closer to either street than the distance constituting the required front yard, except on those parcels where street access is restricted by regulations of a public authority, in which case building additions (not accessory structures) may be located within the yard where street access is restricted subject to requirements for rear yards.

d. **Yard Exceptions - Garages on Slopes.**

- (1) Wherever the difference in elevation exceeds 5 feet between the front yard setback line and:
 - (a) the elevation of the existing or planned street grade, or

(b) the elevation at the rear line of a front yard,

Or:

- (2) Wherever the difference in elevation exceeds 2½ feet between the side street property line and the rear line of a side street yard,

Then, the horizontal distance from any garage or parking space in no case shall be less than 5 feet from the property line or an official plan line. This exception shall not apply on those streets where no on-street parking is permitted along the lot frontage unless a minimum of 2 additional spaces are provided on site in conformance with all required yard and design requirements.

e. **Yard Exceptions - Overhangs, Stairways, Chimneys, Open Porches and Architectural Features.**

Architectural features such as cornices, eaves, open porches, bay windows, and canopies may extend 2 feet into any required side yard and may extend 5 feet into any required front or rear yard. Chimneys, media niches combined with chimneys (which shall not exceed 10 feet in width), landing places, or outside open stairways may project 3 feet into any required yard.

f. **Yard Exceptions - Vision Clearance.**

On a lot situated at the intersection of two or more streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to be in violation of Ordinance No. 100 C.S., as amended, Hayward Traffic Code, Sections 9.01 through 9.05, relating to Obstructions to Visibility at Intersections Prohibited, as the same are now in effect or which may hereafter be amended or replaced.

g. **Yard Exceptions - Fences, Hedges, Walls.**

Fence Height.

- (a) In all OS, A, FP, RNP, and RS Districts, fences, hedges, and walls may be constructed to a height of 6 feet in any side or rear yard, and to a height of 4 feet in any portion of a front or side street yard, except that where the rear or side yard is contiguous to commercially or industrially developed or zoned land, freeway, flood control channel, parking lot or arterial street, a maximum 8-foot-high fence or wall may be permitted. For the RS District, an 8-foot-high fence or wall may be permitted adjacent to any non-residential zoning District.
- (b) Fences, hedges, and walls on through lots shall be limited to a height of 4 feet in any portion of the front yards unless determined by the Planning Director that up to a height of 6 feet across a front property line acting as a rear property line would not compromise the safety of motorists and pedestrians nor the aesthetic value of the streetscape.
- (c) Fences or walls required to surround and enclose public utility installations are not limited as to height in any district.
- (d) In all multi-family, commercial, or central city districts, no fence or wall shall be located in any required front or side street yard except as part of an approved development plan or if approved by the Planning Director.

h. **Yard Exceptions - Accessory Buildings and Uses.**

- (1) In conjunction with single-family development located on parcels zoned for same, and in zoning districts where single-family homes are permitted:
 - (a) Accessory buildings not used for parking and not exceeding 14 feet in height and 120 square feet in area and detached from the main buildings, when located in area other than the required front yard (i.e., in side or rear yard area), shall be placed no closer than 3 feet from the side and rear property lines.
 - (b) Accessory buildings or carports exceeding 120 square feet in area or open parking spaces shall be located no closer than 5 feet from the side and rear property lines.
 - (c) Accessory building(s), garage(s), and one-story home additions may not cumulatively occupy more than 40 percent lot coverage of a required rear yard.
- (2) For legal, conforming residences in other districts, setbacks for accessory buildings when located between the rear of the main building and the rear lot line may be placed 5 feet from the side and rear property lines or within the building envelope; and when located between primary structures and the right-of-way, all front and side yard setbacks shall be met.
- (3) For other zoning districts where residential uses are permitted, carports in conjunction with multi-family development may be placed 5 feet from rear and side property lines when there would be no negative visual or noise impact on the adjacent use, as determined by the Planning Director.

i. **Yard Exceptions - Narrow Lots.**

A required side yard may be reduced to 3 feet adjacent to an access driveway installed in conjunction with a multi-family development where the parcel is less than 51 feet in width.

j. **Special Yards - Structures on Same Lot.**

In R, A, and CO Districts, no primary structure shall be located less than 10 feet from another primary structure nor located less than 8 feet from an accessory structure, except that an accessory structure may be 6 feet from a single-family dwelling.

k. **Special Yards - Lots with Approved Private or Easement Access.**

The required minimum yards for a lot which has indirect access via an approved private access or an easement to a public street shall be the same as that required for a lot which has direct access onto a public street.

l. **Special Yards - One-Story Additions, Single-Family Dwellings.**

Reduction of the rear yard to 10 feet for one-story additions to single-family dwellings is permitted provided the required rear yard is not reduced by more than 20 percent and provided the cumulative coverage of the required rear yard does not exceed 40 percent.

m. **Special Yards - Flag Poles, Towers, Antennas, Satellite Earth Stations.**

- (1) Flag poles less than 25 feet in height which display the American flag and permitted commercial flags, may be located in any yard of any district but in no case shall they be located closer than 5 feet to a property line.

- (2) Radio and television antennas and other wireless telecommunications facilities shall comply with the requirements of this ordinance and Chapter 10, Article 13 of the Hayward Municipal Code.
- n. **Special Yards - Swimming Pools, Hot Tubs, Spas.**
In any R, residential PD, A, or CO District, swimming pools, hot tubs, and spas may be located in any yard other than the required front or side street yard, provided that no wall line of a pool shall be closer than 5 feet from any property line.
- o. **Special Yards - Decks.**
In conjunction with a single-family dwelling in any R District:
- (1) Decks less than 30 inches in height may be located in any rear or side yard but no closer than three feet to the rear or side property line.
 - (2) Decks located in the front or side street yards shall not exceed 12 inches in height unless approved by the Planning Director or other approval authority.
 - (3) Decks 30 inches or more shall conform to normal yard requirements.
- p. **Special Yards – Handicap Accessibility.**
Ramps shall meet setback requirements of each zoning district. Exceptions shall be made for reasonable accommodation where no practical alternative exists and where building/fire code requirements are met.
- q. **Front Yards - Driveway Width and Coverage.**
- (1) Driveway width, regardless of the number of driveways, shall not exceed 20 feet in front of the garage, except for 3-car garages where the width shall not exceed 26 feet. In addition, for access to a recreational vehicle storage area adjacent to a dwelling, a maximum 10-foot-wide driveway may be located on the opposite side of the lot from the garage, and outside the required side yard.
 - (2) For lots 70 or more feet in width, the Planning Director may approve a greater driveway width if the Planning Director determines the design of the driveway is aesthetically pleasing and compatible with the lot terrain and adjacent development, and will not create a pedestrian or vehicular hazard. For single-family homes, the total paved surface for vehicle parking, storage, and access in required front yard shall not exceed 50 percent.
 - (3) For single-family homes, a curved driveway (“Hollywood driveway”) is permitted on lots that are 100 feet or more in width, and where item #(2) above is met.

SEC. 10-1.2730 SPECIAL HEIGHT REQUIREMENTS.

- a. **Height - Airport.**
Height provisions of airport or air approach regulations shall govern when in conflict herewith or in absence of provisions for such height regulation herein.
- b. **Height - Exceptions.**
- (1) Chimneys, cupolas, flagpoles, elevator shafts, radio and television towers, wind machines, and similar mechanical or architectural appurtenances, if attached to a building shall not exceed a height of 15 feet unless authorized by the Planning

Director or other approval authority for two-story dwellings or dwellings located on hillsides. If not attached to a building, they shall not exceed 25 feet in height unless authorized by the Planning Director or other approval authority.

- (2) Church steeples may be exempted from the height requirements as long as the steeples are in scale with the design of the church/religious facility and surroundings, as determined by the Planning Director or other approval authority.

c. **Height - Accessory Building.**

Unless otherwise specified in the District Regulations, an accessory building shall not exceed one story in height

SEC. 10-1.2735 SPECIAL STANDARDS AND CONDITIONS FOR CERTAIN USES.

Special standards and conditions as set forth below are applicable to uses enumerated in this Section and listed in the individual districts. Departure or variation from these standards is permitted only when it can be established by the applicant that the intent and purpose of the district or the necessary findings for permit approval, as specified in this ordinance, are not compromised. Where warranted by ordinance regulations or to implement official City policy, standards of development may be required that exceed those listed in this Section.

a. **Adult Entertainment Activity Regulations.**

(1) **Purpose.**

In adopting these regulations it is recognized that certain types of adult entertainment activities possess objectionable operational characteristics which, when concentrated, have a deleterious effect upon adjacent areas. It is also recognized that locating adult entertainment activities in the vicinity of facilities frequented by minors will cause the exposure of adult material to minors who, because of their immaturity, may be adversely affected by them. Special regulations of sex-oriented, adult entertainment businesses is necessary to insure that adverse effects will neither contribute to the blighting or downgrading of surrounding neighborhoods nor have an adverse effect on minors.

(2) **Definitions.**

For the purpose of these regulations, certain terms and words shall have the following meanings:

(a) **Adult Entertainment Activity.** An activity which is characterized by an emphasis on depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.” Said term includes, by way of illustration only, the following:

(i) **Adult Arcade.** An establishment where one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of “specified sexual activities” or “specified anatomical areas.

(ii) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock-in-trade, and offers for sale one or more of the following: books, magazines, and other periodicals which are substantially

devoted to the depiction of “specified sexual activities” or “specified anatomical areas.”

- (iii) Adult Gift Store. An establishment having as a substantial or significant portion of its stock in trade, and offers for sale one or more of the following: instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities” (i.e., “adult gifts.”)
 - (iv) Adult Motion Picture Theater. An enclosed building used for presenting material in the form of motion picture film, video tape or other similar means, and in which a substantial portion of the total presentation time is devoted to the depiction of “specified sexual activities” or “specified anatomical areas” for observation by persons therein.
 - (v) Adult Theater. A theater, concert hall, auditorium or similar establishment in which a substantial portion of the total presentation time is devoted to live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”
 - (vi) Sexual Encounter Establishment. An establishment which provides a place where two or more persons may congregate, associate or consort in connection with “specified sexual activities” or the exposure of “specified anatomical areas.” This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of California engages in sexual therapy.
- (b) Specified Sexual Activities. This term shall be used herein to mean:
- (i) Human genitals in a state of sexual stimulation or arousal;
 - (ii) Acts of human masturbation, sexual intercourse or sodomy;
 - (iii) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (c) Specified Anatomical Areas. This term shall be used herein to mean:
- (i) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
 - (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) Location.
No person shall place, maintain, own or operate any adult entertainment activity, as herein defined, in the following locations:
- (a) Within 500 feet of any parcel of real property zoned primarily for residential use;
or
 - (b) Within 500 feet of any parcel of real property on which is located any of the following facilities:
 - (i) A school primarily attended by minors;
 - (ii) A church which conducts religious education classes for minors;
 - (iii) A public park, playground or other recreational facility;

- (iv) A museum;
- (v) A library.
- (c) Within 500 feet of any other adult entertainment activity as herein defined.
- (4) **Public Display of Certain Matter Prohibited.**
No person shall place, maintain, display or exhibit any material in a manner which exposes to public view photographs or illustrations of “specified sexual activities” or of poses which emphasize or direct the viewer’s attention to “specified anatomical areas.” As used herein, “exposes to public view” means exposes to the view of persons outside the building in which said material is placed, maintained or displayed.
- (5) **Discontinuance of Nonconforming Activities.**
No later than September 19, 1980, all adult entertainment activities made nonconforming by reason of the provisions hereof, except those activities rendered nonconforming because of being within 500 feet of any other adult entertainment activity, shall be discontinued or shall be brought into full conformance with the provisions hereof, except that such activities may be allowed to continue for an additional period upon the approval of a variance with the finding that the activity is obligated by written lease entered into before the effective date of this section for a period exceeding two years from such effective date, or that the activity involves investment of money in leasehold or improvements of such that a longer period is necessary to prevent undue financial hardship.

b. **Catering Truck Standards.**

All catering truck operations shall comply with the following standards:

- (1) Catering trucks shall only park on private property with the permission of said property owner(s).
- (2) Catering trucks shall not park on any City streets, rights-of-way or property.
- (3) Catering trucks shall not be located on a single parcel more than 20 minutes at a time.
- (4) Catering trucks shall not be located within 300 yards of a food vendor as defined in this Ordinance.
- (5) Catering trucks shall not return to the same location within less than two hours.
- (6) Catering trucks shall obtain all necessary approvals for the County Health Department and City of Hayward Police Department.

c. **Christmas Tree and Pumpkin Patch Lot Regulations.**

All Christmas tree and pumpkin patch lots shall comply with the following standards:

- (1) Pumpkin Patch lots shall not be established before October 1 of each year and Christmas tree lots shall not be established before November 22 of each year. Annual permits must be obtained from the Fire Department and the Building Division.
- (2) Prior to opening for business, all Fire Department and the Building Division permits shall be obtained. The lot shall be maintained and operated in compliance with all Fire Department and the Building Division requirements.
- (3) No merchandise, equipment, vehicles, refuse, or other material associated with the proposed lot shall block circulation or parking aisles outside fenced areas.

- (4) No aspect of the proposed operation shall impede access to any public driveway, nor any parking areas required for the operation of surrounding uses.
- (5) All parking and loading must be done on the lot and not on any public street. Parking areas shall be surfaced to prevent mud or dust from being tracked onto the public right-of-way.
- (6) An electrical permit must be obtained prior to installation of any lighting.
- (7) Fencing around the premises shall be properly stabilized.
- (8) Signs shall be confined to the designated lot area only and must not obstruct vision of motorists.
- (9) If sawdust or other similar material is used to cover the lot, it shall be kept moist.
- (10) A minimum of one employee shall be on the premises at all times to insure compliance with the conditions of approval.
- (11) All trees or pumpkins, merchandise, debris, fences, poles, hay or sawdust and other evidence of the use must be removed within 7 days after the Halloween or Christmas Holiday. To the maximum extent possible, all wood products must be recycled. While other recycling facilities may be used, it is preferred that all wood products such as trees, tree stands, and sawdust (but not including flock and tinsel) be recycled by drop-off at the City of Hayward Water Pollution Control Facility.
- (12) Notices must be conspicuously posted on the lot and distributed to customers at the point of sale providing information about the City of Hayward Christmas tree Recycling Program provided by the Office of Solid Waste Management.

d. **Garage Sales.**

Garage sales, also referred to as yard sales, shall not create a public nuisance as defined herein, and shall be limited to a maximum of four times per year per dwelling for single-family homes, and four times per year per development for multi-family areas.

e. **Livestock and Household Pets.**

- (1) **Minimum Lot Area.**
The minimum lot area for any lot used to maintain livestock and other animals, except for household pets, whether a temporary use or principal use of the property, shall be the greater of either the minimum lot area specified in the zoning district in which the property is located or the area hereinafter specified:
 - (a) For large and medium livestock, the minimum lot area shall be 20,000 square feet;
 - (b) For exotic animals, poultry or other birds, the minimum lot area shall be 5,000 square feet, or greater, depending on the species of the animal, as determined by the Planning Director;
 - (c) For apiaries, the minimum lot area shall be 40,000 square feet.
- (2) **Maximum Number of Animals.**
The maximum number of livestock or any other animals allowed pursuant to this section is subject to a determination by the Planning Director that the site is suitable, including consideration of size, configuration and location, and can support the number of livestock or other animals without creating nuisance problems for surrounding residential properties. In no case shall the number of livestock, as defined

herein, kept or maintained on any lot exceed one large livestock for each 20,000 square feet of land contained in such parcel, or one medium livestock for each 10,000 square feet of land contained in a minimum 20,000 square foot parcel. Once a use permit is granted for a maximum number of livestock, that number of livestock may be permitted indefinitely even if fewer animals are kept on the site as long as there is at least one livestock continuously, i.e., where there has not been a total absence of livestock for six months or longer.

(3) Minimum Available Open Area.

All livestock or other animals shall be provided with the minimum available open area specified below (such area may include barns, stables, sheds or similar structures used to house animals):

- (a) For large livestock, the minimum available open area per animal shall be 5,000 square feet;
- (b) For medium livestock, the minimum available open area per animal shall be 2,500 square feet;
- (c) For poultry, the minimum available open area per animal shall be 200 square feet;
- (d) For exotic animals, the minimum available open area per animal shall be as determined by the Planning Director, based on the species of the animal.

(4) Buildings and Structures.

All animals shall be provided with adequate shelter or other protection from the elements. Buildings and structures used for the housing of animals shall be located behind the principal structure on the lot. Such buildings and structures may be located elsewhere on the lot due to topography or other special characteristics of the lot, subject to approval of the Planning Director.

(5) Maximum Height of Structures.

No building or structure used for the housing of animals shall be erected or maintained on any lot to a height greater than that permitted for accessory structures in the respective zoning district. A greater height may be permitted based on consideration of special characteristics of the lot, including, but not limited to, topography, lot size, and building placement, and subject to approval of the Planning Director.

(6) Minimum Setback Requirements.

All barns, stables, and other structures used for the housing of animals, except for household pets, on any lot shall be located not less than 20 feet from any property line and not less than 40 feet from any dwelling on the same or adjoining lot. The distances as specified in this subsection may be reduced or waived upon the finding that such distances are not necessary for the protection of nearby residences.

(7) Fence Requirements.

All areas containing livestock or other animals shall be enclosed by fences which are good, strong, substantial, and sufficient to prevent the ingress and egress of livestock or other animals. Such fences shall be designed and constructed of appropriate materials and be of an adequate height so as to control and contain such animals at all times, while avoiding injury to such animals, preventing such animals from reaching across any property lines, and of a design that does not detract from the appearance of the site or surrounding area.

(8) Maintenance of Livestock and Other Animals.

All livestock and other animals shall be kept or maintained so as to minimize and prevent production of flies, excessive odor, dust, noise, or other conditions detrimental

to the community health and welfare, by applying the following minimum requirements:

- (a) Manure must be removed daily from the corral, stable, paddock, or other holding areas and stored in fly-tight containers, cans or holding boxes, until disposal; roosts, lofts, and rabbit hutches must be cleaned daily unless worm beds are maintained under the rabbit hutches. Composting or similar treatments may be permissible if performed to appropriate standards so as not to constitute a nuisance, as determined by Planning Director.
- (b) Watering troughs must be so constructed and located that they do not overflow excessively in the stall, corral or paddock area, as to promote mosquito larvae growth.
- (c) Hay must be stored in such a manner so as not to become a nesting place for rodents, i.e., stored in rodent-proof buildings or off the floor and away from walls, other material or equipment.
- (d) Grain feeds shall be stored in rodent-proof containers or buildings, i.e., metal cans or rodent-proof feed cribs; all other feed must be stored in vermin-proof containers.
- (e) The entire area set aside for the animals shall be cleared of all rubbish and debris.

(9) Livestock as a Legal, Nonconforming Use.

Livestock existing as a legal, nonconforming use may continue indefinitely as long as (a) the livestock have existed continuously in that six months have not passed when there were no livestock on the site, (2) the maximum number of livestock established as a nonconforming use is not increased, and (3) as long as there is no intensification of livestock, e.g., legal, nonconforming medium livestock may not be intensified by replacing them with large livestock. The burden of proof for establishing the legal, nonconforming status of livestock rests with the property owner subject to the endorsement of the Planning Director.

f. **Manufactured Housing Regulations.**

Manufactured housing to be installed on a lot shall have been constructed after July 1, 1976, and shall bear an insignia of approval under the National Mobile Home Construction and Safety Standards Act of 1974 and shall be erected in compliance with the following:

- (1) Shall be attached to a permanent foundation pursuant to Health and Safety Code Section 18551, and shall have all utility connections conform to all requirements of the City's Building, Plumbing, Electrical, and Mechanical Codes.
- (2) Shall be a minimum of 20 feet wide.
- (3) Shall have a roof constructed of asphaltic, wooden, glass fiber or tile materials.
- (4) Shall have wood, masonry or stucco siding which will extend to the ground (except when a solid masonry perimeter foundation is used, the siding need only extend to the top of the foundation).
- (5) Shall have an overhang or eave extending a minimum of 14 inches from the wall.
- (6) Shall be of a design which utilizes offsets and recesses in the exterior walls, similar to conventionally constructed housing, and have a floor height no more than 30 inches above the finished grade of the building pad.

- (7) Shall include a minimum 20-foot-wide garage (interior dimension) and/or landscaping where necessary to make the house compatible with surrounding residential development.
- (8) Shall conform with City of Hayward Design Guidelines and Hillside Design and Urban/Wildland Interface Guidelines.

g. Outdoor Gatherings.

- (1) Permit Required. No outdoor gathering of 275 or more people shall be held unless an administrative use permit has first been obtained.
- (2) Outdoor Gathering. Any assembly, music festival, carnival, show, circus, dance, exhibition, lecture, concert, rally, party, celebration, or similar event or activity which is:
 - (a) Open to the public or to which members of the public are invited or admitted either for a charge or free of cost; and
 - (b) Held out of doors or other than in a permanent structure that was constructed for the purpose of or constructed so that it can be used for conducting such event or activity; provided, however, that the incidental use of any patio, courtyard, deck, or other area adjacent to and outside a permanent structure (that is authorized as a permitted primary or conditional use) by participants at the event or activity shall be considered use of the permanent structure for the purposes of this provision.
- (3) Application. An application for an administrative use permit to hold an outdoor gathering shall be submitted to the Planning Director on a form provided for such purpose, setting forth the following:
 - (a) The location and legal owner of the premises on which the outdoor gathering is to be held;
 - (b) The number of people the applicant will admit to the outdoor gathering, his plans to limit admittance to the outdoor gathering to such number, and the date(s) and times during which the gathering is to be held;
 - (c) The applicant's plans, including facilities for the handicapped where physically feasible, for provisions of potable water, toilet facilities, solid waste disposal, and if required by the Health Officer of Alameda County, emergency medical treatment;
 - (d) The applicant's plans for provision of parking spaces, including spaces for the handicapped;
 - (e) The applicant's plans for illuminating the premises if any part of the gathering is to be held within one hour before sunset or after dark;
 - (f) A description of all sound amplification equipment the applicant plans to use and the intensity in decibels at the property line of the premises upon which the gathering is to be held; and
 - (g) The applicant's plans for provision of fire control devices and method of vehicular and pedestrian access to and from the gathering.
- (4) Permit Issuance. An administrative use permit for an outdoor gathering may be issued if the applicant shows that the following conditions have been met:
 - (a) The applicant is the owner of the premises on which the gathering is to be held or the owner of the premises has consented to the use of the premises for the outdoor gathering;

- (b) The Chief of Police has approved the applicant's plans to limit attendance at the outdoor gathering to the number of people set forth in the application, maintain order, and assure compliance with all applicable laws and regulations, including but not limited to, the provisions of this ordinance and the conditions of the permit under which the outdoor gathering is held. The Chief of Police shall approve the applicant's security plans if one security guard, who may be a peace officer or other person acceptable to the Chief of Police, is provided for every 275 persons expected to attend the outdoor gathering and the sole responsibility of such guard(s) is to limit attendance at the outdoor gathering to the number of people set forth in the permit, maintain order, and enforce all laws, regulations, and permit conditions;
- (c) The Health Officer of Alameda County has approved the applicant's plans, including facilities for the handicapped where physically feasible, for provisions of potable water, toilet facilities, solid waste disposal, and if required by the Health Officer, emergency medical treatment;
- (d) The Traffic Engineer has approved the applicant's plans for provisions of parking spaces, including provision for spaces for the handicapped where physically feasible. The Traffic Engineer shall approve the applicant's plans for the provision of parking if finds that parking spaces are provided for one of each four persons the applicant will admit to the outdoor gathering, safe access to and from such parking spaces is provided, and such parking spaces will be graded, marked, and separated by a physical device from all pedestrians;
- (e) The Public Works Director has approved the applicant's plans for illuminating the premises upon which the outdoor gathering is planned if any part of the gathering is expected to occur within one hour before sunset or after dark. The Public Works Director shall approve illumination plans that provide for safe lighting equipment which illuminates at the following levels:
 - (i) Open areas to be used by attendees at 10-foot candle intensity;
 - (ii) Parking and pedestrian access areas at 5-foot candle intensity; and
 - (iii) Toilet facility areas at 50-foot candle intensity;
- (f) The Planning Director has approved the applicant's plans for any use of sound amplifying equipment. The Planning Director shall approve sound amplification plans that limit noise levels to no more than 60 Ldn or CNEL (db) at the property line of the premises or is lawfully used for residential use or abuts property zoned or lawfully used for residential use and no more than 70 Ldn or CNEL (db) at the property line of the premises upon which the gathering is to be held, if such premises is neither zoned nor used for residential use nor abuts property that is zoned or used for residential use; provided, however, that the Planning Director shall not approve any sound amplification plans that call for the use of sound amplification equipment between the hours of 10:00 p.m. and 6:00 a.m.; and
- (g) The Fire Chief has approved the applicant's plans for provisions for fire control devices and plan(s) for vehicular and pedestrian ingress and egress to the site, including emergency vehicles.

h. Private Street Criteria.

Approval of a private way as a private street (not part of a subdivision or other development project) for the purpose of establishing a street frontage for a lot shall be governed by the following:

- (1) Overall, minimum right-of-way shall be 25 feet per the City Standard Design Details, and paved access shall be not less than 10 feet in width for a one-way driveway and 12 feet in width for a two-way driveway. The access may be increased up to 24 feet in width and incorporate a turn-around area, as such is determined to be necessary, giving consideration to traffic volumes, location, land use, and other relevant factors.
- (2) The access strip shall be improved to public street standards. Such improvements shall be installed, or the installation shall be guaranteed to the satisfaction of the City, prior to issuance of a building permit for any use fronting on the private street.
- (3) In the instance that multiple lots are to be served by one private street, the following criteria may apply:
 - (a) Six or fewer lots require a minimum of a 20-foot wide paved private driveway.
 - (b) Seven or more lots require a minimum of a 24-foot wide paved private street.
 - (c) Six or fewer lots may be served by a hammerhead.
 - (d) Seven or more lots shall be served by a cul-de-sac.
- (4) The above requirements may be amended after evaluating the following:
 - (a) Existing and estimated future volume of traffic.
 - (b) Existing, proposed, and potential development to be served by access.
 - (c) Adequacy of drainage facilities.
 - (d) Condition of roadway and provisions for maintenance.
 - (e) Suitability for emergency vehicle access and utility right-of-way.
 - (f) Alignment and grade.
 - (g) Need for off-street parking or pathway to serve adjacent uses.
- (5) Before approving a private street, the Planning Commission shall find that:
 - (a) The private street is physically adequate to provide access for pedestrians and vehicles.
 - (b) There is a right, exclusive or non-exclusive, to use the private street on a permanent basis which is appurtenant to the subject lot(s).
 - (c) The private access will not conflict with the General Plan.
- (6) Requests for approval shall be considered by the Planning Commission which shall recommend approval, conditional approval, or denial. Upon review by the Commission, said request shall be then considered by the City Council which shall approve, conditionally approve, or deny said request. The action of City Council is final.

i. **Recycling Facilities for Redemption or Donation of Reusable Materials and Unattended Collection Boxes and Recycling Collection Facilities.**

(1) Purpose and Intent

- (a) The purpose of ~~this~~ the sub-section related to facilities accepting recyclable material is to make redemption and recycling of reusable materials convenient to the consumer in order to reduce litter and increase the recycling of reusable materials in accordance with the 1986 California Beverage Container Recycling and Litter Reduction Act of 1986 (Pub. Res. Code § 14500, et seq.).

- (b) The purpose of the sub-section related to unattended collection boxes is to:
- i. Promote community health safety and welfare by regulating the placement of unattended collection boxes for clothing and other salvageable personal property throughout the city;
 - ii. Recognize that placement of unattended collection boxes in a variety of conveniently accessible locations throughout the city encourages individuals to recycle textile goods rather than placing those items in the waste stream.
 - iii. Ensure that unattended collection boxes and the contents thereof do not pose a hazard or nuisance to pedestrian or vehicular traffic;
 - iv. Ensure that material is not allowed to accumulate outside of the unattended collection boxes where it may be scattered by adverse weather conditions, animal contact, or human activities; and,
 - v. Establish criteria that avoid attracting vermin, unsightliness and public health or safety hazards or nuisances.

(42) Definitions.

- (a) **Recyclable Material:** Material including but not limited to metals, glass, plastic, and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material may include used motor oil collected and transported in accordance with sections 25250.11 and 25143.2(b)(4) et. seq. of the California Health and Safety Code, as amended from time to time.
- (b) **Recycling Facility:** A center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Recycling facilities may include the following:
- (i) **Collection Facility:** A center for the acceptance by donation, redemption, or purchase of recyclable material from the public. Such a facility does not use power-driven processing equipment except for reverse vending machines. Collection facilities may include the following:
 - a. Reverse vending machine(s) occupying an area of less than 50 square feet;
 - b. Small collection facilities which occupy an area of not more than 500 square feet, and may include:
 - aa. A mobile unit;
 - bb. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet;
 - cc. ~~Kiosk type units which may include permanent structures;~~
 - dd. ~~Unattended containers placed for the donation of recyclable materials.~~
 - c. Large collection facilities which may occupy an area of more than 500 square feet and may include permanent structures.

(ii) Reverse Vending Machine(s):

- a. An automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to, aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value as determined by the state. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.
 - b. A bulk reverse vending machine is a reverse vending machine that is larger than 50 square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.
- (iii) Mobile Recycling Unit: An automobile, truck, trailer or van, licensed by the Department of Motor Vehicles which is used for the collection of recyclable material. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans, or trailers, and used for the collection of recyclable material.

(c) Responsible Party: Responsible Party shall mean the owner of the Unattended Collection Box, the operator of the Unattended Collection Box, and the owner of the property upon which the Unattended Collection Box is placed.

(d) Unattended Collection Box: Unattended collection box shall mean any unstaffed drop-off container, receptacle or similar device that is located on any lot within the city that is used for soliciting and collecting donations of clothing and other salvageable personal property. This term does not include recycle bins for the collection of recyclable material and facilities described in (2)(b) above, or any unattended collection box located within a building.

(e) Inventory of Unattended Collections Boxes: The City's list of unattended collection boxes existing in the City of Hayward at the time of adoption of these regulations.

~~(2)~~ Permit Issuance.

- (a) Reverse vending machine(s) located within commercial buildings, or which are located upon commercial or industrial zoned property within a ½ mile radius of each supermarket which conducts \$2 million or more in sales a year, and meet the following criteria are primary uses and do not require permits by the City of Hayward.
 - (i) The reverse vending machine(s) is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986;
 - (ii) The reverse vending machine(s) is established in conjunction with a commercial use, community service facility, or industrial use provided the property is in compliance with the zoning, building and fire codes of the City of Hayward;

- (iii) The reverse vending machine(s) does not obstruct pedestrian or vehicular circulation, including the pathway required for the handicapped access;
 - (iv) The reverse vending machine(s) does not occupy parking spaces required by the primary use;
 - (v) The reverse vending machine(s) does not occupy more than 50 square feet of floor space per installation, including any protective enclosure, and is no more than 8 feet in height;
 - (vi) The reverse vending machine(s) is clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative;
 - (vii) The reverse vending machine(s) is maintained in a clean, litter-free condition on a daily basis;
 - (viii) The operating hours are at least the operating hours of the host use;
 - (ix) The area is illuminated to ensure comfortable and safe operation if operating hours are between dusk and dawn;
- (b) An administrative use permit for small collection facilities located in commercial or industrial areas within a ½ mile radius of each supermarket which conducts \$2 million or more in sales a year, shall be issued if the applicant shows that the following conditions have been met:
- (i) The small collection facility shall be established in conjunction with an existing commercial use, community service facility, or industrial use which is in compliance with the zoning, building, and fire codes of the City of Hayward;
 - (ii) The small collection facility shall be no greater than 500 square feet and occupy no more than 5 parking spaces not including space that will be periodically needed for removal of materials or exchange of containers;
 - (iii) The small collection facility shall be set back at least ~~40~~ 200 feet from any property line adjacent to property developed with residential uses and shall not obstruct pedestrian or vehicular circulation. A smaller separation between a proposed facility and residential uses may be permitted with submittal of a noise study and installation of noise reducing equipment, to the satisfaction of the Planning Director or his/her designee;
 - (iv) The small collection facility shall accept only glass, metals, plastic containers, papers and reusable items, not including motor oil;
 - (v) The small collection facility shall use no power-driven processing equipment except for reverse vending machines;
 - (vi) The small collection facility shall be secured from unauthorized entry or removal of material, and a collection schedule shall be posted;
 - (vii) All recyclable materials shall be stored in containers or in the mobile unit vehicle, and materials shall not be left outside of containers when attendant is not present;
 - (viii) The small collection facility shall be maintained free of litter and any other undesirable materials, and the area about the machines shall be swept and cleared each day. Mobile facilities, at which truck or containers are removed

- at the end of each collection day, shall be swept at the end of each collection day;
- (ix) The small collection facility shall not exceed noise levels of 60 DBA as measured at the property line of residentially zoned or occupied property, other sites shall not exceed 70 DBA;
 - (x) Attended facilities located within 100 feet of a property zoned or occupied for residential use shall operate only during the hours between 9:00 a.m. and 7:00 p.m.;
 - (xi) Containers for the 24-hour donation of materials shall be at least 50 feet from any property zoned or occupied for residential use unless waived by the Planning Director;
 - (xii) Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation; and display a notice stating that no material shall be left outside the recycling enclosure or containers;
 - (xiii) Signs for recycling facilities may be provided as follows—prescribed in Chapter 10, Article 7, Sign Regulations, of the Hayward Municipal Code;
 - ~~aa. Recycling facilities may have identification signs with a maximum of 20 percent per side or 16 square feet, whichever is larger, in addition to informational signs required in Section (xii) above; in the case of a wheeled facility, the side will be measured from the pavement to the top of the container;~~
 - ~~bb. Directional signs, bearing no advertising message, may be installed with the approval of the Planning Director if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way as determined by the Planning Director;~~
 - ~~cc. The Planning Director may authorize increases in the number and size of signs upon finding that it is compatible with adjacent businesses;~~
 - (xiv) The small collection facility shall not impair the landscaping required by the City for any concurrent use;
 - (xv) No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One space shall be provided for the attendant, if needed;
 - (xvi) Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present;
 - (xvii) Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use unless all of the following conditions exist:
 - aa. The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation;

- bb. A parking study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site;
- cc. The permit shall be reconsidered at the end of 18 months;
- dd. A reduction in available parking spaces in an established parking facility may then be allowed as follows:

- For a commercial or industrial host use:

<u>No of Available Parking Spaces</u>	<u>Maximum Reduction</u>
0-25	0
26-35	2
36-49	3
59-99	4
100+	5

(c) Unattended Collection Box. A zoning conformance permit is required prior to placement of an unattended collection box on a property that is zoned General Commercial, Neighborhood Commercial, Mission Boulevard Form-Based Code (MB-T4 and MB-T5) and South Hayward BART Form-Based Code (S-T4 and S-T5) districts. An unattended collection box owned, operated and maintained by a currently operating primary or permitted use engaged in the collection of used textiles and that is located on the site of that use shall not require zoning conformance permit approval. However, such box shall meet all other requirements and standards as set forth in this sub-section.

Approval of a zoning conformance permit for an unattended collection box shall be contingent upon fulfillment of the following requirements and standards:

- (i) Unattended collection boxes shall be placed on a site of an existing primary use that is in compliance with zoning, building and fire code of the City of Hayward.
- (ii) Unattended collection boxes shall be a minimum distance of 1,000 feet from any other permitted unattended collection box, unless of the following exceptions apply:
 - a. The unattended collection box owned, operated and maintained by a currently operating primary or permitted use engaged in the collection of used textiles and that is located on the site of that use; or
 - b. The unattended collection box is included on the Inventory of Unattended Collection Boxes referenced in subsection (e)(i) below; or
 - c. The unattended collection box has been approved as second box on the same parcel, pursuant to subsection (x).
- (iii) Unattended collection boxes are prohibited on the site of solely residential development.

- (iv) Unattended collection boxes shall be maintained in good condition, free of graffiti, with no structural damage, holes or visible rust.
- (v) The Responsible Party shall maintain a minimum of twenty feet of area surrounding the unattended collection box free of donated materials, junk, trash and debris or other salvageable personal property placed on the site.
- (vi) The Responsible Party shall be responsible for abatement and removal of all junk, garbage, trash, debris and other material from the unattended collection box and the immediate ten feet surrounding the box within 24-hours of written notice from the City of Hayward. If abatement and removal is not accomplished within 24-hours of said notice, the Responsible Party shall be responsible for all costs related to abatement and removal of junk, garbage, trash, debris and other refuse material as defined above.
- (vii) Unattended collection boxes shall contain the following information in minimum two-inch font visible from the front of each facility: the name, address, telephone number, Internet Web address and email address of the unattended collection box owner and operator; the type of material to be deposited in the box; and, a statement that the collection box is owned by either a for-profit or nonprofit organization. If a nonprofit organization owns the unattended collection box, then the box's front must also display a statement describing the charitable cause that will benefit from the donations.
- (viii) Unattended collection boxes shall be locked or otherwise secured.
- (ix) Unattended collection boxes' footprint shall not exceed 25 square feet in size, and shall not be taller than seven feet in height.
- (x) No more than one unattended collection box may be placed on a parcel. However, an operator with an approved box on a site that is in good standing may apply to amend their zoning compliance permit to allow the installation of a second box on the same parcel if the operator demonstrates that daily collection from the permitted unattended collection box fails to provide adequate storage capacity.
- (xi) Unattended collection boxes shall not obstruct pedestrian or vehicular circulation and shall not be placed in required parking spaces, setbacks or the public right-of-way as defined in Chapter 10 of the Hayward Municipal Code.
- (xii) Unattended collection boxes shall be visible from the public right-of way.
- (xiii) Unattended collection boxes shall be located no further than 10 feet from a continually operating light source of at least one foot candle.
- (xiv) Unattended collection boxes shall be free of any advertising which is unrelated to the business of the unattended collection box.

- (xv) Unattended collection boxes shall remain in the exact location for which a permit was issued and shall not be moved unless the box is replaced with an identical box in the same location or removed from the property.
- (xvi) The owner or operator of a permitted unattended collection box shall report the total number of tons of material collected within the city limits. Such reporting shall be submitted in writing on an annual basis to the City's Utilities and Environmental Services Department. Written reports shall be submitted by March 30 each year for the preceding calendar year.

d. Implementation.

- i. Inventory of Existing Unattended Collection Boxes: An owner or operator of an unattended collection box on the City's Inventory of Unattended Collections Boxes ("Inventory") shall apply for a zoning compliance permit within thirty (30) days of the effective date of these regulations. Approval of a zoning conformance permit for an existing unattended collection box shall be contingent upon fulfillment of the requirements and standards set forth in these regulations, except for the minimum distance requirements.
- ii. Inventory of Existing Nonconforming Unattended Collection Boxes: Any unattended collection box on the City's Inventory that is made non-conforming by adoption of these regulations may lawfully remain on the site listed in the Inventory for a period not to exceed twelve (12) months from the effective date of these regulations. However, a zoning conformance permit shall not be approved for such a box.
 - a. Notice: Upon adoption of these regulations, the City shall notify the owner or operator of such a box, in writing, that the non-conforming unattended collection box may remain on the site for a period not to exceed twelve (12) months from the effective date of these regulations.
 - b. Maintenance: The existing unattended collection box shall be maintained in good condition, free of graffiti, structural damage, holes, visible rust, and the ten feet of area surrounding the box shall be kept free of donated materials, junk, trash and debris or other salvageable personal property placed on the site.
 - c. Replacement: The existing unattended collection box may be replaced with another box by the same owner or operator within the time frame established by this section, provided that the replacement box footprint does not exceed that of the original box.
- iii. New Unattended Collections Boxes: Applications for zoning conformance permits to allow unattended collection boxes that are not included in the City's Inventory shall be accepted commencing sixty (60) days from the effective date of these regulations. Approval of a zoning conformance permit for a new unattended collection box shall be contingent upon

fulfillment of all the requirements and standards set forth in these regulations.

- e. Removal of Unattended Collection Boxes and Liability. Notwithstanding the Implementation provisions in subsection (e)(ii) below, upon discovering the existence of an unattended collection box on private or public property that is lacking the requisite permit, the Planning Director or designee shall have the authority to cause the abatement and removal thereof in accordance with the procedures outlined in Chapter 5, Article 7 (Community Preservation and Improvement) of the Hayward Municipal Code.
- f. Nothing in these regulations is intended to diminish or otherwise alter the requirements of any other federal, state or municipal law governing regulation of unattended collection boxes.

j. Vehicle Parking, Repair, Display, and Storage Requirements.

The term “vehicle” as used in this section shall include an automobile or truck (excluding truck tractor or any vehicle exceeding a maximum gross weight limit of 6,000 pounds of gross vehicle weight) recreational vehicle, trailer, boat mounted on trailer, special interest vehicle, or other vehicle referenced in California Vehicle Code section 5051, and other vehicles of similar kind and use. In all zoning districts, use of any kind of vehicle as defined herein for living or sleeping purposes shall be prohibited except within mobile homes within an approved mobile home park.

(1) Single-Family Residential Uses.

(a) Parking and Storage in Front Yards. Vehicles shall be parked in the required front yard only on the paved driveway which provides direct access to the garage from a public street or an approved private street, perpendicular to the street, or on a curved driveway.

(b) Parking or Storage in Other Than Front Yards.

Parking or storage of vehicles in areas other than the front yard is permitted subject to the following requirements:

(i) No vehicle shall be parked or stored in a required side yard or side-street yard with the following exceptions: recreational vehicles that are not self-propelled, and are less than 6 feet in height, such as a boat, compact trailer tent or similar recreational vehicle can be stored in a required side yard if screened from view from the street by a 6 foot-high solid fence.

(ii) Parking or vehicle storage areas shall be paved with asphaltic or Portland Cement concrete and conform to City standards. A secondary driveway which provides access to a recreational vehicle storage area may be constructed with concrete, asphalt, or rock or concrete wheel tracks.

(iii) Open parking or vehicle storage areas located on lots less than 10,000 square feet in area shall not exceed 500 square feet in area (700 square feet for lots 10,000 feet or larger).

(iv) Open or covered parking areas, and garages or carports exceeding 120 square feet in area, shall be located no less than 5 feet from the side or rear property line and shall conform to all other requirements of the Zoning Ordinance and Building Code.

(2) Multi-Family Residential Uses - Prohibited Vehicles.

Parking or storage of truck tractors or vehicles that are not self-propelled (trailers, boats mounted on trailers, and other vehicles or equipment of similar kind and use) are prohibited except within designated storage areas approved as part of the site plan review, use permit, planned development or building permit.

- (3) Display and Sale of Motor Vehicles. Display for sale of one motor vehicle, boat, trailer, motorhome, or other vehicle is permitted as an accessory residential use, provided said vehicle is registered to a person who currently resides on the property. Display for sale of any vehicle on any property not approved for such use is unlawful, and legal action may be taken against the vehicle owner, property owner, or both.
- (4) Vehicle and Boat Repair. It shall be unlawful and a public nuisance for any person to engage in, or any property owner to allow to occur, vehicle or boat repair in any residential zone:
 - (a) Upon any vehicle which is not registered to a current occupant of the premises where the work is being performed; or
 - (b) Upon more than two (2) vehicles at one time on the same premises or by the same person; or
 - (c) Outside a fully enclosed structure for uses defined as major automobile repair as defined in Section 10-1.000 of this Ordinance. Minor automobile repair may be performed outside a fully enclosed structure where elapsed time between the beginning and end of the repair does not exceed forty-eight (48) hours. Vehicle painting, other than spot painting, shall not be permitted in residential zones.



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-226

DATE: October 13, 2015

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.3510 *et seq.*, Zoning Ordinance Uses and Activities Defined, Related to Unattended Collection Boxes

RECOMMENDATION

That the City Council adopts the Ordinance introduced on September 22, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the September 22, 2015, 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, October 10, 2015. 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 10/10/15

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE
SECTION 10-1.3510 *ET SEQ.*, ZONING ORDINANCE USES AND
ACTIVITIES DEFINED, RELATED TO UNATTENDED COLLECTION BOXES

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 15-190, approving the text changes requested in Zoning Text Amendment Application 2015-00056.

Section 2. Zoning Ordinance Section 10-1.3510, Uses and Activities Defined, is hereby amended to add a text reference to Unattended Collection Boxes in its unique location in alphabetical order within the section, to conform to the City's standards and regulations governing Unattended Collection Boxes introduced herewith.

UNATTENDED COLLECTION BOXES. Unattended collection box shall mean any unattended container, receptacle or similar device that is located on any lot within the city that is used for soliciting and collecting donations of clothing and other salvageable personal property. See General Regulations Section 10.1-2735.i. "Recycling Facilities" for specific 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 September 22, 2015, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on October 13, 2015, 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: October 10, 2015
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 15-227

DATE: October 13, 2015

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Hayward Municipal Code Section 5-7.20 *et seq.*, Public Nuisances, to Reference New Zoning Regulations Related to Unattended Collection Boxes

RECOMMENDATION

That the City Council adopts the Ordinance introduced on September 22, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the September 22, 2015, 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, October 10, 2015. 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 10/10/15

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE SECTION 5-7.20 *ET SEQ.*,
PUBLIC NUISANCES, TO REFERENCE NEW ZONING REGULATIONS
RELATED TO UNATTENDED COLLECTION BOXES

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 15-190, approving the text changes requested in Zoning Text Amendment Application 2015-00056.

Section 2. Chapter 5, Sanitation and Health, Article 7, Community Preservation and Improvement, Section 5-7.20, Public Nuisance, is hereby amended to add new subsection 5-7.20x related to Unattended Collection Boxes as follows:

- x. Any structure or condition in violation of Section 10-1.2735.i, of this code (Recycling Facilities and Recycling Collection Facilities).

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 September 22, 2015, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on October 13, 2015, 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: October 10, 2015
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 15-228

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement with Godbe Research for the 2016 Community Input and Feedback Survey

RECOMMENDATION

That Council adopts a resolution (Attachment I) authorizing the City Manager to negotiate and execute a professional services agreement with Godbe Research, Inc. in an amount not to exceed \$31,550 to complete the 2016 Community Input and Feedback Survey.

BACKGROUND

For the past seven years, Godbe Research, Inc. (Godbe) has been providing community survey and data analysis services for a variety of City initiatives. Beginning in 2008, Godbe completed the first of several biennial resident satisfaction surveys with the most recent taking place in fall of 2014. These surveys have given the Council and staff access to longitudinal data measuring Hayward residents' opinions on the quality of services and programming provided by the City.

In 2013, the City retained Godbe to conduct a preliminary survey to measure voter preferences for additional capital expenditures and/or service enhancements for the now successful Measure C sales tax measure, which voters approved in the summer of 2014. The research product provided by Godbe helped to accurately describe the service demands of Hayward residents, which in turn determined the projects and service enhancements associated with the Measure C ballot initiative.

The Utility Users Tax (UUT) expires in 2019. Since the tax has been in existence for six years, it would be prudent to assess how the community/voters perceive the City's use of that money: Did we accomplish or are we accomplishing what was promised to the voters? Does the community believe the City has faithfully exercised management and expenditure of the funds? If additional funds were available, what are the preferences for expenditures of the community going forward?

DISCUSSION

Godbe is a recognized research leader in California. Given Godbe's longstanding experience measuring the opinions of Hayward residents, staff recommends engaging the firm to conduct the 2016 Community Input and Feedback Survey. In addition to the City, Godbe has conducted several recent surveys for both the Hayward Unified School District and Hayward Area Recreational and Park District.

As outlined in Attachment II: Scope of Services, the objective of this research is to:

- Determine the community's perception of the City's management and expenditure of Utility User Tax revenues
- Determine and rank of issues and projects important to Hayward voters
- Evaluate the public sector services and funding preferences of Hayward Voters
- Evaluate potential projects to be funded by future revenue
- Collect demographic information and other research objectives.

Godbe will conduct a hybrid Internet/ Telephone survey with a sample size of 500 or 600 voters. While more expensive, staff strongly recommends a sample size of 600 given that surveys with larger sample sizes are able to more precisely capture and produce more statistically significant results. In other words, a larger size can provide a more reliable prediction of the sentiments of the voting population.

Surveys are available in several different languages to ensure the opinions of the diverse population of the City can be heard. The hybrid survey has been utilized by several bay area cities as well as HARD and HUSD in the past. Godbe staff is confident in its application for this particular study.

Council Committee Action: The Council Budget and Finance Committee (CB&FC) at their meeting on October 7, 2015, reviewed and discussed the pending survey and recommends proceeding with the Godbe contract and scope of work as described herein.

FISCAL IMPACT

Per the scope of services, the most extensive survey option is \$31,550. This will be paid for out of the City Manager's Office Budget. The total amount of this contract will not exceed \$31,550.

NEXT STEPS

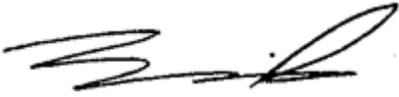
The City Manager will execute a contract with Godbe to complete the services outlined in the Scope of Services. Once the survey is completed and data is compiled, findings will then be reported to Council in an open work session.

Prepared by: John Stefanski, Management Analyst

Recommended by: Kelly McAdoo, Assistant City Manager

File #: CONS 15-228

Approved by:

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

Fran David, City Manager

Attachments:

Attachment I Resolution

Attachment II Scope of Services

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXCECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GODBE RESEARCH, INC., TO PERFORM THE 2016 COMMUNITY INPUT AND FEEDBACK SURVEY

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a contract with Godbe Research, Inc. to assist the City of Hayward in conducting the Community Input and Feedback Survey in an amount not to exceed \$31,550, in a form to be approved by the City Attorney.

IN COUNCIL , HAYWARD, CALIFORNIA _____, 2015

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



GODBE RESEARCH
Gain Insight

PROPOSAL TO CONDUCT A SURVEY OF HAYWARD VOTERS

Presented to the City of Hayward

September 9, 2015

PROJECT WORK PLAN

Godbe Research is a recognized leader in public opinion research for California cities, counties, school districts, library districts, transportation agencies, and other local government agencies. As part of our experience, we have conducted more than a half-dozen recent (since 2008) surveys in the Hayward community, including projects for the City of Hayward (Hayward or City), Hayward Unified School District, and Hayward Area Recreation and Park District. We believe that the success of any opinion research project depends on recognizing the individual and unique needs of each of our clients and then crafting a project work plan to address those specific needs. To this end, Godbe Research has crafted the following scope of work for the City of Hayward to illustrate the types of considerations that go into each of our voter survey projects.

Research Objectives

Before beginning any election polling study, Godbe Research spends significant time reviewing the client's research objectives to choose the most appropriate research design. Based on information provided by the City, Godbe Research believes that the most important research objects will be:

- ✓ determining and ranking issues of importance to the Hayward voting electorate;
- ✓ evaluating the spending priorities of voters in the City in terms of funding public sector services;
- ✓ determining baseline and informed support for a potential future utility users tax (UUT) measure to fund needs and priorities in the City;
- ✓ evaluating and ranking the projects and programs that any future UUT measure would fund for the City based on voter support, even within the City's general fund;
- ✓ examining the impact of various statements on support for potential measures (arguments 'for' and 'against' the measures), including duration;
- ✓ evaluating the June 2016 Presidential primary election cycle as the most appropriate election cycle for any future UUT revenue measure;
- ✓ collecting demographic information on voters Hayward not already contained in the voter file, *and*;
- ✓ additional research objectives to be refined between the City, Godbe Research, and other project stakeholders.

Methodology and Sample Discussion

Given the fact that telephone surveys (even ones including cell phones) are seeing a large decline in response rates by age and given our experience with this phenomenon specifically in the Hayward community, it is our recommendation to conduct a hybrid Internet and telephone survey of voters for this specific voter survey. Godbe Research has pioneered this process for numerous clients over the past few years to acknowledge and counteract declining response rates for telephone surveys among certain demographic subgroups (mostly age related) as well as to leverage technologies that are preferred among various demographic subgroups. Some of our

clients who have used a successful similar hybrid methodology include the San Carlos School District (parcel tax win in May 2015), City of Tracy, City of Novato, City of San Mateo, City of Santa Barbara, City of South San Francisco, Napa Valley Unified School District, City of Morgan Hill, and others. The Hayward Unified School District and Hayward Area Recreation and Park District have both also adopted similar survey processes based on these age related concerns and our recommendation.

Accordingly, we are recommending a hybrid quantitative survey using an Internet survey as our primary data collection method. We will then supplement the Internet survey with a telephone survey methodology, after a review of Internet survey respondent demographics where we can identify and account for potential demographic sub-groups that might not respond adequately to the Internet version of the survey. The sample for all interviews will come directly from the State voter file, where we have self-reported phone numbers as well as email addresses. Using the San Carlos School District as a recent example (November 2014 polling for a successful May 2015 parcel tax), the Internet modality portion of the overall survey project was able to collect a wealth of data from the 18 to 49 year old voter subgroup but was very inefficient in collecting data from voters age 49+. Similarly, while the telephone modality portion of the project was an excellent method to 'round out' our demographic and geographic quotas for 18 to 49 year old voters, the telephone version collected the vast majority of interviews with voters age 49+, but would have been woefully insufficient as a primary data collection methodology for the all important 18 to 49 voter group.

This dual methodological approach will cost effectively allow us to collect data from Hayward voters based on how potential respondents interact with various survey technologies in order to maximize our sample size and statistical validity for the survey, not to mention demographic and geographic representation of voters. Finally, for the telephone modality portion of the overall survey, we will also make sure to include 'cell phone only' voter households, given that we can identify cell phone exchanges within the voter sample by a match of the telephone prefix to known and unique cell phone prefixes.

Scope of Work

To accomplish the research objectives of the City of Hayward for voter survey, Godbe Research recommends a hybrid Internet and telephone survey methodology of registered voters in the City. Based on this recommended hybrid approach, below is a list of specific services and tasks for the survey of Hayward voters:

- Conducting an in-person kick-off meeting with the City of Hayward and other project stakeholders, as well as additional conference calls and meetings to discuss the research objectives and other aspects of the voter survey in detail.
- Reviewing Hayward voter and resident demographics, previously conducted and related opinion research, and other information that will help to inform and support this current voter survey process.
- Designing and refining a survey instrument of between 15 and 20-minutes in length so that it addresses the research objectives of the City of Hayward for the voter survey. This is done through an iterative process between Godbe Research, the City, and other project stakeholders. The survey will be designed to be formatted for both Internet and telephone survey modalities as a 'hybrid survey' and both versions of the survey will be identical.

- ❖ Please note that previous voter surveys conducted for the City by Godbe Research were in the same 15 to 20-minute range.
- Programming, refining, and testing the Internet version of the survey instrument using our Internet survey software package. This will be done by our partner team of IT and programming experts.
- CATI programming the telephone version of the survey instrument for efficient and accurate data collection, and training telephone interviewing personnel on the questionnaire and interviewing protocol.
 - ❖ For our telephone interviewing projects, Godbe Research uses only live interviewers, who have been intensively trained on the survey questionnaire, and who are located in the western United States.
- Pre-testing the survey instrument in both modalities to ensure that the questions and response codes are understandable to respondents, and to ensure that the survey length coincides with the budgeted survey length for the project.
- Developing a recruitment email for the Internet version of the survey and working with the City of Hayward so that Godbe Research can send recruitment emails to voters with known self-reported email addresses in the voter file.
 - ❖ Based on the City's preference and communications policies, we can also match any internal email lists the City has (e.g. park and recreation lists, City communications lists) to the voter file, so that we can include additional voters that do not have email addresses in the voter file. By matching email addresses with a first and last name to those in the voter file, we can ensure that only Hayward voters are included in the additional matching process.
- Developing a stratified and clustered sample of Hayward voters for the survey process appropriate to the research objectives of this specific study. For reference, we have identified that there are a total of approximately 61,841 voters in the City of Hayward, for which we have telephone numbers for approximately 47,811 voters, or 77% coverage. We also have email address for approximately 10,718 voters or 17% coverage. Finally, we have cell phone numbers for 10,811 total voters or 17% of the overall voting electorate.
 - ❖ In addition, we have also identified that there are a total of approximately 18,836 likely June 2016 voters in the City of Hayward. Of the June 2016 likely voting electorate, we have telephone numbers for approximately 15,885 voters or 84% coverage and email addresses for approximately 2,580 voters or 15% coverage. Finally, for the June 2016 election cycle, we have cell phone numbers for 2,032 voters or 11% of the likely voting electorate.
- Conducting approximate 15 to 20-minute Internet and telephone interviews with approximately 500 (n=500) to 600 (n=600) total Hayward voters according to a strict interviewing protocol and our recommended sampling design of registered voters. A sample size of 500 to 600 would provide for a margin of error of no greater than +/-4% at the 95% confidence level, when looking at all residents in the City.

- Merging the Internet and telephone data files, as well as processing and weighting the data to adjust for population distribution and strategic oversampling, as needed.
- Developing a topline report of aggregate findings for the City of Hayward. We will also meet with the City and other project stakeholders to review the topline/aggregate survey results. This will help our more detailed analysis and reporting to be of maximum value to the City.
- Analyzing the voter survey results and preparing a report of findings conclusions, and recommendations for the City (draft and final formats), which directly addresses the research objectives outlined for the voter survey. Our reports typically include sections for key findings and conclusions, a methodology discussion, analysis of the questions and topics in narrative and graphical format, as well as a copy of the survey questionnaire and a complete set of crosstabulations for all survey questions.
- Presenting the results and recommendations from the voter survey to the City of Hayward for up to two presentations.
- Post-survey consulting on the results and recommendations from the survey of voters as needed by the City of Hayward and other project stakeholders (no additional fee).

PROPOSED PROJECT COST OPTIONS

Godbe Research takes great pride in delivering reliable and practical opinion research projects 'on time and on budget'. In doing so, we prefer to provide a firm, fixed fee format for our proposals. This is because we do not believe in assigning arbitrary hours and rarely do projects (even highly similar in nature) take the same amount of time or resources. Thus, we feel that firm and fixed-fee pricing represents the best value to our clients. This model has worked for past surveys for the City of Hayward with great success.

Based on our understanding of needs of the City of Hayward for the voter survey, Godbe Research has provided project cost options by task to conduct a 15 to 20-minute hybrid Internet and telephone survey of 500 (n=500) to 600 (n=600) total City voters. The prices below reflect the all inclusive costs to complete the survey project -- the overall cost will not exceed those shown below, provided that parameters (e.g. hybrid survey methodology, survey length, sample size, etc.) of the project conform to those outlined in this scope of work document. Should project parameters or City needs change, we will be happy to provide amended costs prior to proceeding.

Finally, as part of this voter survey process, Godbe Research proposes to provide two invoices to the City for our services. The initial fifty-percent (50%) of project fees will be billed once we have completed the project kick-off meeting, with that amount due net 30. An invoice for the remaining 50% of project fees will be submitted to the City, once we have a final survey questionnaire, with that amount also due net 30. With an approximate eight week time frame for the project, this payment schedule roughly corresponds to the delivery of the final survey questionnaire (first invoice) as well as the project report (final invoice).

Option One: Hybrid Survey of 500 (n=500) Hayward Voters - Internet/Telephone

<u>Project Task</u>	<u>15-min.</u>	<u>18-min.</u>	<u>20-min.</u>
Listed Voter Telephone Sample	\$1,100.00	\$1,100.00	\$1,100.00
Email Sample Purchase	\$750.00	\$750.00	\$750.00
Internet Version Programming/Testing	\$4,000.00	\$4,250.00	\$4,500.00
CATI Programming of Telephone Version	\$1,125.00	\$1,350.00	\$1,500.00
Internet Version Recruitment	\$650.00	\$650.00	\$650.00
Internet Version Hosting	\$500.00	\$500.00	\$500.00
Telephone Interviewing	\$6,625.00	\$7,375.00	\$8,375.00
Data Processing	\$850.00	\$900.00	\$950.00
Research Fee	\$7,750.00	\$7,750.00	\$7,750.00
Project Management	\$2,750.00	\$2,750.00	\$2,750.00
<u>Miscellaneous Expenses</u>	<u>\$350.00</u>	<u>\$350.00</u>	<u>\$350.00</u>
Voter Survey Total	\$26,450.00	\$27,725.00	\$29,175.00

Option Two: Hybrid Survey of 600 (n=600) Hayward Voters - Internet/Telephone

<u>Project Task</u>	<u>15-min.</u>	<u>18-min.</u>	<u>20-min.</u>
Listed Voter Telephone Sample	\$1,300.00	\$1,300.00	\$1,300.00
Email Sample Purchase	\$900.00	\$900.00	\$900.00
Internet Version Programming/Testing	\$4,000.00	\$4,250.00	\$4,500.00
CATI Programming of Telephone Version	\$1,125.00	\$1,350.00	\$1,500.00
Internet Version Recruitment	\$650.00	\$650.00	\$650.00
Internet Version Hosting	\$500.00	\$500.00	\$500.00
Telephone Interviewing	\$7,950.00	\$8,850.00	\$10,050.00
Data Processing	\$900.00	\$950.00	\$1,050.00
Research Fee	\$8,000.00	\$8,000.00	\$8,000.00
Project Management	\$2,750.00	\$2,750.00	\$2,750.00
<u>Miscellaneous Expenses</u>	<u>\$350.00</u>	<u>\$350.00</u>	<u>\$350.00</u>
Voter Survey Total	\$28,425.00	\$29,850.00	\$31,550.00



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www.godberesearch.com

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CITY OF HAYWARD

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

Staff Report

File #: CONS 15-247

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Garrett Contreras, Fire Chief

SUBJECT
Firehouse Clinic Memorandum of Understanding

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) between the City and Tiburcio Vasquez Health Center (TVHC) for the operation of a Firehouse Clinic at Fire Station Number 7 in a form approved by the City Attorney.

BACKGROUND

On June 17, 2014, the City Council approved the construction contract to build a new Fire Station Number 7. As has been noted in previous staff reports, the construction of this new fire station also presented an opportunity to partner with Alameda County on an innovative health care delivery model being developed in the County.

According to the Alameda County Public Health Department, health care coverage is unaffordable for more than 200,000 residents in Alameda County. Many of these uninsured residents use emergency rooms (ER) throughout the County as their primary health care providers, creating undue burden and overcrowding in these ERs. In addition, there is a significant shortage of primary and preventative care health providers in the County.

From an innovative and forward thinking effort to address these issues, there evolved the concept of a Firehouse Clinic. These centers could provide a new level of localized care that would be fully integrated into the existing County health care delivery system. The clinics would be co-located at fire station sites in Alameda County and have limited-scope staffing that would be a referral point for sub-acute 911 calls (approximately 30,000 calls annually in Alameda County that currently use emergency room services); and would also help provide discharge follow-up for local residents within forty-eight hours of discharge from Acute Care. The construction of a new Fire Station 7 provides an opportunity to serve as a primary pilot site for a health care clinic, especially given the segment of the Hayward population that this station serves.

The Firehouse Clinic, which is approximately 2,400 square feet, is rapidly nearing completion and will be

open and ready to serve the public by the middle of October. Funding for this project was provided through a grant from Alameda County Health Care Services Agency. Before the Clinic can open, however, the City and TVHC need to fully execute a contract that outlines the roles and responsibilities related to this unique partnership.

DISCUSSION

As noted above, an MOU for the Firehouse Clinic is warranted due to the unique nature of the working relationship between the City and TVHC. While a copy of the full MOU is attached, it is important to note several of the more critical and salient points of the MOU for the purposes of this report. In general, it was the intent of the City to develop an MOU that allows TVHC to utilize the space in the most effective and efficient manner as it relates to the scope of services provided.

Contract Term: The term of the contract will be for three years. However, the contract allows for annual reviews, which will allow staff the opportunity to inform Council as to how well the Firehouse Clinic is meeting the goals established as part of this project.

City and TVHC Obligations: For all intents and purposes, the City's key role in this MOU is to construct the building that TVHC will utilize to commence the provision of services as outlined in the scope of services and to allow the use of the space and some associated parking by TVHC.. Likewise, TVHC's key role in this agreement is to provide the requisite services; provide appropriate, safe, and code-compliant workspace(s) and office equipment for clinical staff; and maintain compliance with all municipal codes. It is important to note that TVHC will be responsible for all charges emanating from their operations, such as custodial services, HVAC repairs, utilities, and waste disposal services.

Scope of Work: TVHC will provide a full scope of primary care services including general family medicine; reproductive health; prenatal care; immunizations and boosters; disease testing, prevention, and education; health screenings; and acute and chronic disease management. In addition, TVHC plans to augment these services by providing referrals to specialty and behavioral health care and navigation assistance, such as connecting the patient to the best insurance program available for a specific patient's condition(s).

Confidentiality and Information Exchange: In order to protect patient information, provisions are included that commit both parties to provide satisfactory assurances to one another that protected health information will be appropriately safeguarded, and which comply with all appropriate State and Federal laws pertaining to the storage and dissemination of personal and health-related information.. Training will be provided so that staff members from both the City and TVHC are aware of and abide by all applicable rules and regulations concerning confidentiality and the Health Insurance Portability and Accountability Act (HIPPA) requirements.

Other Items: Many of the other provisions in the MOU, such as indemnification, insurance, and dispute resolution, utilize standard language as provided in all standard agreements developed by the City. Other standard provisions are included that cover, but are not limited to, the following: subleasing, non-discrimination, drug-free workplace; third-party rights; right of entry, liens, hazardous substances; alterations and repairs; and maintenance and repairs.

FISCAL IMPACT

As noted earlier, the City will not incur any expenses as a result of executing this MOU. In addition, the Clinic itself was constructed through a \$1.2 million grant from the Alameda County Health Care Services Agency. TVHC will pay rent to the City in the amount of \$2,200 per month during the initial term of this MOU; this amount will offset a portion of the debt service incurred by the General Fund as a result of the construction of Fire Station 7. Per the terms outlined in the MOU, the City can terminate the MOU if TVHC defaults and cannot provide the requisite services.

PUBLIC CONTACT

City staff has been meeting with representatives from TVHC and Alameda County over the past eight months to discuss myriad topics associated with the Firehouse Clinic, including the MOU. This version has been reviewed and accepted by both the City Attorney's office and TVHC's legal department. Furthermore, the MOU was reviewed by the Alameda County Board of Supervisors as part of their approval of a separate contract with TVHC that will occur this month; that contract is necessary in order to allow the County to fund TVHC's operational costs related to the Clinic.

Prepared by: Todd Strojny, Management Analyst II

Recommended by: Garrett Contreras, Fire Chief

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Attachment II

Resolution

Firehouse Clinic MOU

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH TIBURCIO VASQUEZ HEALTH CENTER FOR THE OPERATION OF A FIREHOUSE CLINIC AT THE NEW FIRE STATION NUMBER 7

BE IT RESOLVED by the City Council of the City of Hayward as follows:

WHEREAS, the City is constructing a new Fire Station No. 7 in South Hayward ; and

WHEREAS, this new station affords a unique opportunity to partner with TVHC on a project that supports a new health care delivery model developed within Alameda County; and

WHEREAS, a significant need exists for such services throughout Alameda County, as more than 200,000 residents are unable to afford health care coverage; and

WHEREAS, many uninsured residents utilize emergency rooms throughout Alameda County as their primary health care provider; and

WHEREAS, in order to address this issue, the City, in concert with TVHC, has agreed to incorporate a Firehouse Clinic (“Clinic”) into the construction of the new fire station; and

WHEREAS, the Clinic would provide a new level of localized care that would be fully integrated into the County’s existing health care delivery system; and

WHEREAS, the Clinic will be a full service primary and preventive care clinic that is designed to provide an alternative to community wait clinics that have long wait times or to emergency departments, which represent a high-cost setting for primary care visits; and

WHEREAS, TVHC will be fully responsible for operating the Clinic and for covering the annual operating costs; and

WHEREAS, TVHC has been designated by Alameda County Health Care Services Agency (HCSA) as an acceptable health care provider at the Clinic (also known as the Health Portal).

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City Manager is hereby authorized to negotiate and execute a Memorandum of Understanding (MOU) between the City and Tiburcio Vasquez Health Center (TVHC) for the operation of a Firehouse Clinic at the new Fire Station Number 7 in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

MEMORANDUM OF UNDERSTANDING BETWEEN TIBURCIO VASQUEZ HEALTH CENTER, INC.
AND THE CITY OF HAYWARD REGARDING FIREHOUSE CLINIC

THIS MEMORANDUM OF UNDERSTANDING is entered into between the City of Hayward, a California municipal corporation ("City") and Tiburcio Vasquez Health Center, Inc. ("TVHC"), on this 1st day of November 2015 (the Effective Date).

RECITALS

- A. WHEREAS, the City is constructing a new Fire Station No. 7 in South Hayward;
- B. WHEREAS, this new station affords a unique opportunity to partner with TVHC on a project that supports a new health care delivery model developed within Alameda County;
- C. WHEREAS, a significant need exists for such services throughout Alameda County, as more than 200,000 residents are unable to afford health care coverage;
- D. WHEREAS, many uninsured residents utilize emergency rooms throughout Alameda County as their primary health care provider;
- E. WHEREAS, in order to address this issue, the City, in concert with TVHC, has agreed to incorporate a Firehouse Clinic ("Clinic") into the construction of the new fire station;
- F. WHEREAS, the Clinic would provide a new level of localized care that would be fully integrated into the County's existing health care delivery system;
- G. WHEREAS, the Clinic will be a full service primary and preventive care clinic that is designed to provide an alternative to community wait clinics that have long wait times or to emergency departments, which represent a high-cost setting for primary care visits;
- H. WHEREAS, TVHC will be fully responsible for operating the Clinic and for covering the annual operating costs; and
- I. WHEREAS, TVHC has been designated by Alameda County Health Care Services Agency (HCSA) as an acceptable health care provider at the Clinic (also known as the Health Portal);

NOW, THEREFORE, the City and TVHC agree as follows:

1. Agreement

This Agreement sets forth the obligations of the parties in support of community-based health and wellness services for residents throughout Alameda County. This Agreement may only be amended in writing, signed by both parties.

The City and TVHC agree to work together to foster communication and, where possible, share data and other information, that is not health or other information protected by privacy or other laws, to maximize the effective facilitation of health services for Alameda County residents as well as for data collection purposes.

2. Term of Agreement

The term of this agreement shall be from November 1, 2015 to October 31, 2018 ("Initial Period"), unless terminated by either party as set forth herein. The agreement shall be reviewed annually, and each party will provide a status report to their respective governance bodies.

3. Services

In general, the services to be provided by TVHC include the following: health and wellness services; health care navigation services; discharge follow-up; and health education.

4. City Obligations

The City will provide approximately 2,400 square feet within the new Fire Station No. 7 for TVHC's use in providing the services outlined in Section 3 above. The Clinic will have a separate door accessible to the parking lot with a separate lock to protect the confidentiality of medical records.

5. TVHC Obligations

TVHC shall fully cooperate with the City to effectuate the terms of this agreement and shall: 1) provide the services as outlined in Section 6.C below; 2) provide appropriate, safe, and code-compliant workspace(s) and office equipment for clinical staff; and 3) comply with all Federal, State, and local laws; including but not limited to, all fire laws and regulations such as providing smoke detectors and fire extinguishers. Furthermore, TVHC shall obtain Fire Marshal clearance and licensure through the California Department of Public Health and ensure compliance with state and City fire codes.

6. TVHC Scope of Work

A. Staffing Levels: TVHC will generally be staffed by 10.5 Full Time Equivalents(FTE) at the Clinic, as follows:

- 1 FTE General Practitioner (MD)
- 1 FTE Mid-Level Practitioner (Nurse Practitioner)
- 3 FTE Medical Assistants
- 1.5 FTE RN Care Coordinator/Center Manager
- 1 FTE Reception Operator
- 1 FTE Panel Navigator/Panel Manager
- 1 FTE Eligibility Clerk
- 1 FTE Health Coach

Generally being staffed by 10.5 FTEs does not mean that 10.5 full-time employees will be at the Clinic each day because employees may be sick or approved to be absent. Staff may be floated from other TVHC locations to cover absences and positions for which employees are being recruited. TVHC retains the right to determine appropriate staffing and coverage for the Clinic. TVHC will, consistent with its typical practice, utilize background checks on Clinic FTE to ensure the safety of patients and staff.

B. Hours of Operation: The Fire House Clinic will be open from 8 AM to 8 PM Monday through Friday. Additional hours or days may be added by TVHC as appropriate.

- C. Medical Services and Population Health Services: TVHC provides a full scope of primary care services including general family medicine; reproductive health; prenatal care; immunizations and boosters; disease testing, prevention, and education; health screenings; and acute and chronic disease management. In addition, TVHC augments these services by providing referrals to specialty and behavioral health care and navigation assistance, such as connecting the patient to the best insurance program available for a specific patient's condition(s).

7. Clinic Maintenance/Security/Services

TVHC agrees to provide and pay for the following services used by the Clinic as part of its share of maintaining the Clinic:

- A. Custodial services on a commercially reasonable frequency but, no less than on a weekly basis;
- B. All utilities for the Clinic, including water, electricity, sewer, and telecommunications. Clinic will use separate meters for utilities, when possible to do so;
- C. Annual fire extinguisher inspections and certifications;
- D. Disposal of medical wastes, such as biohazard waste on a commercially reasonable frequency considering the nature of the waste but, under no circumstances shall medical waste be present for a period of time which could endanger the health and safety of Clinic Staff or the surrounding community;
- E. Copier service;
- F. HVAC services;
- G. Waste/recycling services on a commercially reasonable frequency but, no less than on a weekly basis;
- H. Carpet cleaning services on a commercially reasonable frequency but, no less than on a yearly basis;
- I. Document shredding services; and
- J. Security system.

The vendors utilized by TVHC for the above services, as well as the frequency of such services, will be provided to the City. If any changes to the vendors or service schedule occur during the term of this Agreement, they must be communicated to the City in writing in advance of such changes taking effect.

8. Clinic Ownership/Permits

It is understood between both the City and TVHC that the space to be utilized for the provision of medical services as noted in Paragraph 6.C above will be leased to TVHC for \$2,200 per month for the initial term of this agreement. Payment pursuant to this lease will be due a month in advance, on the first day of the month. All rights pertaining to the ownership of the building in total reside with the City.

All building permits, including any building permits required for approved tenant improvements, will be paid for by the City.

9. Termination

Notice of Termination and Default Remedies: In the event that TVHC fails to comply with the terms of the Agreement and/or state and federal regulations or otherwise fails to perform its duties and obligations in a reasonable and professional manner, the City must give TVHC written notice of the deficiency in their performance, and the City must give TVHC a reasonable opportunity to cure the deficiency in their performance. If, after a reasonable time TVHC fails to cure the deficiency in their performance, the City may issue a notice of termination of the agreement to TVHC.

Either party, upon 30 days written notice to the other party may terminate this Agreement without cause, but the City may only terminate the Agreement without cause after the Initial Period in Paragraph 2 has concluded.

10. Confidentiality and Information Exchange

A. Confidentiality

The City and TVHC agree that each entity shall comply with applicable federal and state laws relating to the confidentiality of individually identifiable information and shall perform the obligations of this Agreement in accordance with such laws.

TVHC shall maintain its records in accordance with all applicable federal and state laws and regulations. Such records shall be confidential to the extent required by law.

TVHC and its contractors shall maintain records in accordance with all applicable federal and state laws and regulations. Such records shall be confidential to the extent required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules, 45 C.F.R. Parts 160, 162, and 164; California Civil Code Subsection 56 et seq; California Welfare & Institutions Code Subsection 5328 et seq; and other applicable federal and state law or regulations. City and TVHC understand and agree that personal information relating to health services as more fully described in Section 6 of this Agreement that are provided by TVHC, or any of its subcontractors, is subject to the requirements of HIPAA Privacy and Security Rules.

For the purposes of protecting health information only, City and TVHC agree that each is a "Business Associate" of the other, as that term is defined in the federal regulations implementing HIPAA. As such, each party hereby provides satisfactory assurances to the other party that protected health information will be appropriately safeguarded through the execution of this Agreement.

B. Information Sharing

The City and TVHC agree that each entity shall abide by any limits on the use of, or any obligations to protect the confidentiality of, information that one entity obtains from the other, as those limits or obligations are imposed by federal and state law.

C. Ownership and Retention of Records

TVHC and its contract providers shall retain records created by them under the terms of this Agreement for the time period required by law, but in any case for a period of no less than five (5) years.

Health records shall remain the sole property of TVHC and its contract providers; however, they shall allow access to these records to patients, their families, and/or outside parties in accordance with federal and state law; including, but not limited to, HIPAA.

D. Training and Orientation

City and TVHC shall collaborate and provide training and support materials to City and TVHC staff and contractors covering applicable state and federal law pertaining to the confidentiality, privacy, and security of individually identifiable health information including, but not limited to, HIPAA. Such trainings may also include information from the TVHC directed at City personnel so that City personnel will be familiar with the policies and procedures of TVHC and its contract providers related to confidentiality.

11. Emergency Medical Services and Federally Qualified Health Centers - Integration

The City will strive to integrate the health care and 9-1-1 systems as often as possible. Staff from the City and TVHC will collaboratively explore the most effective means in which to achieve such an outcome.

12. Indemnification

TVHC agrees to indemnify, defend, and to save and hold harmless the City, its officers, agents, volunteers, and employees from any and all liability and judgments of any kind whatsoever, in addition to any and all losses, claims, actions, lawsuits, damages, expenses, liens, demands, fines or penalties, including costs, attorney's fees, settlements, and causes of action of any kind in law or equity (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time and property damage) caused by the negligent acts or omissions of TVHC or its employees, agents, subcontractors, or volunteers arising out of the City's provision of facilities for health services at the Clinic at Fire Station No. 7, or out of the negligent acts or omissions of those persons supervised by TVHC at the Clinic, or otherwise arising out of TVHC's performance of its obligations at the Clinic as specified in this Agreement.

The City agrees to indemnify, to save and hold harmless TVHC, its officers, agents, and employees from any and all liability and judgments of any kind whatsoever, in addition to any and all losses, claims, actions, lawsuits, damages, expenses, liens, demands, fines or penalties, including costs, attorney's fees, settlements, and causes of action of any kind in law or equity (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time and property damage) caused by the negligent acts or omissions of the City or its employees, agents, subcontractors, or volunteers arising out of the City's provision of facilities for health services at the Clinic at Fire Station No. 7, or otherwise arising out of the City's performance of its obligations relating to the Clinic as specified in this Agreement.

The parties' respective obligations as set forth in this section shall apply jointly and severally regardless of whether the indemnified party or any of its officers, officials, employees, volunteers, or agents are actively or passively negligent, but shall not apply to any loss of liability, fines, penalties, forfeitures, costs, or damages caused solely by the active negligence or by the willful misconduct of the indemnified party.

If either party should subcontract all or any portion of the work or activities to be performed under this agreement, that party shall require each subcontractor to indemnify, hold harmless,

and defend the other party, its officers, officials, employees, volunteers, or agents in accordance with the terms of the proceeding paragraphs

13. Insurance

On or before commencement of this agreement, TVHC, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the City the insurance specified in subsections (a) through (d) below with insurers and under forms of insurance satisfactory in all respects to the City. TVHC shall not allow any subcontractor to commence work on any subcontract until all insurance required of the TVHC has also been obtained for the subcontractor. Additional Insured endorsement shall be provided to the City prior to the effective date of this agreement.

(a) **Workers' Compensation.** Statutory Workers' Compensation Insurance and Employer's Liability insurance for any and all persons employed directly or indirectly by TVHC shall be provided with limits not less than one million dollars. In the alternative, TVHC may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the TVHC, if a program of self-insurance is provided, shall waive all rights of subrogation against the City for loss arising from work performed under this agreement.

(b) **Commercial General and Automobile Liability.** TVHC, at TVHC 's own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this agreement in an amount not less than one million dollars per occurrence, combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this agreement, including the use of owned and non-owned automobiles.

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 and Insurance Services Office Automobile Liability form CA 0001 Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

(i) City, its officers, employees, agents, and volunteers are to be covered as insureds as respects each of the following: liability arising out of activities performed by or on behalf of TVHC, including the insured's general supervision of TVHC; products and completed operations of TVHC; premises owned, occupied or used by TVHC; or automobiles owned, leased, hired, or borrowed by TVHC. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents, or volunteers.

(ii) The insurance shall cover on an occurrence basis, and not on the basis of an accident or claims made.

(iii) The insurance must cover personal injuries as well as bodily injuries. Any exclusion of contractual liability in personal injury provisions of the policy or any endorsement to it must be eliminated.

(iv) The insurance must cover complete contractual liability. This may be provided by amending the definition of "incidental contract" to include any written agreement.

(v) Any explosion, collapse, and underground property damage exclusion must be deleted.

(vi) An endorsement must state that coverage is primary insurance and that no other insurance affected by the City will be called upon to contribute to a loss under the coverage.

(vii) The policy must contain a cross liability or severability of interests clause.

(viii) Any failure of TVHC to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

(ix) Broad form property damage liability must be afforded. A deductible that does not exceed \$25,000 may be provided.

(x) Insurance is to be placed with California- admitted insurers with a Best's rating of no less than B:XL.

(xi) Notice of cancellation or non-renewal must be received by City at least thirty days prior to such change.

(c) Professional Liability. TVHC, at TVHC 's own cost and expense, shall maintain for the period covered by this agreement professional liability insurance for licensed professionals, including physicians and other medical staff, performing work pursuant to this agreement in an amount not less than one million dollars covering the licensed professionals' errors and omissions, as follows:

(i) Any deductible shall not exceed \$100,000 per claim.

(ii) Notice of cancellation or non-renewal must be received by the City at least thirty days prior to such change.

(iii) If the professional liability coverages are written on an occurrence form, the policy must contain a cross liability or severability of interest clause.

(iv) The following provisions shall apply if the professional liability coverages are written on a claims made form:

1. The retroactive date of the policy must be shown and must be before the date of the agreement.

2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the agreement or the work.

3. If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this agreement, TVHC must

provide extended reporting coverage for a minimum of five years after completion of the agreement or the work.

4. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this agreement.

(d) Property And Fire Insurance, which shall provide to protect: Real Property, against the risk of direct loss, commonly known as Special Form and Fire Legal Liability, to protect against liability for portions of premises utilized; Business Personal Property, to protect on a Broad Form, named peril basis, for all furniture, equipment, and supplies of your agency. If any City personal property is leased, rented, or borrowed, it shall also be insured the same as real property.

(e) Deductibles and Self-Insured Retentions. During the period covered by this agreement, upon express written authorization of City's City Attorney, TVHC may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The City may condition approval of an increase in deductible or self-insured retention levels upon a requirement that TVHC procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

(f) Notice of Reduction in Coverage. In the event that any coverage required under subsections (a), (b), (c) or (e) of this section of the agreement is reduced, limited, or materially affected in any other manner, TVHC shall provide written notice to City at TVHC's earliest possible opportunity and in no case later than five days after TVHC is notified of the change in coverage.

(g) In addition to any other remedies City may have if TVHC fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

(i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement;

(ii) Order TVHC to stop work under this agreement or withhold any payment which becomes due to TVHC hereunder, or both stop work and withhold any payment, until TVHC demonstrates compliance with the requirements hereof;

(iii) Terminate this agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies City may have and is not the exclusive remedy for TVHC's failure to maintain insurance or secure appropriate endorsements.

14. Provider Provisions

TVHC may, from time to time, use contract employees as agents to provide services. These agents are not employees, and TVHC executes annual contractual agreements with contract providers which may be terminated in compliance with each contract's requirements.

TVHC or its contract providers shall provide and maintain records of annual evidence of a current TB Test (PPD) for each employee/volunteer of TVHC.

TVHC, through its contract providers, shall provide current evidence of California Department of Justice (CDOJ), FBI, or Activity Supervisor Clearance Certificate (ASCC) security clearances for all volunteers/employees that have contact with children. TVHC or its contract providers will not permit its employees/volunteers to come into contact with children until CDOJ clearance is ascertained and TVHC will certify in writing to City that none of its employees who may come into contact with children have been convicted of any felony.

TVHC and/or TVHC, through its contract providers, shall follow the Child Abuse and Neglect Reporting Act ("CANRA") guidelines as Mandated Reporters to report suspicions of possible child abuse to the appropriate reporting agency as stated in California Penal Code Sections 11164-11174. TVHC shall require, as part of its contractual language with its subcontractors, that its contractors follow the CANRA guidelines as Mandated Reporters to report suspicions of possible child abuse to the appropriate reporting agency as stated in California Penal Code Sections 11164-11174.

15. Dispute Resolution

The City and TVHC shall meet and confer and attempt to negotiate an informal settlement to any disputes related to parties' performance under this Agreement. If additional assistance is needed to resolve a dispute arising under this Agreement, both parties shall submit such disputes to non-binding mediation in Alameda County with an agreed mediator or a mediator selected from a list provided by JAMS by each party alternatively striking one name until one name remains, who will be the mediator. Each party reserves its rights and remedies under law, except that the parties hereby agree that mediation may proceed notwithstanding the pursuit of other legal remedies. The parties will share the cost of any mediation equally.

16. General Terms and Conditions

A. Independent Contractor:

Nothing in this Agreement shall be construed to render the City in any way or for any purpose a partner, joint venturer, or associate in any relationship with TVHC other than that of Lessor and Lessee, nor shall this Agreement be construed to authorize either to act as agent for the other. Further, no relationship of employer and employee is created by this Agreement; it is understood and agreed that TVHC staff, or individuals hired or contracted with by TVHC, are not agents or employees of the City in any capacity whatsoever, and the City shall not be liable for any acts or omissions by TVHC staff nor for any obligations or liabilities incurred by TVHC. It is also understood and agreed that no City staff, or individuals hired or contracted with the City, are agents or employees of TVHC in any capacity whatsoever, and TVHC shall not be liable for any acts or omissions by City staff or for any obligations or liabilities incurred by the City.

No party's staff, or individuals hired or contracted with by a party, shall have any claim under this Agreement or otherwise for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, retirement benefits, social security, disability, workers' compensation, unemployment insurance benefits, civil service protection, or employee benefits of any kind from the other party.

B. Conformity with Law and Safety

In performing services under this Agreement, each party shall observe and comply with all applicable laws, ordinances, codes, and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Each party shall indemnify and hold the other harmless from any and all liability, fines, penalties, and consequences caused by the party's failures to comply with such laws, ordinances, codes, and regulations.

C. Notices

All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes by one of the following methods:

Personal Delivery: When personally delivered to the recipient, notices are effective on delivery.

Certified Mail: When mailed certified mail, return receipt requested, notice is effective on the date the receipt is signed by the recipient, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery, with charges prepaid or charged to a sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

Email or Facsimile Transmission: When sent by email or facsimile to the recipient's last email or facsimile number known to the party giving notice, notice is effective on receipt, provided that: a) a duplicate copy of the notice is promptly given by certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by email or facsimile shall be deemed received on the next business day if it is received after 5:00 PM (recipient's time) or on a non-business day.

All communications and notices required by or given pursuant to this Agreement shall be provided as follows:

To the City:

City Manager
City of Hayward
777 B Street
Hayward, CA 94541-5007
Fax: 510-583-3601
Email: fran.david@hayward-ca.gov

With Copy to:

Hayward Fire Department
777 "B" Street, 4th Floor
Hayward, CA 94541-5007
Attention: Chief Contreras

To TVHC:

CEO
Tiburcio Vasquez Health Center
22331 Mission Blvd
Hayward, CA 94541
Fax: 510-690-0703
Email: dvliet@tvhc.org and msalgado@tvhc.org

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or email or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

D. Choice of Law and Venue

This Agreement shall be governed by the laws of the State of California. Any action arising from this Agreement shall be brought, after exhausting alternative dispute resolution methods set forth in Section 15 above, in a Court of competent jurisdiction in Alameda County, California.

E. Waiver

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

F. Entire Agreement

This Agreement, including any and all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between the City and TVHC relating to the subject matter of this Agreement. As used herein, the Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. The Agreement may not be modified except by a written document signed by both parties.

G. Headings

Headings herein are for convenience of reference only and shall in no way affect the

interpretation of the Agreement.

H. Modification of Agreement

This Agreement may be supplemented, amended, or modified only by a written mutual agreement signed by both of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.

I. Survival

The obligations of this Agreement that by their nature would continue beyond the termination or expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 12), and Ownership and Retention of Records (Paragraph 10.C), shall survive termination or expiration.

J. Severability

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

K. Sublease and Assignment

TVHC may not sublease or assign any duty or right under this agreement without the express written consent of the City Manager.

L. Drug Free Workplace

TVHC recognizes that Fire Station No. 7 is a drug free workplace. TVHC will take all reasonable measures to ensure that the Clinic remains free of illicit drugs. This proscription does not apply to medications maintained for the treatment of patients in the clinic.

M. Nondiscriminatory Employment Practices

In the performance of this agreement, TVHC agrees to comply with the requirements of Hayward Municipal Code, Chapter 2, Article 7, Nondiscriminatory Employment Practices by City Contractors.

TVHC assures that it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

i. TVHC shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.

- ii. TVHC shall, if requested to so do by the City, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - iii. If requested to do so by the City, Recipient shall provide the City with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - iv. TVHC shall recruit vigorously and encourage minority - and women-owned businesses to bid its contracts.
 - v. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - vi. The Recipient shall include the provisions set forth in paragraphs i through v (above) in each of its subcontracts.
- N. No Third-Party Rights
The parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement. Nor do the parties intend to create any duty, covenant, obligation, or undertaking in any third party by entering into this Agreement.
- O. Right of Entry
Upon the occurrence of any of the events of default by TVHC as defined herein, the City, in addition to any other legal rights or remedies it may have, shall have the immediate right of re-entry and may remove or cause to be removed all persons and property remaining on the Clinic; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, TVHC. Should the City elect to re-enter as provided herein, or should it take possession pursuant to legal proceedings or any notice provided for by law, it may either terminate this agreement, or re-lease the Clinic and Improvements thereon or any part thereof for such term or terms (which may extend beyond the term of this Agreement) and such rental or re-rental and upon such other terms and conditions as the City in its sole discretion may deem advisable, with the right to make alterations and repairs to premises and Improvements.
- P. Section 9.04 Liens
TVHC shall keep the Clinic and all Improvements thereon free from any and all liens arising out of any work performed, materials furnished, or obligation incurred, and; to pay to the City, upon demand, the cost of discharging any liens with interest at the prevailing statutory rate from the date of such discharge, together with reasonable attorneys' fees in connection with the settlement, trial, or appeal of any such lien matter.

Q. Cooperation with Satisfaction of Grant Assurances

TVHC shall cooperate in furnishing any information or documentation, subject to disclosure restrictions on health information as set forth in Section 10 above, to the City necessary to satisfy any applicable grant assurances.

TVHC shall comply with all applicable requirements contained in the Capital Award Agreement dated as of July 1, 2014, between the County of Alameda and the City of Hayward attached hereto as Exhibit 1.

R. Hazardous substances

TVHC warrants and represents that from and after the Effective Date, no Hazardous Substances, other than commercially reasonable amounts of substances used in routine clinical work and cleaning, will be present in or on the Premises or will otherwise be used or permitted to be used in, on or about the Premises. "Hazardous Substance" will be interpreted broadly and include chemicals, gases, radiation, x-rays, and other matter potentially harmful to human health. As a material inducement to the City to enter into this Agreement, TVHC covenants and agrees that TVHC shall save the City harmless from, and shall indemnify and defend (with counsel acceptable to City) the City against any and all loss, cost, damage, or expense, including reasonable attorneys' fees, resulting from or arising out of TVHC's breach of any of the warranties and representations set forth in this Section.

S. Alterations and repairs

During the term of this agreement, TVHC shall have the right to make interior, structural and non-structural alterations and additions to the Premises and Improvements, provided, however, that TVHC obtains prior written permission from the City of Hayward.

[Signatures on Next Page]

IN WITNESS WHEREOF, this Memorandum of Understanding is executed on the Effective Date.

CITY OF HAYWARD, A MUNICIPAL CORPORATION:

By: _____
Garrett Contreras, Fire Chief Date

By: _____
Frances David, City Manager Date

Approved as to form:

By: _____
Michael S. Lawson, City Attorney Date
Joseph Brick, Assistant City Attorney

Attest: _____
Miriam Lens, City Clerk Date

TRABUCIO VASQUEZ HEALTH CENTER, INC.:

By: _____
David B. Vliet, CEO

APPROVED AS TO FORM BY TIBURCIO VASQUEZ HEALTH CENTER GENERAL COUNSEL:

By: _____
Deanna Mouser
Mouser Law Firm, A Prof. Corp

Attachments:

Ex. 1 Capital Award Agreement dated as of July 1, 2014, between the County of Alameda and the City of Hayward.

ALAMEDA COUNTY
**HEALTH CARE SERVICES
 AGENCY**
 ALEX BRISCOE, Director



Center for Healthy Schools and Communities
 1000 San Leandro Boulevard, Suite 300
 San Leandro, CA 94577
 Tel: (510) 618-3452
 Fax: (510) 351-1367

March 6, 2015

Garrett Contreras
 Fire Chief
 Hayward Fire Department
 City of Hayward
 777 B Street, 4th Floor
 Hayward, CA 94541

Dear Chief Contreras,

We are pleased to inform you that the County of Alameda has approved the Capital Award Agreement with your organization in the amount of \$1,200,000 beginning July 1, 2014 to June 30, 2015. Enclosed is your copy of the fully executed Agreement with the County of Alameda.

You may start submitting invoices AND required reports and documentations according to the terms, conditions, procedures and reporting schedule outlined in Exhibit B (Payment Terms) and Exhibit A (Definition of Services) of the Agreement. To ensure prompt payment of your invoices, please include the following information on all invoices submitted with this Agreement:

- **PO Number: 6458**
- Invoice Date
- Invoice Number
- Service Period
- Actual Expenditures (according to approved budget in Exhibit B) & Invoice Total Amount
- Required reports and/or documentation

As a reminder, please submit all invoices with required reports and/or documentation to:

KRISTEL ACACIO
 ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
 1000 SAN LEANDRO BLVD., SUITE 300
 SAN LEANDRO, CA 94577

Please feel free to contact me at (510) 667-7995 or Cristina.pena@acgov.org if you have any questions

Sincerely,

Cristina Peña
 Contracts Coordinator, Center for Healthy Schools and Communities
 Agency Administration

Enclosures

Contract No. _____

**COUNTY OF ALAMEDA
CAPITAL AWARD AGREEMENT**

This Capital Award Agreement (“Agreement”), dated as of July 1, 2014, is by and between the County of Alameda, hereinafter referred to as the “County”, and the City of Hayward, hereinafter referred to as the “Recipient” or “City.”

WITNESSETH

Whereas, County desires to support the construction of a Fire Station Health Portal (“Health Portal” or “project”) located at 28270 Huntwood Avenue, Fire Station 7 in the City; and

Whereas, the City is undertaking the construction of a new fire station in the South Hayward Community, known as the Tennyson Corridor; and

Now, therefore it is agreed that County does hereby award to Recipient a one-time grant, and the Recipient accepts such grant on the General Terms and Conditions hereinafter specified in this Agreement and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A Special Terms and Conditions
- Exhibit B Payment Terms
- Exhibit C Insurance Requirements
- Exhibit D Debarment and Suspension Certification

The term of this Agreement shall be from July 1, 2014 through June 30, 2015

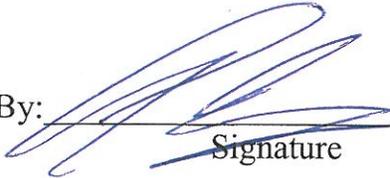
The grant payable to Recipient hereunder shall not exceed *One Million Two-Hundred Thousand US Dollars (\$1,200,000.00)* for the term of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

CITY OF HAYWARD

By:  _____
Signature

By:  _____
Signature

Name: Alex Briscoe
~~Keith Carson~~
(Printed)
Director, Health Care Services Agency
Title: ~~President of the Board of Supervisors~~

Name: Fran David
Title: City Manager

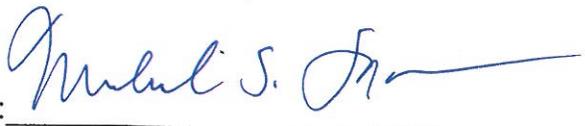
Date: 2/23/2015

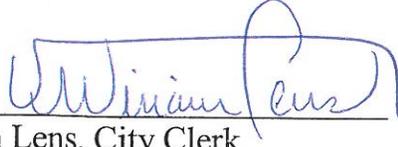
Date: 1/26/2015

Approved as to Form: DONNA ZIEGLER,
County Counsel for the County of Alameda

Approved as to Form:

By:  _____
Raymond Lara
Senior Deputy County Counsel

By:  _____
Michael Lawson, Hayward City
Attorney

Attest:  _____
Miriam Lens, City Clerk

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

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GENERAL TERMS AND CONDITIONS

1. **RECIPIENT AND COUNTY RELATIONSHIP:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Recipient is an independent entity. Recipient is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Recipient nor for any obligations or liabilities incurred by Recipient. Similarly, the County is not the agent or employee of the City in any capacity whatsoever, and City shall not be liable for any acts or omissions by the County including the Health Care Services Agency, nor for any obligations or liabilities incurred by County in the operation and management of the Health Portal. The City shall not be liable to the County, including the Health Care Services Agency, or any of its employees or agents for any employment, employment related benefits, or retirement benefits due to the operation of the Health Portal.

Recipient or its employees or contractors shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Recipient shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Recipient's failure to pay such amounts.

In carrying out the project contemplated herein, Recipient shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent Recipients and shall not be treated or considered in any way as officers, agents and/or employees of County.

Recipient does, by this Agreement, agree to carry out said project and functions at all times in strict accordance with currently approved methods and practices in the relevant field and that the sole interest of County is to insure that said project shall be completed in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

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Notwithstanding the foregoing, if the County determines that pursuant to state and federal law any of Recipient's employees or contractors is an employee for purposes of income tax withholding, County may upon two weeks' notice to Recipient, withhold from payments to Recipient hereunder federal and state income taxes and pay said sums to the federal and state governments.

2. INDEMNIFICATION: To the fullest extent permitted by law, Recipient shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee, and except to the extent that the claim, losses, damages, liabilities, and expenses, including but not limited to attorneys' fees, arise out of the Operation and/or management of the Health Portal or the actions of the Health Care Services Agency. The County may participate in the defense of any such claim without relieving Recipient of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to County, including defense costs, and shall not be limited by any insurance limits.

In the event that Recipient or any employee, agent, or subcontractor of Recipient providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Recipient shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Recipient or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

To the fullest extent permitted by law, County shall hold harmless, defend and indemnify the City of Hayward, its Council Members, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, including the operation and/or management of a Health Portal, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or

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- municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The City may participate in the defense of any such claim without relieving County of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to the City, including defense costs, and shall not be limited by any insurance limits.
3. **INSURANCE AND BOND:** Recipient shall at all times during the term of the Agreement with the County maintain in force, at minimum, those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein. The County and all parties as set forth on Exhibit C shall be considered an additional insured or loss payee if applicable. All of Recipient's available insurance coverage and proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement. Recipient's insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to County. Recipient's excess and umbrella insurance shall also apply on a primary and non-contributory basis for the benefit of the County before County's own insurance policy or self-insurance shall be called upon to protect it as a named insured.
 4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Recipient shall pay to persons performing labor in and about work provided for in the project not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
 5. **WORKERS' COMPENSATION:** Recipient and its contractors and subcontractors shall provide Workers' Compensation insurance, as applicable, at their own cost and expense and further, neither the Recipient nor its contractors/subcontractors nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

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6. CONFORMITY WITH LAW AND SAFETY:

- a. In performing services under this Agreement, Recipient shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Recipient shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Recipient's failures to comply with such laws, ordinances, codes and regulations.
- b. Accidents: If a death, serious personal injury or substantial property damage occurs in connection with Recipient's performance of this Agreement, Recipient shall immediately notify the Alameda County Risk Manager's Office by telephone. Recipient shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Recipient's sub-Recipient, if any; (3) name and address of Recipient's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
- c. Recipient further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

7. DEBARMENT AND SUSPENSION CERTIFICATION:

- a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Recipient agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.
- b. By signing this agreement, Recipient certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded by any federal department or agency;

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- (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Recipient as provided in Exhibit B hereto.
9. TRAVEL EXPENSES: Recipient shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Recipient.
11. OWNERSHIP OF DOCUMENTS: The extent the items described below relate to the Health Portal, Recipient hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Recipient, the Recipient's sub-contractors or third parties at the request of the Recipient (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Recipient also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Recipient's Information System, respecting in any way the subject matter of this Agreement. Nothing in this section or agreement is meant to waive any privilege, such as the attorney-client privilege, in relation to any Document or Material.

Recipient shall be permitted to retain and use copies, including reproducible copies and computerized copies, of said Documents and Materials. Recipient agrees to take such further steps as may be reasonably requested by County to implement the aforesaid assignment. If for any reason said assignment is not effective, Recipient hereby grants the County and any assignee of the County an express royalty – free license to retain and use said Documents and Materials. The County's rights under this paragraph shall apply regardless of the degree of completion of the Documents and Materials and whether or not Recipient's services as set forth in Exhibit "A" of this Agreement have been fully performed or paid for.

In Recipient's contracts with other contractors entered on or after the date of execution of this Agreement, Recipient shall expressly obligate its Sub-contractors to grant the County the aforesaid assignment and license rights as to that

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Recipient's Documents and Materials. Recipient agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Recipient to obtain such rights from its Recipients and/or Sub-Recipients.

Recipient shall pay all reasonable royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Recipient and incorporated into the work as set forth in Exhibit "A", assigned from the Recipient to County, and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such assignment. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. **CONFLICT OF INTEREST; CONFIDENTIALITY:** The Recipient covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Recipient represents to and agrees with the County that Recipient has no present, and will maintain no future, conflict of interest regarding the Health Portal hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Recipient agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person to the extent allowed by law. The Recipient agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. **NOTICES:** All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

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Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
Health Care Services Agency
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577
Attn:

To Recipient: City of Hayward
777 "B" Street, 4th Floor
Hayward, CA 94541-5007
Attn: City Manager

Copy to: Hayward Fire Department
777 "B" Street, 4th Floor
Hayward, CA 94541-5007
Attn: Chief Contreras

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. USE OF COUNTY PROPERTY: Recipient shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.

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15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:**
Recipient assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
- a. Recipient shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - b. Recipient shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - c. If requested to do so by the County, Recipient shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - d. Recipient shall recruit vigorously and encourage minority - and women-owned businesses to bid its contracts.
 - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - f. The Recipient shall include the provisions set forth in paragraphs A through D (above) in each of its subcontracts.
16. **DRUG-FREE WORKPLACE:** Recipient and its employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Recipient nor Recipient's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If any employee of Recipient is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Recipient within five days thereafter shall notify the head of the County

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department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement

17. **AUDITS; ACCESS TO RECORDS:** All business records and documents related to Recipient concerning the Health Portal shall be made available to the County within 20 working days of County's request for inspection and audit.
18. **DOCUMENTS AND MATERIALS:** Recipient shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Recipient's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Recipient shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Recipient under this Agreement.
19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the grant for a material breach at any time. In the event that the County should abandon, terminate or suspend the grant, any amount payable to Recipient for the Health Portal shall not exceed the amount of the grant, which is one million two hundred thousand US dollars (\$1,200,000.00). If the Health Portal cannot be completed for any reason whatsoever, then Recipient shall reimburse the full amount paid by the County under this Agreement, less the amount already incurred for the design, planning, construction, or the amount reasonably required to alter the structure to eliminate the cancelled Health Portal("Expenditures"). This provision shall survive the termination of this Agreement.
21. [INTENTIONALLY OMITTED]
22. [INTENTIONALLY OMITTED]
23. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
24. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a

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waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

25. ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Recipient relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
26. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
27. ADVERTISING OR PUBLICITY: Recipient shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance or as outlined below.
28. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
29. ASSURANCE OF PERFORMANCE: If at any time County believes Recipient may not be adequately performing its obligations under this Agreement or that it may fail to complete the project as required by this Agreement, County may request from Recipient prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in project's completion. Recipient shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Recipient acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
30. SUBCONTRACTING/ASSIGNMENT: Recipient shall not subcontract, assign or delegate any portion of this Agreement, the grant, or any duties or obligations hereunder without the County's prior written approval, which will not be unreasonably denied.

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- a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void. Nothing in this Agreement is intended or shall be construed as a third party beneficiary agreement, nor shall this Agreement confer, convey or be deemed to accord any rights to any third party.
 - b. Recipient shall require all subcontractors to comply with all indemnification and insurance requirements of this agreement, including, without limitation, Exhibit C. Recipient shall verify subcontractor's compliance.
 - c. Recipient shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Recipient and its subcontractors.
31. SURVIVAL: The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
 32. SEVERABILITY: If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
 33. SIGNATORY: By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.
 34. RIGHT TO REMEDY: The City shall have thirty (30) days from receipt of written notice from the County, as provided herein, to correct any breach or cause for termination identified in this Agreement, inclusive of all attachments. Any breach or cause for termination that is not capable of being remedied within thirty days shall be deemed corrected and waived if the City commences its remediation within thirty days and diligently pursues said remediation to resolution.

[END OF GENERAL TERMS AND CONDITIONS]

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EXHIBIT A
Special Terms and Conditions

RECIPIENT: City of Hayward
AGREEMENT PERIOD: July 1, 2014 through June 30, 2015
GRANT AMOUNT: \$1,200,000.00

1. Grant Award & Conditions

- a) Pursuant to this Agreement, the County awards a capital funding grant in the amount of one million two hundred thousand dollars (\$1,200,000.00) to Recipient. The funds shall be disbursed in one lump sum payment to the Recipient on or before August 30, 2014. These funds must not be used for any purpose(s) other than those described in this Agreement. Use of the grant funds for any purpose other than the construction of the Health Portal shall be a material breach and result in the entire grant amount becoming due and payable to the County immediately.
- b) Recipient accepts this grant subject to the conditions set forth herein and in consideration of the County's regulations and requirements.
- c) The entire grant proceeds are for the exclusive use by Recipient to construct a Health Portal at 28270 Huntwood Avenue, Fire Station 7 in the City of Hayward as identified in the Fire Station No. 7 and Firehouse Clinic Construction, Project No. 07465.
- d) The Health Portal shall be a site for providing health care services to vulnerable populations within Alameda County. Recipient shall maintain the health care services use of the Health Portal site for a minimum of fifteen (15) years from the first day of the Health Portal's operation. The first day of the Health Portal's operation shall be the day that the City of Hayward issues a Certificate of Occupancy for the project.
- e) Under the terms of this Agreement, the City agrees to reimburse the County \$80,000.00 for every full year during the minimum period specified in subparagraph d) that the site designated as the Health Portal is not used as such under the provisions of this Agreement, including the provisions of subparagraph d) above and this subparagraph e), to the extent that the failure to use the site for a Health Portal during the minimum period specified in subparagraph d) was due solely to a City election to deny said use and to the extent that the Health Portal is rendered totally useless for the intended purpose for the full calendar year. If the County loses funding or elects to discontinue the designate use of the Health Portal for any reason, the City shall have no further obligations under this provision or the remainder of this Agreement. This provision shall not apply to partial closure periods (less than a year) which may be necessary during the minimum term. The City agrees to allow the County, through its Health Care Services Agency (HCSA), to manage the Health Portal for no less than 15 years from the first day of the Health Portal's operation as described

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above in paragraph d). As the manager of the Health Portal, the County shall have the right to designate the health care provider(s) at the Health Portal, subject to City approval which will not be unreasonably withheld, and the type of health care services to be provided. This subparagraph e) shall survive the termination/term of this Agreement.

- f) The City agrees to reimburse the total amount of the grant less any Expenditures if any of the following occurs and is not remedied: the Health Portal is not completed due to an action or decision of the City; the property on which the Health Portal is constructed is mortgaged or otherwise used as collateral without the permission of the County during the 15 year period that the property is to include the Health Portal; or the property is sold or transferred to another party during the 15 year period that the property is to include the Health Portal. This subparagraph f) shall survive the termination/term of this Agreement to the extent it is applicable.
- g) A grant award is not a gift, but instead is to be used for the public purpose of providing comprehensive health care to vulnerable populations within the County of Alameda.
- h) In awarding this grant, the County in no way obligates itself to award future grants/loans to Recipient. If the project that is subject to this Agreement becomes unfeasible, the Recipient shall refund the total unspent grant amount as described in General Terms and Conditions Number 20, to the County immediately.

2. Recipient's Obligations

Under this Agreement, Recipient agrees to:

- a) Develop and design the Health Portal to meet all applicable and the most current codes, laws, regulations, and professional standards. Recipient agrees to provide the County through its HCSA with copies of all necessary development zoning and building permits for work to be done or a signed statement from a licensed insured contractor that no such permits are necessary for completion of the work.
- b) Provide County and HCSA with written evaluations, when applicable, of the effect of any and all governmental and private regulations, licenses, patents, permits, and any other type of applicable restriction and associated requirements on the Services and its incorporation and its incorporation into the project, including but not limited to, all requirements imposed by the Office of Statewide Health Planning & Development (OSHPD), Division of State Architect, Regional Water Quality Control Board, California Uniform Building Code and California Regulations (including but not limited to Title 24).
- c) Provide County and HCSA with a written Monthly Progress Update. The Monthly Progress Update shall cover the percent complete for each phase of the work. If applicable, the Monthly Progress Update shall identify any actions and approvals needed, and any problems in

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performing the Services and subsequent changes to the timeline (whether by Contractor, County or any third party) of which Contractor becomes aware. Recipient also agrees to provide proof of completion of the work no later than 30 days after its completion in the form of a copy of the final building inspection showing all necessary approvals from a government agency jurisdiction in which the Health Portal is located.

- d) Attend meetings with the County Board of Supervisors and HCSA as requested. Recipient shall receive 10-days' notice prior to the meeting.
- e) Allow HCSA to enter into agreements with its chosen provider(s) to provide health care services at the Health Portal. The County including HCSA shall ensure that all providers of health care services at the Health Portal shall comply with the requirements of this Agreement, the City's insurance requirements, and the City's reasonable use and operation procedures and requirements. The County, including HCSA, will include the City in any agreement concerning the use of the Health Portal and the City will be involved in the negotiation and drafting of the same.
- f) Monthly Progress Report schedule: 10th day of each month

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Contract No. _____

EXHIBIT B
Payment Terms

I. Budget Related (July 1, 2014- June 30, 2015)

Budget Item	Maximum Amount
Construction of the Health Portal	\$1,200,000
Not To Exceed Amount	\$1,200,000

II. Terms and Conditions of Payment

A. Reimbursement

1. The total amount of reimbursement under the terms of this Agreement shall not exceed one million two hundred thousand dollars ***\$1,200,000.00***. All funds shall be used solely for the actual construction of the facilities described herein. No funds are to be used for administrative costs for the project. Funds may not be used for any purpose other than those specified in Exhibit A of this Agreement without prior written approval from the County.
2. Recipient shall supply to the HCSA for review such invoices and/ supporting documentation as requested by the Alameda County Health Care Services Agency that document current progress on deliverables during the term of this Agreement.
3. County shall use its best efforts to provide the grant funds on or before August 30, 2014.

B. Invoicing Procedures

Recipient shall invoice the County. Invoice, with an original signature, contract and PO numbers, should be sent to:

Alameda County Health Care Service Agency
ATTN: Kristel Acacio
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577

ADDITIONAL INSURED

***LEXINGTON – Public Entity Property Insurance Program (PEPIP) Form No. 10
July 01, 2014 – July 01, 2015
Policy No. 017471589/01***

IT IS UNDERSTOOD AND AGREED THAT THE CERTIFICATE HOLDER SHOWN ON THE ATTACHED CERTIFICATE OF INSURANCE IS INCLUDED AS AN ADDITIONAL INSURED AS RESPECTS THE INTEREST SHOWN ON THE CERTIFICATE.

**ALLIANT PROPERTY INSURANCE PROGRAM
LEXINGTON INSURANCE COMPANY \$2.5M PRIMARY LAYER
JULY 1, 2014 TO JULY 1, 2015
SCHEDULE OF INSURERS (BOUND)**



Company	A.M. Best's I.D. #	A.M. Best's Guide Rating (VERIFIED JUNE 2014)	Standard and Poor's Financial Strength (VERIFIED JUNE 2014)
ACE – Illinois Union Insurance Company	003510	A++, Superior; Financial Size Category 15; Greater than \$2,000,000,000 or greater	AA- Very Strong
ACE European Group Limited	86485	A++, Superior; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000	AA- Very Strong
Arch Specialty Insurance Company	012523	A+, Superior; Financial Size Category 11; \$250,000,000 to \$500,000,000	A+ Strong
Axis Specialty Europe Ltd.	83007	A+, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Axis Surplus Insurance Company	012515	A+, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Empire Indemnity Insurance Co.	002148	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	AA- Very Strong
Endurance Worldwide Insurance Ltd.	083234	A, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A Strong
Essex Insurance Company	002732	A, Excellent; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000	A Strong
Everest Indemnity	12096	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Hartford Steam Boiler Inspec & Insurance	00465	A++, Superior; Financial Size Category 10; \$500,000,000 to \$750,000,000	A Strong
Homeland Insurance Co. of New York	010604	A, Excellent; Financial Size Category 11; \$750,000,000 to \$1,000,000,000	A- Strong
Hudson Specialty	12631	A, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A- Strong
Ironshore Indemnity, Inc (AZ only)	013747	A, Excellent; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000	Not Rated
Ironshore Specialty Insurance Co. (Excluding AZ)	013866	A, Excellent; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000	Not Rated
Lancashire Insurance Company (UK) Ltd.	078390	A, Excellent; Financial Size Category 13; \$1,250,000,000 to \$1,500,000,000	Not Rated
Lexington Insurance Company	002350	A, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Lloyd's of London	085202	A, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Maxum Indemnity Company	012563	A-, Excellent; Financial Size Category 8; \$100,000,000 to \$250,000,000	Not Rated
Mitsui Sumitomo Insurance Co. of America	004377	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	Not Rated
PartnerRe Insurance Company of New York	003025	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Princeton E&S Lines Insurance Co.	012170	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	AA- Very Strong
QBE Specialty Insurance Company	012562	A, Excellent; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000	A+ Strong
RSUI Indemnity Company	12603	A+, Superior; Financial Size Category 14; \$1,500,000,000 to \$2,000,000,000	Not Rated
Scottsdale Surplus Lines Insurance Company	012121	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Swiss Reinsurance America Corporation	003263	A+, Superior; Financial Size Category 15; \$1,500,000,000 to \$2,000,000,000	AA- Very Strong
Travelers Property Casualty Co. of America	025674	A+, Superior; Financial Size Category 15; Greater than \$2,000,000,000	AA Very Strong
XL Insurance America, Inc.	002423	A, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	A+ Strong
Zurich	002563	A, Excellent; Financial Size Category 15; Greater than \$2,000,000,000	AA- Very Strong

CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

12/01/14

PRODUCER
 Exclusive Risk Management Authority
 of California
 400 Oceanate, 8th Floor
 Long Beach, CA. 90802

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

INSURED
 City of Hayward
 777 "B" Street
 Hayward, CA 94541

COMPANY LETTER **A** Exclusive Risk Management Authority of California
 COMPANY LETTER **B**
 COMPANY LETTER **C**

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES HEREIN IS SUBJECT TO ALL TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

CO LTR	TYPE OF INSURANCE	POLICY #	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	EXCESS MUNICIPAL LIABILITY Memorandum of Coverage GENERAL LIABILITY	HAY-0014-17	07/01/14	06/30/17	IN EXCESS OF A SELF INSURED RETENTION OF: \$ 250,000
	<input checked="" type="checkbox"/> PREMISES / OPERATIONS				BI, PD, WRONGFUL ACT OR OFFENSE EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> UNDERGROUND EXPLOSION & COLLAPSE HAZARD				BI, PD, WRONGFUL ACT OR OFFENSE AGGREGATE \$ 1,000,000
	<input checked="" type="checkbox"/> PRODUCTS / COMPLETED OPERATIONS				
	<input checked="" type="checkbox"/> CONTRACTUAL				
	<input checked="" type="checkbox"/> INDEPENDENT CONTRACTORS				
	<input checked="" type="checkbox"/> BROAD FORM PROPERTY DAMAGE				
	<input checked="" type="checkbox"/> PERSONAL / ADVERTISING INJURY				
	<input checked="" type="checkbox"/> POLICE PROFESSIONAL LIABILITY				
	<input checked="" type="checkbox"/> PUBLIC OFFICIALS E & O				
B	AUTO LIABILITY				
	<input checked="" type="checkbox"/> ANY AUTO				
	<input checked="" type="checkbox"/> ALL OWNED AUTOS				
	<input checked="" type="checkbox"/> HIRED AUTOS				
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
	EXCESS WORKERS COMPENSATION & EMPLOYER'S LIABILITY				EACH OCCURRENCE \$
	UMBRELLA				AGGREGATE \$
	OTHER THAN UMBRELLA FORM				
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS

As respects the Funding Agreement between the City of Hayward and Alameda County for construction of new fire station number 7 and firehouse clinic at 28270 Huntwood Avenue, Hayward, CA 94544

CERTIFICATE HOLDER

Alameda County Health Care Services Agency
 1000 San Leandro Blvd., Ste. 300
 San Leandro, CA 94577

Attn: Connie Yale

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



ERMAL 30 07 04

Exclusive Risk Management Authority of California

POLICY NUMBER: HAY-0014-17

THIS ENDORSEMENT CHANGES THE MEMORANDUM OF COVERAGE.

PLEASE READ IT CAREFULLY

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

SCHEDULE

NAME OF ORGANIZATION:

**County of Alameda
1221 Oak Street
Oakland, CA 94612**

The County of Alameda, its Board of Supervisors and the Individual Members thereof and all the County Officers, Agents, Employees, and Representatives are listed as an Additional Insured with respect to their interest as a Funding Source, per all terms and conditions of the policy.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN Agency (Section 11) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.

Captioned insurance is primary and any other insurance or self-insurance maintained by the additional insured will be excess only and will not contribute to the primary insurance.

Effective 12/1/14

Issued to: County of Alameda

Endorsement # 14-13C

CERTHOLDER COPY

NB



P.O. BOX 8192, PLEASANTON, CA 94588

RECEIVED
HUMAN RESOURCES DEPT.

JUN 23 2014

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

ISSUE DATE: 07-01-2014

GROUP:
 POLICY NUMBER: 1291631-2014
 CERTIFICATE ID: 212
 CERTIFICATE EXPIRES: 07-01-2015
 07-01-2014/07-01-2015

CITY OF HAYWARD
 777 B ST
 HAYWARD CA 94541-5007

NB

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon 30 days advance written notice to the employer.

We will also give you 30 days advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions, of such policy.

Authorized Representative

President and CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000 PER OCCURRENCE.

ENDORSEMENT #0015 ENTITLED 'ADDITIONAL INSURED EMPLOYER EFFECTIVE 1997-07-01 IS ATTACHED TO AND FORMS A PART OF THIS POLICY. NAME OF ADDITIONAL INSURED: CITY OF HAYWARD

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 07-01-1992 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

EMPLOYER

EDEN COUNCIL FOR HOPE AND OPPORTUNITY PROGRAM
 (A NON-PROFIT CORP.)
 770 A ST STE 201
 HAYWARD CA 94541

NUMBER: 7170

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR

CERTIFICATE OF CONSENT TO SELF-INSURE

THIS IS TO CERTIFY, That
City of Hayward

has complied with the requirements of the Director of Industrial Relations under the provisions of Sections 3700 to 3705, inclusive, of the Labor Code of the State of California and is hereby granted this Certificate of Consent to Self-Insure.

This certificate may be revoked at any time for good cause pursuant to Labor Code Section 3702.

EFFECTIVE DATE: January 1, 1979

DEPARTMENT OF INDUSTRIAL RELATIONS
OF THE STATE OF CALIFORNIA

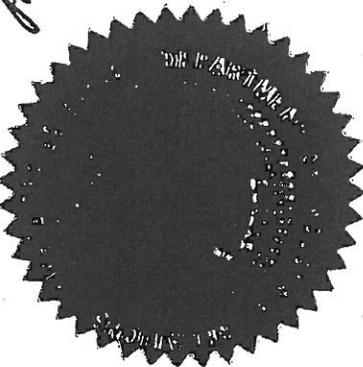
MANAGER, SELF-INSURANCE PLANS

Original Effective Date :

FORM A-4-10A (REV. 1/69)

DIRECTOR, DEPARTMENT OF INDUSTRIAL RELATIONS

Stephen J. Smith



**EXHIBIT D
COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION**

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: City of Hayward

PRINCIPAL: Fran David

TITLE: City Manager

SIGNATURE: _____



DATE: _____

1/26/2015

EXHIBIT C

COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$2,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses.	\$2,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$1,000,000 per accident for bodily injury or disease
D	Professional Liability/Errors & Omissions Includes endorsements of contractual liability and defense and indemnification of the County	\$1,000,000 per occurrence \$2,000,000 project aggregate
E	Course of Construction /Builder's Risk All Risk	\$ Value of Completed project or materials
F	Contractors' Pollution Legal Liability If project involves environmental hazards	\$1,000,000 per occurrence or claim \$2,000,000 policy aggregate
G	Employee Dishonesty (ED) and Crime (C) (ED) Required only if a significant amount of funding is advanced to contractor. (C) Required only if contractor keeps significant sums of money at premises	(ED) Minimum of 75% of the Funding (C) Minimum daily amount kept on premises
H	<p>Endorsements and Conditions:</p> <ol style="list-style-type: none"> ADDITIONAL INSURED: All insurance required above with the exception of Professional Liability, Commercial or Business Automobile Liability, Contractor's Pollution Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. DURATION OF COVERAGE: All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement. REDUCTION OR LIMIT OF OBLIGATION: All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the County. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties. INSURER FINANCIAL RATING: Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. SUBCONTRACTORS: Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13. JOINT VENTURES: If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods: <ul style="list-style-type: none"> Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above. Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured". CANCELLATION OF INSURANCE: All insurance shall be required to provide thirty (30) days advance written notice to the County of cancellation. CERTIFICATE OF INSURANCE: Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices provision. 	

CERTIFICATE NUMBER CRIME-167	<h2 style="margin: 0;">EVIDENCE OF INSURANCE</h2>	ISSUE DATE (MM/DD/YY) 09/10/14
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PRODUCER
 C/O ALLIANT INSURANCE SERVICES, INC.
 P.O. BOX 6450
 NEWPORT BEACH, CA 92658-6450
 LICENSE #0C36861
 P (949) 756-0271 / F (619) 699-0901

THIS EVIDENCE OF INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST. THIS EVIDENCE OF INSURANCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S) AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

COMPANY AFFORDING COVERAGE

INSURED
 CSAC EXCESS INSURANCE AUTHORITY MEMBER
 EXCLUSIVE RISK MANAGEMENT AUTHORITY OF CALIFORNIA (ERMAC) CITY OF HAYWARD
 C/O JAMES GREGG
 UNION BANK BUILDING
 400 OCEANGATE, 8TH FLOOR
 LONG BEACH, CA 90802

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA (AIG)

COVERAGE INFORMATION
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSION AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
GOVERNMENT CRIME POLICY INCLUDING: FAITHFUL PERFORMANCE /EMPLOYEE DISHONESTY MONEY & SECURITIES FORGERY OR ALTERATION COMPUTER FRAUD ROBBERY & SAFE BURGLARY MONEY ORDER AND COUNTERFEIT PAPER CURRENCY	01-309-61-64	06/30/14	06/30/15	\$10,000,000 PER OCCURRENCE LIMIT SUBJECT TO \$2,500 DEDUCTIBLE
FOLLOW FORM EXCESS GOVERNMENTAL CRIME POLICY	01-309-61-65	06/30/14	06/30/15	\$5,000,000 PER OCCURRENCE LIMIT EXCESS OF \$10,000,000 UNDERLYING LIMIT

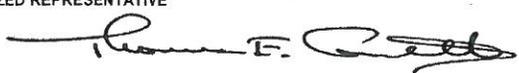
REMARKS (INCLUDING SPECIAL CONDITIONS)
 AS RESPECTS EVIDENCE OF COVERAGE FOR CAPITAL AWARD AGREEMENT BETWEEN CITY OF HAYWARD AND ALAMEDA COUNTY FOR CONSTRUCTION OF A HEALTH PORTAL AT FIRE STATION 7, 28270 HUNTWOOD AVENUE, HAYWARD, CA, PROJECT NO. 07465.
 ALAMEDA COUNTY IS INCLUDED AS A JOINT LOSS PAYEE PURSUANT TO BLANKET JOINT LOSS PAYEE ENDORSEMENT.

THIS EVIDENCE OF INSURANCE REPRESENTS SOLELY A CURRENT STATEMENT THAT A BOND OR POLICY IS IN EFFECT FOR THE NAMED INSURED ONLY, THAT SUCH BOND OR POLICY CONVEYS NO PROTECTION OR RIGHTS TO ANYONE OTHER THAN THE NAMED INSURED, AND THAT REFERENCE TO THE BOND OR POLICY MUST BE MADE FOR THE TERMS AND CONDITIONS OF THE COVERAGE THEREUNDER. THIS EVIDENCE OF INSURANCE IS BEING ISSUED AS A MATTER OF INFORMATION ONLY AND DOES NOT PROVIDE ANY BENEFIT TO THE ADDITIONAL INTEREST. THIS EVIDENCE OF INSURANCE IN NO WAY AMENDS, EXTENDS OR ALTERS THE POLICY TERMS AND CONDITIONS.

CANCELLATION
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST
 ALAMEDA COUNTY
 HEALTH CARE SERVICES AGENCY
 1000 SAN LEANDRO BLVD., STE 300
 SAN LEANDRO, CA 94577

NATURE OF INTEREST
 EVIDENCE ONLY JOINT LOSS PAYABLE

AUTHORIZED REPRESENTATIVE


This endorsement, effective at 12:01 AM forms a part of

Policy number

Issued to:

By:

BLANKET JOINT LOSS PAYEE ENDORSEMENT

This endorsement modifies insurance provided under the following:

**COMMERCIAL CRIME POLICY
GOVERNMENT CRIME POLICY**

Provisions

1. You agree that any loss payable under this insurance shall be paid jointly to you and, where legally permissible, any loss payee ("Joint Loss Payee") designated by you in the proof of loss and any such payment shall constitute payment to you. We agree that such payments shall be made jointly to you and, where legally permissible, the Joint Loss Payee, and we will not make any payment solely to you unless a request in writing from the Joint Loss Payee to make such payment to you is provided to us.
2. This insurance is for your benefit only. It provides no rights or benefits to any other person or organization including the Joint Loss Payee, other than, where legally permissible, payment of loss as set forth in this endorsement.

Any claim for loss that is covered under this insurance must be presented by you.

3. Our liability under this insurance as extended by this endorsement shall not be cumulative.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.

Includes copyrighted material of Insurance Services Office, Inc. with its permission

AUTHORIZED REPRESENTATIVE

CERTIFICATE NO.

ISSUE DATE (MM/DD/YYYY)

GL2-728	AI	CERTIFICATE OF COVERAGE	02/13/2015
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<p>CSAC Excess Insurance Authority C/O ALLIANT INSURANCE SERVICES, INC. PO BOX 6450 NEWPORT BEACH, CA 92658-6450 PHONE (949) 756-0271 / FAX (619) 699-0901 LICENSE #0C36861</p>	<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BELOW. THIS CERTIFICATE OF COVERAGE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED and/or requesting a WAIVER OF SUBROGATION, the Memorandums of Coverage must be endorsed. A statement on this certificate does not confer rights to the certificate holder lieu of such endorsement(s).</p> <p>COVERAGE AFFORDED BY: A - CSAC Excess Insurance Authority</p>
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<p>Member: EXCLUSIVE RISK MANAGEMENT AUTHORITY OF CALIFORNIA (ERMAC) C/O JAMES GREGG UNION BANK BUILDING 400 OCEANGATE, 8TH FLR. LONG BEACH, CA 90802</p>	<p>COVERAGE AFFORDED BY: B</p> <p>COVERAGE AFFORDED BY: C</p> <p>COVERAGE AFFORDED BY: D</p>
---	---

Coverages
 THIS IS TO CERTIFY THAT THE MEMORANDUMS OF COVERAGE LISTED BELOW HAVE BEEN ISSUED TO THE MEMBER NAMED ABOVE FOR THE PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE COVERAGE AFFORDED BY THE MEMORANDUMS DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH MEMORANDUMS. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF COVERAGE	MEMORANDUM NUMBER	COVERAGE EFFECTIVE DATE (MM/DD/YYYY)	COVERAGE EXPIRATION DATE (MM/DD/YYYY)	LIABILITY LIMITS
A	<input checked="" type="checkbox"/> Excess General Liability <input checked="" type="checkbox"/> Excess Auto Liability <input checked="" type="checkbox"/> Excess Errors & Omissions	EIA-PE 14 GL2-16	07/01/2014	07/01/2015	Difference between \$2,000,000 and Member's Self-Insured Retention of \$1,000,000 Completed Operations Aggregate Applies

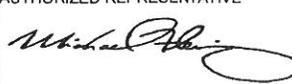
Description of Operations/Locations/Vehicles/Special
 AS RESPECTS FUNDING AGREEMENT BETWEEN CITY OF HAYWARD AND ALAMEDA COUNTY FOR CONSTRUCTION OF NEW FIRE STATION NUMBER 7 AND FIREHOUSE CLINIC AT 28270 HUNTWOOD AVENUE, HAYWARD, CA 94544.

 COUNTY OF ALAMEDA, ITS BOARD OF SUPERVISORS AND THE INDIVIDUAL MEMBERS THEREOF AND ALL THE COUNTY OFFICERS, AGENTS EMPLOYEES AND REPRESENTATIVES ARE INCLUDED AS ADDITIONAL COVERED PARTIES BUT ONLY INsofar AS THE OPERATIONS UNDER THIS CONTRACT ARE CONCERNED.

 AMENDED CERTIFICATE CANCELS AND REPLACES CERTIFICATE DATED 12/1/2014

 THIS COVERAGE SHALL BE PRIMARY AND NO OTHER COVERAGE SHALL CONTRIBUTE PURSUANT TO ENDORSEMENT NUMBER 4

 CITY OF HAYWARD IS A MEMBER OF EXCLUSIVE RISK MANAGEMENT AUTHORITY OF CALIFORNIA (ERMAC)

<p>Certificate Holder ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY ATTN: CONNIE YALE 1000 SAN LEANDRO BOULEVARD, SUITE 300 SAN LEANDRO, CA 94577</p>	<p>Cancellation SHOULD ANY OF THE ABOVE DESCRIBED MEMORANDUMS OF COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE MEMORANDUMS OF COVERAGE PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE  CSAC EXCESS INSURANCE AUTHORITY</p>
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ENDORSEMENT NO. 4

**CSAC EXCESS INSURANCE AUTHORITY
GENERAL LIABILITY II**

ADDITIONAL COVERED PARTY AMENDATORY ENDORSEMENT

It is agreed that the "Covered Party, Covered Persons or Entities" section of the Memorandum is amended to include the person or organization named below, but only with respect to liability arising out of premises owned by or rented to the Member, or operations performed by or on behalf of the Member or such person or organization so designated.

Coverage provided under this endorsement is primary and insurance maintained by additional covered party shall not be asked to contribute. Coverage provided under this endorsement is limited to the minimum limits required by contract.

Additional Covered Party:

County of Alameda, its Board of Supervisors and the Individual Members thereof and all the County Officers, Agent Employees and Representatives

As Respects:

Funding Agreement between City of Hayward and Alameda County for construction of new Fire Station Number 7 and Firehouse Clinic at 28270 Huntwood Avenue, Hayward, CA 94544

It is further agreed that nothing herein shall act to increase the Authority's limit of liability.

This endorsement is part of the Memorandum and takes effect on the effective date of the Memorandum unless another effective date is shown below. All other terms and conditions remain unchanged.

Effective Date: February 13, 2015

Memorandum No.: EIA-PE 14 GL2-16

Issued to: Exclusive Risk Management Authority of California (ERMAC)

Issue Date: February 13, 2015


Authorized Representative
CSAC Excess Insurance Authority

ENDORSEMENT NO. U-13**CSAC EXCESS INSURANCE AUTHORITY
GENERAL LIABILITY II****AMENDATORY ENDORSEMENT-PRIMARY/NON-CONTRIBUTORY**

It is understood and agreed that Condition 6. OTHER COVERAGE, of the Memorandum to which it is attached, is deleted in its entirety and replaced by the following:

6. OTHER COVERAGE

If collectible insurance with an insurer is available to the **covered party** covering a loss also covered hereunder (whether on a primary, excess or contingent basis), the coverage hereunder shall be in excess of, and shall not contribute with, such insurance; provided that this clause does not apply with respect to excess insurance purchased specifically to be in excess of this Memorandum, or to insurance or reinsurance which is intended to provide the remainder of the limit of liability stated in the Declarations of this Memorandum when the coverage afforded under this Memorandum provides less than 100 percent of the limit set forth in the Declarations. However, if the **covered party** has entered into a written agreement, prior to any loss event, in which it is agreed that this coverage shall be primary and/or non-contributory with respect to an additional **covered party** as specified in Endorsement U-1 of this Memorandum, then this coverage shall respond as primary and/or non-contributory, but shall be limited to the lesser of the limits stated on the Certificate of Coverage or the minimum limits required by the written agreement.

If other valid and collectible coverage through any insurer or other pooling arrangement is available to the Member for a loss also covered by the Member's self-insured retention and this Memorandum, such other valid and collectible coverage shall apply in lieu of the Member's self-insured retention.

Notwithstanding the foregoing paragraph, if, because of liability arising out of or in connection with the operation of any clinic or established health care facility, coverage for **damages** is available under this Memorandum and under the Authority's Medical Malpractice Program, it shall be conclusively presumed that the coverage afforded under the Medical Malpractice Program shall be primary and any coverage available under this Memorandum shall be excess only. For claims to which this provision applies, the exhaustion of the Authority's limit of liability under the Medical Malpractice Program will satisfy the **covered party's** self-insured retention under this Memorandum.

Coverage for the additional **covered party** under this endorsement is limited to the written contract or agreement as specified on the Certificate of Coverage and Endorsement U-1 of this Memorandum.

It is further agreed that nothing herein shall act to increase the Authority's limit of liability.

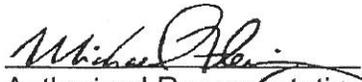
This endorsement is part of the Memorandum and takes effect on the effective date of the Memorandum unless another effective date is shown below. All other terms and conditions remain unchanged.

Effective Date:

Memorandum No.: EIA 14 GL2-00

Issued to: ALL MEMBERS

Issue Date: June 24, 2014


Authorized Representative
CSAC Excess Insurance Authority



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-251

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Recycled Water Project: Adoption of Reimbursement Resolution and Pledged Revenues and Funds Resolution for the State Revolving Fund Loan Application

RECOMMENDATION

That the City Council adopts the attached resolutions (Attachments I and II) required by the State Water Resources Control Board (SWRCB) for the Recycled Water Project State Revolving Fund (SRF) loan application.

SUMMARY

On May 19, 2015, the City Council adopted Resolution 15-072, authorizing the City Manager to sign and file an SRF Loan application for an amount not to exceed \$12 million for the design and construction of the Recycled Water Project. Since that time, staff has submitted three parts of the application that include General Information, Technical, and Environmental packages. Staff is currently in the process completing the fourth and final application package - the Financial Security Package. In order to complete this package, SFR regulations require that the City adopts two Resolutions - the Reimbursement Resolution and the Pledged Revenues and Funds Resolution.

BACKGROUND

The City prepared a Recycled Water Feasibility Study in 2007 that provided a conceptual overview of the potential for delivering highly treated wastewater for irrigation and other industrial uses. Based on the results of the Feasibility Study, a Recycled Water Facility Plan (Plan), partially funded by a grant from the SWRCB, was completed in 2009 and updated in September 2013.

The Plan identifies potential users for recycled water within the City, presents a conceptual treatment and distribution system, and estimates project costs based on an assessment of prevailing conditions. The original Plan envisioned the City receiving excess recycled water from the Russell City Energy Center (RCEC), operated by Calpine, which receives secondary treated wastewater from the City and utilizes its own facilities to treat the wastewater to tertiary level in its cooling process. Staff continues to have

discussions with Calpine representatives to this end; however, a final determination in this regard is yet to be made. For the purposes of the SRF loan application, it is assumed that recycled water will be provided by the RCEC.

The project currently consists of installing a new recycled water distribution facility located at the City's Water Pollution Control Facility (WPCF), with capacity to deliver an estimated 290 acre-feet per year of recycled water (equivalent to nearly ninety-four million gallons per year, or 260,000 gallons per day) to twenty-four customers within the City. The project would include approximately 1.5 miles of new eight-inch diameter distribution lines to the north and south of the WPCF, rehabilitation and connection to an existing and abandoned Shell Oil Pipeline, and over three miles of lateral pipelines with connections to customers. Upon completion, recycled water would be delivered to approximately twenty-four customers primarily for irrigation, with some industrial uses in cooling towers and boilers. The City is pursuing a long-stalled agreement with Shell Oil to acquire an existing abandoned eight-inch diameter pipeline that could form the backbone of the distribution system.

The City completed an environmental assessment for the project in October 2014 and adopted an Initial Study/Mitigated Negative Declaration on December 16, 2014, in compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Staff is now planning to prepare a request for proposals for the design of the RWF and distribution system.

DISCUSSION

In March 2014, the SWRCB announced new low-interest financing terms for water recycling projects to help California produce an additional 150,000 acre-feet of recycled water annually, one of several actions Governor Brown called for in the Drought State of Emergency declaration. The SWRCB's Division of Financial Assistance is offering \$800 million in loans at one percent interest, which is less than half the current interest rate of traditional SRF financing, for water recycling projects that can be completed within three years of the Governor's January 17, 2014 drought declaration. Applications for funding must be submitted by December 2, 2015.

Subsequently, the City Council adopted Resolution 14-167 on October 14, 2014, which was superseded by Resolution 15-072 on May 19, 2015, authorizing the City Manager to sign and file an application for up to \$12 million in SRF loan funds for the project. The authorization to file an application was the first procedural step in beginning the technical, environmental review and financial processes with the SWRCB. To date, staff has submitted three packages of the application including General Information, Environmental and Technical packages, and is in the process of completing the fourth and final package - the Financial Security package. In order to complete the Financial Security Package, the State regulations require adoption of the Reimbursement Resolution (Attachment I) and the Pledged Revenues and Funds Resolution, the templates for both of which were provided by the SWRCB.

ECONOMIC IMPACT

The Project would provide recycled water for irrigation and cooling purposes to approximately 24

customers that includes 22 commercial customers near the WPCF, the Hayward Executive Airport and the City Fire Training Center. This service will reduce those customers' potable water use and can provide cost savings to the businesses that would receive recycled water. Staff will evaluate the cost of treating and delivering recycled water and recommend a rate structure that would provide an incentive for eligible customers to use recycled water while allowing the City to recoup the capital and operations and maintenance costs of the recycled water facility. At this time, it is unknown if those rates would cover the entire costs of the project. The benefit this project will provide to non-eligible customers is that with the availability of recycled water delivery, and the subsequent reduction in potable water use, there would be increased water supply for all customers. Given the current drought conditions, this factor could be significant in allowing for greater flexibility in the City's water supply.

FISCAL IMPACT

A Capital Improvement Project, titled "Recycled Water Treatment and Distribution Facility," is included in the current Capital Improvement Program's Sewer Improvement Fund. The project budget is \$12 million, with an anticipated \$11,594,760 SRF loan proposed to finance the entire project. The City also intends to pursue federal funding from the US Bureau of Reclamation under Title XVI, as well as other grant opportunities for the final design and construction of the facility. If grant money becomes available from other sources thus providing more funding flexibility to move forward with the project, the amount of SRF loan required will be reduced.

This project will not utilize any General Fund monies and the debt service incurred will be obligated to the Wastewater Enterprise Fund.

NEXT STEPS

Following City Council's adoption of the two resolutions, staff will proceed with completing the final part of the SRF loan application process, which includes submittal of a completed Financial Security Package.

In addition, the City is required to submit recycled water user assurances to document the commitment of users to participate in the project. Users' assurances could be in the form of an adopted mandatory use ordinance or letters of intent to execute a user contract. The City's Technical Application will be deemed incomplete without the documentation of users' assurance. Staff has prepared a Draft Ordinance establishing a Recycled Water Master Plan and Implementing Procedures to satisfy this requirement of the Technical Application. The Draft Ordinance will soon be distributed for review by the City Attorney and the SWRCB. Upon completion of review, it will be scheduled for the City Council's review and adoption.

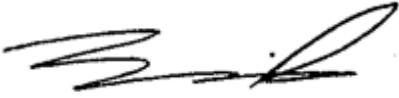
Staff will also proceed to prepare a request for proposals for design of the recycled water facility and distribution system.

Prepared by: Suzan England, Senior Utilities Engineer

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

File #: CONS 15-251

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', with a stylized flourish at the end.

Fran David, City Manager

Attachments:

Attachment I
Attachment II

Reimbursement Resolution
Pledged Revenues and Funds Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member

RECYCLED WATER PROJECT
REIMBURSEMENT RESOLUTION IN SUPPORT OF STATE WATER
RESOURCES CONTROL BOARD STATE RELVOVING FUND LOAN
APPLICATION

WHEREAS, the City of Hayward (the City) desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water and wastewater systems, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the City intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the City desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, BE IT RESOLVED THE CITY COUNCIL DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The City hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State

Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$11,594,760.00.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the City will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each of the City's expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, the City is not aware of the previous adoption of official intents by it that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the City in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and the City Council so finds, determines and represents.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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 CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RECYCLED WATER PROJECT
PLEDGED REVENUES AND FUNDS RESOLUTION IN SUPPORT OF STATE
WATER RESOURCES CONTROL BOARD STATE REVOLVING FUND LOAN
APPLICATION

WHEREAS, the City of Hayward (the City) is developing a Recycled Water Facility (the "Project") at the City's Water Pollution Control Facility (WPCF); and

WHEREAS, the Project would deliver an estimated 290 acre-feet of recycled water per year, providing a supplemental non-potable water source to Hayward water customers; and

WHEREAS, the City is submitting an application to the State Water Resources Control Board for financial assistance under its Clean Water State Revolving Fund, the proceeds of which would be used by the City to finance the Project; and

WHEREAS, the repayment of the Financing will be secured by the Sewer Improvement Capital Fund; and

WHEREAS, as a condition to approving the City's financing application, the State Water Resources Control Board requires the City to enter into this resolution confirming the pledge of revenues and funds that will be used to secure the financing; and

THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF HAYWARD HEREBY DEDICATES AND PLEDGES Sewer Improvement Capital Fund to payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program financing for City of Hayward Recycled Water Project , Project # 8091 (the "Project"). The City commits to collecting such revenues and maintaining such fund(s) throughout the term of such financing and until the City has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the State Water Resources Control Board. So long as the financing agreement(s) are outstanding, the City's pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing fund(s) and revenue(s) without any further action necessary. So long as the financing agreement(s) are outstanding, the City commits to

maintaining the fund(s) and revenue(s) at levels sufficient to meet its obligations under the financing agreement(s).

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

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

Staff Report

File #: PH 15-082

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Director of Human Resources and Chief of Police

SUBJECT

Approval of Temporary Appointment of Administrative Secretary (Report from Director of Human Resources Collins and Chief of Police Urban)

RECOMMENDATION

That the City Council adopts the attached resolution approving an exception to the one hundred and eighty (180) day waiting period after retirement in order to temporarily appoint Susan Diaz to the position of Administrative Secretary in the Hayward Police Department.

BACKGROUND

Pursuant to Government Code section 7522.56 of the California Public Employees Retirement System (CalPERS) rules, effective January 1, 2013, a one hundred and eighty (180) day waiting period is required before retired employees can be hired on a temporary basis with a CalPERS agency.

However, exceptions to the one hundred and eighty (180) day waiting period may be made if the employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before the one hundred and eighty (180) days have passed and the appointment is approved by the governing body in a public meeting.

The Administrative Secretary to the Chief of Police is responsible for providing high level administrative support to the Chief of Police and works on highly confidential matters related to ongoing litigation, labor relations, and employee investigations for the Hayward Police Department. The City is currently recruiting for the vacancy that will arise from the retirement of the current incumbent, Susan Diaz. Unfortunately, the first round of testing for this position did not yield a qualified applicant. In order to prevent a lapse in high level administrative support and maintain the integrity and confidentiality of ongoing litigation and investigations, staff recommends the temporary appointment of Susan Diaz to the position of Administrative Secretary, in accordance with Government Code §21224.

DISCUSSION

Susan Diaz has been providing administrative support to the Chief of Police for twenty-two years and will be retiring on November 6, 2015. The Hayward Police Department has a critical need for Susan's extensive knowledge and specialized training in the Chief's office until a qualified candidate has been selected and trained. She performs duties that are unique to the Police Department and that require specialized knowledge and skills. Her institutional knowledge and experience performing these duties make her an essential asset to the Department and specifically to the Chief of Police. In addition to scheduling, project management, and other administrative duties, Susan works on highly confidential matters related to ongoing litigation, labor relations, and employee investigations. Because of the highly confidential and sensitive nature of this work, exposure must be limited to the Chief, command staff, and the administrative support person assigned to this position. This makes reassignment of these duties inappropriate because it potentially jeopardizes the integrity of some ongoing litigation and investigations.

Moreover, temporary employment is not reasonable because the Hayward Police Department requires a comprehensive background check which naturally delays hiring by an additional sixty days due to the highly confidential and sensitive nature of this position serving the Chief of Police. In accordance with Government Code §21224, Ms. Diaz's temporary employment will not exceed nine hundred and sixty hours per fiscal year. The appointment can be terminated at any time by either party; however, the current plan is that it would continue until new Administrative Secretary is recruited for and filled on a permanent basis. Compensation will be set equivalent to the established salary for an Administrative Secretary, which ranges from \$31.54 to \$36.83 per hour. Ms. Diaz is agreeable to the terms and conditions of the proposed temporary employment.

FISCAL IMPACT

There is no fiscal impact associated with this report. Since no benefits or additional compensation beyond an hourly salary rate would be paid, the total cost of this temporary appointment would not exceed \$36,000 in a fiscal year, which will be offset by salary savings from the vacant position.

Prepared by: Samantha Halverson, Human Resources Analyst I

Recommended by: Nina S. Collins, Director of Human Resources and Diane Urban, Chief of Police

File #: PH 15-082

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', is positioned above the name of the signatory.

Fran David, City Manager

Attachments:

- Attachment I Resolution: Temporary Appointment of Administrative Secretary
- Attachment II Employment Offer Letter for Temporary Administrative Secretary

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
AND APPROVAL OF TEMPORARY APPOINTMENT
TO THE POSITION OF ADMINISTRATIVE SECRETARY

WHEREAS, in compliance with Government Code section 7522.56 the City of Hayward must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, Susan Diaz will retire from the City of Hayward in the position of Administrative Secretary, effective November 6, 2015; and

WHEREAS, section 7522.56 requires that post retirement employment commence no earlier than 180 days after the retirement date, which is May 4, 2016 without this certification resolution; and

WHEREAS, section 7522.56 provides that this exception to the 180 day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council of the City of Hayward and Susan Diaz certify that Susan Diaz has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the City Council of the City of Hayward hereby appoints Susan Diaz as an extra help retired annuitant to perform the duties of the Administrative Secretary for the City of Hayward under Government Code section 21224, effective November 16, 2015; and

WHEREAS, the entire employment agreement, contract or appointment document between Susan Diaz and the City of Hayward has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base monthly salary for this position is \$6,383.87 and the hourly equivalent is \$36.83, and the minimum base monthly salary for this position is \$5,466.93 and the hourly equivalent is \$31.54; and

WHEREAS, the hourly rate paid to Susan Diaz will be \$36.83, which is the maximum hourly rate for the position of Administrative Secretary; and

WHEREAS, Susan Diaz has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby certifies the nature of the appointment of Susan Diaz as described herein and detailed in the attached appointment document and that this appointment is necessary to fill the critically needed position of Administrative Secretary for the City of Hayward by November 16, 2015 because of critical tasks and confidentiality for Administrative Secretary for which Susan Diaz has specialized skills and knowledge.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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

Draft



October 1, 2015

Susan Diaz

Dear Ms. Diaz,

I am pleased to offer you a temporary assignment as an Administrative Secretary with the City of Hayward. Your assignment with the Police Department will be effective Monday, November 16, 2015. Your pay rate will be the fifth (5th) step in the salary range of the Administrative Secretary, at \$36.83 per hour. Please be aware that this assignment can end at any time. This position is not represented, does not receive health benefits and is not eligible for holiday pay.

Please note, as a CalPERS retiree, you are subject to Government Code §21224 and cannot work more than 960 hours per fiscal year.

Please feel free to call Human Resources if you have any additional questions at (510) 583-4500.

Sincerely,

Nina S. Collins
Director of Human Resources

I accept the temporary position of Administrative Secretary - Temp as outlined in this letter.

Signature

Date

Human Resources

777 B Street • Hayward • CA • 94541-5007
Tel: 510-583-4500 • Fax: 510-583-3655 • Website: www.hayward-ca.gov



CITY OF HAYWARD

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

Staff Report

File #: PH 15-085

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services
Director of Development Services

SUBJECT

State Model Water Efficient Landscape Ordinance Revisions: Introduction of an Ordinance repealing Article 12 of Chapter 10 of the Hayward Municipal Code (HMC), known as the Bay-Friendly Water Efficient Landscape Ordinance, adding a new Article 12 to Chapter 10 relating to landscape requirements for new and rehabilitated development projects, and amending Section 11-2.46 of the HMC relating to the Hayward Municipal Water System (Report from Director of Utilities & Environmental Services Ameri and Director of Development Services Rizk)

RECOMMENDATION

That the City Council introduces an Ordinance:

1. Repealing Article 12 of Chapter 10 of the HMC, known as the Bay-Friendly Water Efficient Landscape Ordinance, adding a new Article 12 to Chapter 10 of the HMC relating to landscape requirements for new and rehabilitated development projects; and
2. Amending Section 11-2.46 of the HMC relating to the Hayward Municipal Water System

SUMMARY

In response to severe drought conditions, Governor Brown issued Executive Order B-29-15 on April 1, 2015 which, among other immediate water conservation measures, directed the California Department of Water Resources to update the 2009 State Model Water Efficient Landscape Ordinance. This proposed Ordinance implements more restrictive landscape requirements for new and rehabilitated development projects. Local agencies are required to adopt the State Ordinance or adopt their own ordinances, which must be at least as effective in conserving water as the State's Ordinance. The State Ordinance or a locally modified ordinance shall be effective on or before December 1, 2015. Given the significant changes to the State Ordinance, staff proposes to repeal and replace the City's existing Bay-Friendly Water Efficient Landscape Ordinance with an updated ordinance that addresses the State revisions while providing some local context (i.e. Bay-Friendly principles), efficiency enhancements, and retaining relevant provisions of the existing ordinance. Staff also proposes to revise the Hayward Municipal Water System Ordinance to reflect changes necessitated by the State revisions related to irrigation water meter requirements.

BACKGROUND

A water efficient landscape ordinance is intended to address landscape requirements for new and rehabilitated development projects. The California Department of Water Resources (DWR) adopted the first Model Water Efficient Landscape Ordinance (State Ordinance) in 1992 with the passing of the Water Conservation in Landscaping Act of 1990 (Assembly Bill 325). The City Council adopted the State Ordinance for use as a local ordinance in the same year. Prompted by the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881), DWR updated the State Ordinance in 2009. In response, the City Council modified the State Ordinance and subsequently adopted the [Bay-Friendly Water Efficient Landscape Ordinance <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/CITY-CLERK/MUNICIPAL-CODE/WaterEfficientLandscapeOrd.pdf>](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/CITY-CLERK/MUNICIPAL-CODE/WaterEfficientLandscapeOrd.pdf) (Bay-Friendly Ordinance) in 2009. The Bay-Friendly Ordinance modified the State Ordinance to have more local, holistic, and sustainable landscaping requirements, which was consistent with the City Council's sustainability goals. The Bay-Friendly Ordinance is enforced by the City's licensed Landscape Architect.

In response to severe drought conditions in recent years, Governor Brown issued Executive Order B-29-15 on April 1, 2015, which directed State agencies to implement immediate measures to save water, increase enforcement against water waste, invest in new technologies and streamline government response to ongoing drought conditions. One of the many actions the State has taken to address the provisions of the Executive Order is updating the 2009 State Ordinance. DWR has prepared the updated State Ordinance through expedited regulation, and solicited public comment and input from stakeholders throughout the month of June. The California Water Commission approved the proposed revisions to the State's Ordinance on July 15, 2015 and the State Ordinance was entered into the California Code of Regulations on September 15, 2015.

Local agencies are required to adopt the State Ordinance or adopt their own ordinances, which must be at least as effective in conserving water as the State's Ordinance. It should be noted that while the focus of the previous version of the State Ordinance was solely water use efficiency, the updated State Ordinance promotes the values and benefits of landscape practices that integrate conservation into all aspects of landscape design. The State Ordinance shall be effective on December 1, 2015. Local agencies working together to develop a regional ordinance have until February 1, 2016 to adopt. If a local agency does not take action on a water efficient landscape ordinance by the specified dates, the State's Ordinance becomes effective by default.

Council Sustainability Committee Review - The Council Sustainability Committee reviewed the revised State Ordinance at the September 10, 2015 meeting. The Committee also reviewed and provided input on potential local enhancements to the State Ordinance, which are discussed in further detail later in this report. Committee members appeared to be generally supportive of staff recommended Bay-Friendly Ordinance changes, and their feedback has been incorporated into the proposed Bay-Friendly Ordinance (Attachment II).

DISCUSSION

DWR estimates that with the new State Ordinance provisions, a typical California landscape will use

12,000 gallons less of water per year, which is twenty percent less than allowed by the 2009 State Ordinance. It is estimated that commercial landscape will cut water use by thirty-five percent under the new provisions. Over the next three years, it is predicted that 470,000 new homes associated with 20,000 acres of landscape will be built in California. With proper implementation and enforcement, the State Ordinance is expected to lead to substantial water savings.

Given the significant changes to the State Ordinance, staff is recommending that rather than revising the existing Bay-Friendly Ordinance, the City Council repeal and replace it. This approach allows the City's new Bay-Friendly Ordinance to align with, or even exceed, the requirements of the State Ordinance, while meeting Hayward's holistic and sustainable approaches to landscape improvements.

With that said, below is a summary of the changes DWR has made to the State Ordinance. All changes have been included in the proposed Ordinance (Attachment II).

Summary of Changes to State Ordinance

Implementation of the new regulations will influence the overall look of new landscaping projects throughout the City. A comparison between projects subject to the current ordinance and what potential projects could look like under the proposed ordinance are shown in Attachment IV.

Applicability. The most significant change to the State Ordinance is the reduction in the thresholds for applicability. See Table 1 (Attachment I) for a comparison between the current and proposed ordinances. In general, the State Ordinance prescribes that all new development projects that include landscape areas equal to or greater than 500 square feet are subject to requirements of the State Ordinance. Staff believes that the State's applicability thresholds would require most (if not all) new projects in Hayward to follow the requirements of the Ordinance.

Dedicated Irrigation Meters. The State Ordinance requires either dedicated irrigation service meters *or* private submeters to be installed for all non-residential irrigated landscapes of 1,000 square feet or more, and residential irrigated landscapes of 5,000 square feet or more. Dedicated irrigation service meters are read by the City for billing purposes, and consumption is charged at a non-residential rate. Private submeters are not used for billing and are simply a way for a property owner to measure water specifically used for irrigation. Currently, the City requires a separate irrigation meter when the property contains 5,000 or more square feet of irrigated landscape for both non-residential developments and multifamily residential. The current requirement does not apply to single-family residential properties, including single-family homes, duplexes, triplexes and fourplexes.

For reasons discussed above, staff recommends that the proposed Ordinance requires dedicated irrigation service meters to be installed, and not allow the option to install private submeters. The proposed Bay-Friendly Ordinance reflects this recommendation. In addition, it is recommended that the Hayward Municipal Water System Ordinance (Attachment III) is also amended to require dedicated irrigation service meters for all non-residential irrigated landscapes of 1,000 square feet or more, and residential irrigated landscapes of 5,000 square feet or more, to remain consistent with the proposed Bay-Friendly Ordinance.

Limits Potable Irrigation Water Usage. The State Ordinance also lowers the current maximum allowed irrigation water with potable water by twenty-one percent for single-family residential developments and thirty-six percent for multi-family residential developments, including multi-family developments with more than four (4) units. Essentially, this requires landscapes to be designed within a “water budget” that is lower than the 2009 State Ordinance, limiting the use of high water-use plants. This is measured using the Water Efficient Landscape Worksheet (included as part of the Bay-Friendly Ordinance in Attachment II), which contains information on the plant factor, irrigation method, irrigation efficiency, and area associated with each watering zone. Calculations are then made to show that the landscape will use less than the maximum allowed water.

Landscape & Irrigation Design Restrictions. A significant change to landscape design restrictions includes the explicit prohibition of high water use plants in street medians. Irrigation design restrictions have also been updated. For example, the minimum width of areas that can be overhead spray irrigated has been amended from eight feet to ten feet. This means that areas less than ten feet wide must be irrigated with subsurface drip or other technology that produces no overspray or runoff. Staff is further recommending that the Bay-Friendly Ordinance include a provision to explicitly prohibit irrigation overspray onto impervious surfaces.

Professional Submittal. The State Ordinance will require applicable project landscape plans to be prepared by a licensed landscape architect, and an irrigation auditing and audit report submittal for all new development projects installed after December 1, 2015.

Agency Reporting. All local agencies will report on the implementation and enforcement of their ordinances to DWR by December 31, 2015, and subsequent annual reporting to DWR by January 31st of each year thereafter beginning in 2017.

Prescriptive checklist. Smaller projects with rehabilitated landscape areas under 2,500 square feet, using treated or untreated graywater or rainwater captured on site meeting the entire need for irrigation, may comply with the performance requirements of the State Ordinance or conform to the prescriptive measures checklist contained within Appendix D of the State Ordinance. The intention of this checklist option is to simplify compliance for smaller projects by providing a template for submittal that is less complex than would otherwise be required for larger projects.

Recycled Water. The use of recycled water for irrigation continues to be incentivized in the State Ordinance by allowing landscapes using recycled water to have a higher Evapotranspiration Adjustment Factor (ETAF). This will allow a higher “water budget,” and can provide the opportunity to plant higher water using plants.

Graywater & Rainwater Systems . A new section has been added to the State Ordinance to allow smaller projects irrigated with graywater (e.g., from clothes washing machines) or rainwater to be subject only to the prescriptive checklist mentioned above.

Local Enhancements to State Ordinance

The City’s existing Bay-Friendly Ordinance exceeded the minimum requirements of the 2009 State

Ordinance requirements in many aspects. In some ways, the 2015 State Ordinance is now just “catching up” to what the City has been requiring for many years.

Pursuant to the Council’s stated priorities and commitment to sustainability, staff has included recommendations in the proposed Ordinance which enhance outdoor water efficiency requirements and promote sustainability. At the September 10, 2015 Council Sustainability Committee meeting, staff sought the Committee’s feedback on the inclusion of the following items and additional enhancements. The Committee was in support of including each item in the proposed Ordinance.

Landfill Diversion. At the September Council Sustainability Committee, staff initially recommended that the proposed Bay-Friendly Ordinance include a requirement to comply with City’s current Construction and Demolition Debris Waste Reduction and Recycling Requirements Ordinance (Chapter 5, Article 10). The intention of this was to require appropriate processing of landscape project debris and to align with the City’s landfill diversion goals. After further review, staff determined that the Ordinance did not address proper disposal of organic waste for landscape projects. There was also discussion of the fact that the Bay-Friendly Ordinance could reference the Alameda County Plant Debris Landfill Ban Ordinance 2008-01, which requires landscape professionals, residents, and businesses in Alameda County to separate all plant debris from garbage. The proposed Bay-Friendly Ordinance instead requires applicants to include a disposal plan for all landscape debris generated by the project as part of their application package. The disposal plan shall specify that the landscape debris will be separated from garbage and diverted from the landfill.

Native Plant Species. The State Ordinance does not require a specific quantity of native or local climate-adapted plants; however, Bay-Friendly Principles, which are included in the current Bay-Friendly Ordinance, contain a requirement that a minimum of seventy-five percent of plants shall be California native, Mediterranean, or other climate-adapted species that require occasional or no water once established. The proposed Bay-Friendly Ordinance remains consistent with these Bay-Friendly Principles. In the same vein, the provision that prohibits the use of invasive plant species, as defined by the California Invasive Plant Council in the Bay-Friendly Ordinance, has also been included in the proposed Bay-Friendly Ordinance. The State Ordinance only “strongly discourages” the use of invasive species.

Graywater & Rainwater Systems. As mentioned above, there is an incentive in the State Ordinance for special circumstances where graywater or rainwater is used to irrigate the landscape. The proposed Bay-Friendly Ordinance includes a requirement that all new single family residential developments include plumbing required for a “laundry-to-landscape” graywater system in each home. This is an enhancement from the State Ordinance, which only encourages graywater, but does not require it. The proposed Bay-Friendly Ordinance will also require that all new single family residential development include a minimum of fifty gallon lidded rain catchment device on each parcel.

Allowance of Turf

The Council Sustainability Committee requested that staff review whether the City should consider prohibiting turf from the front yard in new development projects as part of the proposed Bay-Friendly Ordinance. Staff has considered the implications of this, and has ultimately not included the prohibition

of turf in the proposed Ordinance for several reasons. The revisions to the State Ordinance significantly ratcheted down the amount of water than can be used in outdoor irrigation, as well as tightened up irrigation requirements (e.g., limiting spray, requiring subsurface). This action, in effect, limits the ability to install large turf areas, but still allows property owners to have some turf area within the property. While turf is a high water using plant, staff did not think it would be appropriate to limit a property owner's ability to select plants that meet the overall goals of the Bay-Friendly Ordinance.

ECONOMIC IMPACT

Adaptation of the Bay-Friendly Ordinance will result in more projects meeting the applicability thresholds, given the reduction in threshold size, and more comprehensive and professional landscape plan submittals as a result of the detailed requirements. These items may result in increased project development costs for the development community in order to meet the compliance requirements. Some of these costs can be balanced with savings in water costs resulting from more efficient water use.

FISCAL IMPACT

Currently, one full-time staff Landscape Architect reviews, inspects and accepts all permitted landscape and irrigation improvement projects. Due to the lowering of thresholds requiring water efficiency landscaping and the required tracking of all development projects for annual reporting to DWR, the recommended new requirements will result in additional staff time for plan review, plan checks, inspections and project tracking by the City's Landscape Architect, with the likely possibility that additional staffing may be needed. Also, with new "laundry-to-landscape" graywater and rainwater system requirements, building plan checkers and inspectors will have additional responsibilities.

Over the coming months, staff will evaluate impacts and formulate a recommendation to City Council for staff augmentation and/or other measures to adequately respond to the impacts of the proposed new regulations. As all of this effort is to serve development needs and respond to a State mandate, any additional staffing and related costs can be recovered through new or increased fees, which would be proposed for inclusion in the City's Master Fee Schedule.

NEXT STEPS

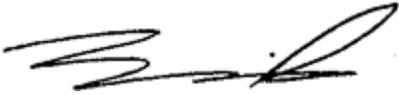
If the City Council approves introduction of the Ordinances to amend the Municipal Code as described in this report, the amendments would be adopted on October 27, 2015 and become effective thirty days afterwards (November 27, 2015).

Prepared by: Corinne Ferreyra, Senior Management Analyst, Utilities & Environmental Services
Michelle Koo, RLA, ASLA, Landscape Architect, Development Services

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

File #: PH 15-085

Approved by:



Fran David, City Manager

Attachments:

Attachment I
Attachment II
Attachment III
Attachment IV

Table 1 - Applicability Thresholds
Proposed Bay Friendly Water Efficient Landscape Ordinance
Proposed Hayward Municipal Water System Ordinance
Landscape Design Comparison

TABLE 1**Applicability Thresholds**

Project Type	Hayward Bay-Friendly Ordinance (Consistent with 2009 State Ordinance)	State Ordinance 2015
New CII - Developer Installed	≥ 2,500 sf	≥ 500 sf
New SFR/MFR - Developer Installed	≥ 2,500 sf	≥ 500 sf
New SFR/MFR - Homeowner Provided/Hired	≥ 5,000 sf	≥ 500 sf
Rehabilitated Landscape	Same as above	≥ 500 sf ≥ 2,500 sf

CII – Commercial, Industrial & Institutional

SFR – Single Family Residential

MFR – Multifamily Residential

ORDINANCE NO. 15-

ORDINANCE REPEALING AND REPLACING CHAPTER 10
ARTICLE 12 OF THE HAYWARD MUNICIPAL CODE
RELATING TO LANDSCAPE REQUIREMENTS FOR NEW
AND REHABILITATED DEVELOPMENT PROJECTS

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

Section 1. Upon the effective date of this ordinance, Chapter 10, Article 12, of the
Hayward Municipal Code is hereby repealed and, in substitution thereof, a new Article 12 of
Chapter 10 of the Hayward Municipal Code is hereby enacted to read in full as follows:

“ARTICLE 12

CITY OF HAYWARD
BAY-FRIENDLY WATER EFFICIENT LANDSCAPE ORDINANCE

INDEX

<u>Section</u>	<u>Subject Matter</u>
10-12.01	AUTHORITY
10-12.02	PURPOSE
10-12.03	APPLICABILITY
10-12.04	DEFINITIONS
10-12.05	WATER EFFICIENT LANDSCAPE WORKSHEET
10-12.06	SOIL MANAGEMENT REPORT
10-12.07	LANDSCAPE DESIGN PLAN
10-12.08	IRRIGATION DESIGN PLAN
10-12.09	CERTIFICATE OF COMPLETION

- 10-12.10 LANDSCAPE AND IRRIGATION MAINTENANCE
SCHEDULE
- 10-12.11 IRRIGATION AUDIT, IRRIGATION SURVEY, AND
IRRIGATION WATER USE ANALYSIS
- 10-12.12 IRRIGATION EFFICIENCY
- 10-12.13 RECYCLED WATER
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- 10-12.15 STORMWATER MANAGEMENT, RAINWATER
RETENTION, AND RAINWATER CATCHMENT
- 10-12.16 PUBLIC EDUCATION
- 10-12.17 ENVIRONMENTAL REVIEW
- 10-12.18 EXISTING LANDSCAPE IRRIGATION AUDIT, IRRIGATION
SURVEY, AND IRRIGATION WATER USE ANALYSIS
- 10-12.19 EFFECTIVE PRECIPITATION

APPENDICES

- APPENDIX A. REFERENCE EVAPOTRANSPIRATION TABLE
- APPENDIX B. WATER EFFICIENT LANDSCAPE WORKSHEET
- APPENDIX C. CERTIFICATE OF COMPLETION
 - PART 1. PROJECT INFORMATION SHEET
 - PART 2. CERTIFICATE OF INSTALLATION
 - PART 3. IRRIGATION SCHEDULING
 - PART 4. SCHEDULE OF LANDSCAPE AND IRRIGATION

MAINTENANCE

PART 5. LANDSCAPE IRRIGATION AUDIT REPORT

PART 6. SOIL MANAGEMENT REPORT

PART 7. LANDFILL DIVERSION VERIFICATION

STATEMENT

APPENDIX D. PRESCRIPTIVE COMPLIANCE OPTION

ARTICLE 12

CITY OF HAYWARD
BAY-FRIENDLY WATER-EFFICIENT LANDSCAPE ORDINANCE
(Added by Ordinance No. 15-XX, adopted October 27, 2015)

SEC. 10-12.01 AUTHORITY. This Article is enacted pursuant to California Government Code of Regulations, Title 23, Division 2, Chapter 2.7. Waters and is a “water-efficient landscape ordinance” adopted by a local agency under the provisions of said article.

SEC.10-12.02 PURPOSE. The City Council finds and declares that it is in the public interest to promote integrated landscape practices that go beyond the conservation and efficient use of water and to prevent the waste of this valuable resource while recognizing the values and benefits of landscapes as essential to the quality of life in California. Landscapes provide areas for active and passive recreation and enhance the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development. The purpose of the regulations set forth in this article is to establish a structure for planning, designing, installing, maintaining and managing water efficient landscapes in new construction and rehabilitated projects by:

- (a) Utilizing the whole systems approach of Bay-Friendly Landscaping;
- (b) Encouraging the use of a watershed approach and reducing compaction, incorporating organic matter that increases water retention, and promoting productive plant growth that leads to more carbon storage, oxygen production, shade, habitat and esthetic benefits;
- (c) Establishing provisions for water management practices and water waste prevention for existing landscapes;
- (d) Setting a Maximum Applied Water Allowance as an upper limit for water use and reducing water use to the lowest practical amount;
- (e) Adopting the Bay-Friendly Landscape Guidelines, Bay-Friendly Landscape Scorecards and Bay-Friendly Gardening Guide, as they may be amended from time to time, as Agency reference documents.

This Article shall be applied in a manner that achieves the maximum consistency with the landscaping performance standards contained in the Hayward Zoning ordinance, Article 12 of Chapter 10 of the Hayward Municipal Code. To the extent that a conflict exists between this Article and the Zoning Ordinance, the requirements of this Article shall control.

SEC.10-12.03 APPLICABILITY.

- (a) After December 1, 2015, and consistent with Executive Order No. B-29-15, this ordinance shall apply to all of the following landscape projects:
 - (1) New construction projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check or design review;
 - (2) Rehabilitated landscape projects with an aggregate landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check, or design review;
 - (3) Existing landscapes limited to Section 10-12.18; and
 - (4) Cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries are limited to Sections 10-12.05, 10-12.10, and 10-12.11; and existing cemeteries are limited to Section 10-12.18.
- (b) Any project with an aggregate landscape area of 2,500 square feet or less may comply with the performance requirements of this ordinance or conform to the prescriptive measures contained in Appendix D.
- (c) For projects using treated or untreated graywater or rainwater captured on site, any lot or parcel within the project that has less than 2500 square feet of landscape and meets the lot or parcel's landscape water requirement (Estimated Total Water Use) entirely with treated or untreated graywater or through stored rainwater captured on site is subject only to Appendix D.
- (d) This ordinance does not apply to:
 - (1) registered local, state or federal historical sites;
 - (2) ecological restoration projects that do not require a permanent irrigation system;
 - (3) mined-land reclamation projects that do not require a permanent irrigation system;
or
 - (4) existing plant collections, as part of botanical gardens and arboretums open to the public.

SEC.10-12.04 DEFINITIONS. The terms used in this ordinance have the meaning set forth below:

- (a) “applied water” means the portion of water supplied by the irrigation system to the landscape.

- (b) “automatic irrigation controller” means timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers are able to self-adjust and schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.
- (c) “backflow prevention device” means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.
- (d) “Bay-Friendly Landscape Guidelines” means the most recent version of the guidelines developed by StopWaste.Org for use in the professional design, construction and maintenance of landscapes. Agency staff shall maintain the most recent version of the “Bay-Friendly Landscape Guidelines” at all times.
- (e) “Bay-Friendly Maintenance Manual” means the most recent version of the manual outlining Bay-Friendly maintenance practices administered by the Bay-Friendly Landscaping and Gardening Coalition.
- (f) “Bay-Friendly Rated Scorecard” means the most recent version of the Bay-Friendly points system for Landscaping administered by the Bay-Friendly Landscaping and Gardening Coalition.
- (g) “Certificate of Completion” means the document required under Section 492.9.
- (h) “certified irrigation designer” means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation designer certification program and Irrigation Association’s Certified Irrigation Designer program.
- (i) “certified landscape irrigation auditor” means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency’s WaterSense irrigation auditor certification program and Irrigation Association’s Certified Landscape Irrigation Auditor program.
- (j) “check valve” or “anti-drain valve” means a valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.
- (k) “common interest developments” means community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section 1351.
- (l) “compost” means the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

- (m) “conversion factor (0.62)” means the number that converts acre-inches per acre per year to gallons per square foot per year.
- (n) “distribution uniformity” means the measure of the uniformity of irrigation water over a defined area.
- (o) “drip irrigation” means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.
- (p) “ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.
- (q) “effective precipitation” or “usable rainfall” (Eppt) means the portion of total precipitation which becomes available for plant growth.
- (r) “emitter” means a drip irrigation emission device that delivers water slowly from the system to the soil.
- (s) “established landscape” means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.
- (t) “establishment period of the plants” means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth. Native habitat mitigation areas and trees may need three to five years for establishment.
- (u) “Estimated Total Water Use” (ETWU) means the total water used for the landscape as described in Section 10-12.05.
- (v) “ET adjustment factor” (ETAF) means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. The ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0. The ETAF for existing non-rehabilitated landscapes is 0.8.
- (w) “evapotranspiration rate” means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.
- (x) “flow rate” means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

- (y) “flow sensor” means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or flow monitor capable of receiving flow signals and operating master valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.
- (z) “friable” means a soil condition that is easily crumbled or loosely compacted down to a minimum depth per planting material requirements, whereby the root structure of newly planted material will be allowed to spread unimpeded.
- (aa) “Fuel Modification Plan Guideline” means guidelines from a local fire authority to assist residents and businesses that are developing land or building structures in a fire hazard severity zone.
- (bb) "graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers. Health and Safety Code Section 17922.12.
- (cc) “hardscapes” means any durable material (pervious and non-pervious).
- (dd) “hydrozone” means a portion of the landscaped area having plants with similar water needs and rooting depth. A hydrozone may be irrigated or non-irrigated.
- (ee) “infiltration rate” means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).
- (ff) “invasive plant species” means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.
- (gg) “irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association’s Landscape Irrigation Auditor Certification program or other U.S. Environmental Protection Agency “Watersense” labeled auditing program.
- (hh) “irrigation efficiency” (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from

measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this ordinance are 0.75 for overhead spray devices and 0.81 for drip systems.

- (ii) “irrigation survey” means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.
- (jj) “irrigation water use analysis” means an analysis of water use data based on meter readings and billing data.
- (kk) “landscape architect” means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.
- (ll) “landscape area” means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).
- (mm) “landscape contractor” means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.
- (nn) “Landscape Documentation Package” means the documents required under Section 10-12.07.
- (oo) “landscape project” means total area of landscape in a project as defined in “landscape area” for the purposes of this ordinance, meeting requirements under Section 10-12.03
- (pp) “landscape water meter” means an inline device installed at the irrigation supply point that measures the flow of water into the irrigation system and is connected to a totalizer to record water use.
- (qq) “land clearing debris” includes trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing. Exceptions are vegetation or soil contaminated by toxic substances.
- (rr) “lateral line” means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.
- (ss) “local agency” means a city or county, including a charter city or charter county, that is responsible for adopting and implementing the ordinance. The local agency is also responsible for the enforcement of this ordinance, including but not limited to, approval of a permit and plan check or design review of a project.

- (tt) “local water purveyor” means any entity, including a public agency, city, county, or private water company that provides retail water service.
- (uu) “low volume irrigation” means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.
- (vv) “main line” means the pressurized pipeline that delivers water from the water source to the valve or outlet.
- (ww) “master shut-off valve” is an automatic valve installed at the irrigation supply point which controls water flow into the irrigation system. When this valve is closed water will not be supplied to the irrigation system. A master valve will greatly reduce any water loss due to a leaky station valve.
- (xx) “Maximum Applied Water Allowance” (MAWA) means the upper limit of annual applied water for the established landscaped area as specified in Section 10-12.05. It is based upon the area’s reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance. Special Landscape Areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0. $MAWA = (ET_o) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$
- (yy) “median” is an area between opposing lanes of traffic that may be unplanted or planted with trees, shrubs, perennials, and ornamental grasses.
- (zz) “microclimate” means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.
- (aaa) “mined-land reclamation projects” means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.
- (bbb) “mulch” means any organic material such as leaves, arbor or wood chips, recycled wood waste, straw, compost, or inorganic mineral materials such as rocks, gravel, or decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.
- (ccc) “new construction” means, for the purposes of this ordinance, a new building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

- (ddd) “non-residential landscape” means landscapes in multifamily with more than five or more units, commercial, institutional, industrial and public settings that may have areas designated for recreation or public assembly. It also includes portions of common areas of common interest developments with designated recreational areas.
- (eee) “operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.
- (fff) “overhead sprinkler irrigation systems” or “overhead spray irrigation systems” means systems that deliver water through the air (e.g., spray heads and rotors).
- (ggg) “overspray” means the irrigation water which is delivered beyond the target area.
- (hhh) “parkway” means the area between a sidewalk and the curb or traffic lane. It may be planted or unplanted, and with or without pedestrian egress.
- (iii) “permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.
- (jjj) “pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.
- (kkk) “plant factor” or “plant water use factor” is a factor, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this ordinance, the plant factor range for very low water use plants is 0 to 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the publication “Water Use Classification of Landscape Species”. Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources (DWR).
- (lll) “project applicant” means the individual or entity submitting a Landscape Documentation Package required under Section 10-12.07, to request a permit, plan check, or design review from the local agency. A project applicant may be the property owner or his or her designee.
- (mmm) “rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.
- (nnn) “record drawing” or “as-built” means a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.
- (ooo) “recreational area” means areas, excluding private single family residential areas, designated for active play, recreation or public assembly in parks, sports fields, picnic

- grounds, pools or spas, amphitheaters or golf course tees, fairways, roughs, surrounds and greens.
- (ppp) “recycled water,” “reclaimed water,” or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for nonpotable uses such as landscape irrigation and water features. This water is not intended for human consumption.
- (qqq) “reference evapotranspiration” or “ET_o” means a standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per day, month, or year as represented in Appendix A, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances so that regional differences in climate can be accommodated.
- (rrr) “rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review, meets the requirements of Section 10-12.03, and the modified landscape area is equal to or greater than 2,500 square feet.
- (sss) “residential landscape” means landscapes surrounding single or multifamily homes with four or less units.
- (ttt) “run off” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, run off may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.
- (uuu) “sheet mulching” uses a layering system of cardboard, compost and mulch or other materials to enhance weed suppression and provide soil building benefits. (Source: A Bay-Friendly Guide to Mulch.)
- (vvv) “soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.
- (www) “soil texture” means the classification of soil based on its percentage of sand, silt, and clay.
- (xxx) “Special Landscape Area” (SLA) means an area of the landscape dedicated solely to edible plants, recreational areas, areas irrigated with recycled water, or water features using recycled water.
- (yyy) “sprinkler head” or “spray head” means a device which delivers water through a nozzle.
- (zzz) “static water pressure” means the pipeline or municipal water supply pressure when water is not flowing.

- (aaaa) “station” means an area served by one valve or by a set of valves that operate simultaneously.
- (bbbb) “swing joint” means an irrigation component that provides a flexible, leak-free connection between the emission device and lateral pipeline to allow movement in any direction and to prevent equipment damage.
- (cccc) “subsurface irrigation” means irrigation placed either under the soil or under the mulch on top of the soil.
- (dddd) “turf” means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass, Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.
- (eeee) “valve” means a device used to control the flow of water in the irrigation system.
- (ffff) “water conserving plant species” means a plant species identified as having a very low or low plant factor.
- (gggg) “water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.
- (hhhh) “watering window” means the time of day irrigation is allowed.
- (iiii) “WUCOLS” means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension and the Department of Water Resources 2014.

SEC.10-12.05 WATER EFFICIENT LANDSCAPE WORKSHEET.

- (a) A project applicant shall complete the Water Efficient Landscape Worksheet in Appendix B which contains information on the plant factor, irrigation method, irrigation efficiency, and area associated with each hydrozone. The ET Adjustment Factor (ETAF) for a landscape project is based on the plant factors and irrigation methods selected. The Maximum Applied Water Allowance (MAWA) is calculated based on the maximum ETAF allowed (0.55 for residential areas and 0.45 for non-residential areas) and expressed as annual gallons required. The Estimated Total Water Use (ETWU) is calculated based on the plants used and irrigation method selected for the landscape design. ETWU must be below the MAWA.

- (1) Calculations are then made to show that the evapotranspiration adjustment factor (ETAF) for the landscape project does not exceed a factor of 0.55 for residential areas and 0.45 for non-residential areas, exclusive of Special Landscape Areas.
 - (2) In calculating the MAWA and ETWU, a project applicant shall use the ETo values of 44.2 of Union City from the Reference Evapotranspiration Table in Appendix A.
- (b) Water budget calculations shall adhere to the following requirements:
- (1) The plant factor used shall be from any published plant reference book approved by the California Department of Water Resources (DWR). The plant factor ranges from 0 to 0.1 for very low water using plants, 0.1 to 0.3 for low water use plants, from 0.4 to 0.6 for moderate water use plants, and from 0.7 to 1.0 for high water use plants.
 - (2) Published plant reference books may include the following:
 - (A) California Native Plants for the Garden, Carol Bornstein, David Fross and Bart O'Brien, Cachuma Press, 2005. (CNP)
 - (B) Plants and Landscapes for Summer-Dry Climates, Nora Harlow (ed.), East Bay Municipal Utility District, 2004. (EBMUD)
 - (C) Landscape Plants for California Gardens, Robert C. Perry, Land Design Publisher, 2010.
 - (D) Sunset Western Garden Book, editors of Sunset Magazine, Oxmoor House, 2012.
 - (E) University of California Division of Agriculture and Natural Resources, Water Use Classification of Landscape Species (WUCOLS IV), www.ucanr.edu/sites/WUCOLS
 - (3) All water features shall be included in the high water use hydrozone and temporarily irrigated areas shall be included in the low water use hydrozone.
 - (4) All Special Landscape Areas shall be identified and their water use calculated as shown in Appendix B.
 - (5) ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

SEC.10-12.06 SOIL MANAGEMENT REPORT

- (a) In order to reduce runoff and encourage healthy plant growth, a soil management report shall be completed by the project applicant, or his/her designee, as follows:
- (1) Submit soil samples to a laboratory for analysis and recommendations.
 - (A) Soil sampling shall be conducted in accordance with laboratory protocol, including protocols regarding adequate sampling depth for the intended plants.
 - (B) The soil analysis shall include:
 1. soil texture;
 2. infiltration rate determined by laboratory test or soil texture infiltration rate table;
 3. pH;
 4. total soluble salts;
 5. sodium;
 6. percent organic matter; and
 7. recommendations for amending the soil with organic compost to bring the soil organic matter to a minimum of 5% by dry weight and incorporating organic fertilizers to recommended levels for planting area. Acceptable organic fertilizers and amendment products are those allowed for use in crop production by at least one of the following:
 - i. Organic Materials Review Institute's Generic Materials List
 - ii. California Department of Food and Agriculture's Organic Input Materials Program
 - iii. U.S. Department of Agriculture's National Organic Program
 - (C) In projects with multiple landscape installations (i.e. production home developments) a soil sampling rate of one (1) in seven (7) lots or approximately fifteen percent (15%) will satisfy this requirement. Large landscape projects shall sample at a rate equivalent to one (1) in seven (7) lots.
 - (2) The project applicant, or his/her designee, shall comply with one of the following:
 - (A) If significant mass grading is not planned, the soil analysis report shall be submitted to the local agency as part of the Landscape Documentation Package; or
 - (B) If significant mass grading is planned, the soil analysis report shall be submitted to the local agency as part of the Certificate of Completion.
 - (3) The soil analysis report shall be made available, in a timely manner, to the professionals preparing the landscape design plans and irrigation design plans to make any necessary adjustments to the design plans.

- (4) The project applicant, or his/her designee, shall submit documentation verifying implementation of soil analysis report recommendations to the local agency with Certificate of Completion.

SEC.10-12.07 LANDSCAPE DESIGN PLAN.

- (a) For the efficient use of water, a landscape shall be carefully designed and planned for the intended function of the project. A landscape design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.
- (1) Applicable projects are required to divert (reuse or recycle) 100% of excavated soil and plant and land clearing debris. Alternative Daily Cover is not an acceptable form of diversion for plant material.
- (2) Plant Material
- (A) The Estimated Total Water Use of selected plants in the landscape area shall not exceed the Maximum Applied Water Allowance. Methods to achieve water efficiency shall include one or more of the following:
1. protection and preservation of native species and natural vegetation;
 2. at least seventy five percent (75%) of the total number of water-conserving plants shall require occasional, little or no summer water, especially local native plants;
 3. selection of plants based on local climate suitability, disease and pest resistance;
 4. selection of trees based on applicable local tree ordinances or tree shading guidelines, and size at maturity as appropriate for the planting area;
 5. selection of plants from local and regional landscape program plant lists; and
 6. selection of plants from local Fuel Modification Plan Guidelines.
- (B) Each hydrozone shall have plant materials with similar water use, with the exception of hydrozones with plants of mixed water use, as specified in Section 10.12-08(a)(2).
- (C) Plants shall be selected and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the project site. Methods to achieve water efficiency shall include one or more of the following:
1. use the Sunset Western Climate Zone System which takes into account temperature, humidity, elevation, terrain, latitude, and varying degrees of continental and marine influence on local climate;

2. recognize the horticultural attributes of plants (i.e., mature plant size, invasive surface roots) to minimize damage to property or infrastructure [e.g., buildings, sidewalks, power lines]; allow for adequate soil volume for healthy root growth; plants located adjacent to buildings, sidewalks, roads or other obstructions are installed to accommodate their minimum spread, according to a published third-party reference; and
 3. consider the solar orientation for plant placement to maximize summer shade and winter solar gain.
- (D) Turf is not allowed on slopes greater than twenty five percent (25%) where the toe of the slope is adjacent to an impermeable hardscape and where twenty five percent (25%) means one (1) foot of vertical elevation change for every four (4) feet of horizontal length (vertical elevation change divided by horizontal length multiply by 100 = slope percent).
 - (E) Turf is not allowed in multifamily and non-residential areas unless it is a recreational area. Turf is allowed in single family residential areas as long as the water budget is met.
 - (F) High water use plants, characterized by a plant factor of 0.7 to 1.0, are prohibited in street medians.
 - (G) A landscape design plan for projects in fire-prone areas shall address fire safety and prevention. A defensible space or zone around a building or structure is required per Public Resources Code Section 4291(a) and (b). Fire-prone plant materials and highly flammable mulches shall be prohibited. Refer to the local Fuel Modification Plan guidelines.
 - (H) The use of invasive plant species, such as those listed by the California Invasive Plant Council, shall be prohibited.
 - (I) The architectural guidelines of a common interest development, which include community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.
- (3) Water Features
 - (A) Recirculating water systems shall be used for water features
 - (B) Where available, recycled water shall be used as a source for decorative water features.

- (C) Surface area of a water feature shall be included in the high water use hydrozone area of the water budget calculation.
 - (D) Pool and spa covers shall be required.
- (4) Soil Preparation, Mulch and Amendments
- (A) Prior to the planting of any materials, compacted soils shall be transformed to a friable condition. On engineered slopes, only amended planting holes need meet this requirement.
 - (B) Soil amendments shall be incorporated according to recommendations of the soil report and appropriateness for the plants selected (see Section 10-12.06).
 - (C) For landscape installations, organic compost at a rate of a minimum of four (4) cubic yards per 1,000 square feet shall be incorporated to a depth of six (6) inches into the soil in the landscape area. Soils with greater than five percent (5%) organic matter in the top six (6) inches of soil are exempt from adding compost and tilling. Organic matter must be confirmed by an accredited soil testing laboratory. Projects that incorporate sheet mulching may choose to install the compost above the cardboard layer instead of tilling it into the soil. Projects that are sheet mulching lawn in place are exempt from the tilling requirement.
 - (D) A minimum three inch (3") layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, areas receiving closely spaced grass plugs as a lawn alternatives, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such. Specifying organic recycled chipped wood mulch is strongly encouraged in the shade of Dark Brown color where arbor chip from the project site is unavailable.
 - (E) Stabilizing mulching products shall be used on slopes that meet current engineering standards.
 - (F) The mulching portion of the seed/mulch slurry in hydro-seeded applications shall meet the mulching requirement.
 - (G) Organic mulch materials made from recycled or post-consumer shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.

- (b) The landscape design plan, at a minimum, shall:
- (1) delineate and label each hydrozone by number, letter, or other method;
 - (2) identify each hydrozone as low, moderate, high water, or mixed water use. Temporarily irrigated areas of the landscape shall be included in the low water use hydrozone for the water budget calculation;
 - (3) identify recreational areas;
 - (4) identify areas permanently and solely dedicated to edible plants;
 - (5) identify areas irrigated with recycled water;
 - (6) identify type of mulch and application depth;
 - (7) identify soil amendments, type, and quantity;
 - (8) identify slopes equal or greater than 3:1 to receive erosion control material
 - (9) identify type and surface area of water features;
 - (10) identify hardscapes (pervious and non-pervious);
 - (11) identify location, installation details, and 24-hour retention or infiltration capacity of any applicable stormwater best management practices that encourage on-site retention and infiltration of stormwater. Project applicants shall refer to the local agency or regional Water Quality Control Board for information on any applicable stormwater technical requirements. Stormwater best management practices shall be incorporated in the landscape design plan;
 - (12) identify any applicable rain catchment technologies as discussed in Section 10-12.15 and their 24-hour retention or infiltration capacity;
 - (13) identify any applicable graywater discharge piping, system components and area(s) of distribution;
 - (14) identify landfill diversion verification requirement that Landscape Contractor shall be required to submit Appendix C. Certification of Completion, PART 7;
 - (15) contain the following statement: “I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan”; and

- (16) bear the signature of a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape. (See Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agriculture Code.)

SEC.10-12.08 IRRIGATION DESIGN PLAN.

- (a) This section applies to landscaped areas requiring permanent irrigation, not areas that require temporary irrigation solely for the plant establishment period. For the efficient use of water, an irrigation system shall meet all the requirements listed in this section and the manufacturers' recommendations. The irrigation system and its related components shall be planned and designed to allow for proper installation, management, and maintenance. An irrigation design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.
- (1) System
- (A) Dedicated irrigation water service meters shall be installed for all non-residential irrigated landscapes of 1,000 square feet and residential irrigated landscapes of 5,000 square feet or greater.
- (B) Automatic irrigation controllers utilizing either evapotranspiration or soil moisture sensor data utilizing non-volatile memory shall be required for irrigation scheduling in all irrigation systems.
- (C) If the water pressure is below or exceeds the recommended pressure of the specified irrigation devices, the installation of a pressure regulating device is required to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance:
1. If the static pressure is above or below the required dynamic pressure of the irrigation system, pressure-regulating devices such as inline pressure regulators, booster pumps, or other devices shall be installed to meet the required dynamic pressure of the irrigation system; and
 2. Static water pressure, dynamic or operating pressure, and flow reading of the water supply shall be measured at the point of connection. These pressure and flow measurements shall be conducted at the design stage. If the measurements are not available at the design stage, the measurements shall be conducted at installation.
- (D) Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems, as appropriate for local climatic

conditions. Irrigation should be avoided during windy or freezing weather or during rain.

- (E) Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of an emergency (such as a main line break) or routine repair.
- (F) Backflow prevention devices shall be required to protect the water supply from contamination by the irrigation system. A project applicant shall conform to the City Standard Detail.
- (G) Flow sensors that detect high flow conditions created by system damage or malfunction are required for all on non-residential landscapes and residential landscapes of 5000 sq. ft. or larger.
- (H) Master shut-off valves are required on all projects except landscapes that make use of technologies that allow for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.
- (I) The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
- (J) Relevant information from the soil management plan, such as soil type and infiltration rate, shall be utilized when designing irrigation systems.
- (K) The design of the irrigation system shall conform to the hydrozones of the landscape design plan.
- (L) The irrigation system must be designed and installed to meet, at a minimum, the irrigation efficiency criteria as described in Section 10-12.05 regarding the Maximum Applied Water Allowance.
- (M) All irrigation emission devices must meet the requirements set in the American National Standards Institute (ANSI) standard, American Society of Agricultural and Biological Engineers'/International Code Council's (ASABE/ICC) 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard, All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.
- (N) It is highly recommended that the project applicant inquire with Department of Utilities and Environmental Services about peak water

operating demands (on the water supply system) or water restrictions that may impact the effectiveness of the irrigation system.

- (O) Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.
 - (P) Head to head coverage is recommended. However, sprinkler spacing shall be designed to achieve the highest possible distribution uniformity using the manufacturer's recommendations.
 - (Q) Swing joints or other riser-protection components are required on all risers subject to damage that are adjacent to hardscapes or in high traffic areas of turf.
 - (R) Check valves or anti-drain valves are required on all sprinkler heads where low point drainage could occur.
 - (S) Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.
 - (T) Overhead irrigation shall not be permitted within twenty four inches (24") of any non-permeable surface. Allowable irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low flow non-spray technology. The setback area may be planted or unplanted. The surfacing of the setback may be mulch, gravel, or other porous material. These restrictions may be modified if:
 1. the landscape area is adjacent to permeable surfacing; or
 2. the adjacent non-permeable surfaces are designed and constructed to drain entirely back to landscaping.
 - (U) Slopes greater than twenty five percent (25%) shall not be irrigated with an irrigation system with an application rate exceeding 0.75 inches per hour. Prevention of runoff and erosion must be confirmed during the irrigation audit.
- (2) Hydrozone
- (A) Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use.
 - (B) Bio-treatment area shall be on a separate valve.

- (C) Trees shall be on a separate valve. Trees with different watering requirements shall be on separate valves. The mature size and extent of the root zone shall be considered when designing irrigation for the tree.
 - (D) Sprinkler heads and other emission devices shall be selected based on what is appropriate for the plant type within that hydrozone.
 - (E) Individual hydrozones that mix plants of moderate and low water use, or moderate and high water use, may be allowed if:
 1. plant factor calculation is based on the proportions of the respective plant water uses and their plant factor; or
 2. the plant factor of the higher water using plant is used for calculations.
 - (F) Individual hydrozones that mix high and low water use plants shall not be permitted.
 - (G) On the landscape design plan and irrigation design plan, hydrozone areas shall be designated by number, letter, or other designation. On the irrigation design plan, designate the areas irrigated by each valve, and assign a number to each valve. Use this valve number in the Water Efficient Landscape Worksheet (see Appendix B). This table can also assist with the irrigation audit and programming the controller.
- (b) The irrigation design plan, at a minimum, shall contain:
- (1) location and size of separate water meters for landscape;
 - (2) location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;
 - (3) static water pressure at the point of connection to the public water supply;
 - (4) flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station (valve);
 - (5) recycled water irrigation systems as specified in Section 10-12.13;
 - (6) the following statement: “I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan”; and
 - (7) the signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an

irrigation system. (See Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agricultural Code.)

SEC.10-12.09 CERTIFICATE OF COMPLETION.

- (a) The Certificate of Completion (see Appendix C) shall include the following seven (7) elements:
- (1) project information sheet that contains:
 - (A) date;
 - (B) project name;
 - (C) project applicant name, telephone, and mailing address;
 - (D) project address and location; and
 - (E) property owner name, telephone, and mailing address;
 - (2) certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved Landscape Documentation Package;
 - (A) where there have been significant changes made in the field during construction, these “as-built” or record drawings shall be included with the certification;
 - (B) A diagram of the irrigation plan showing hydrozones shall be kept with the irrigation controller for subsequent management purposes.
 - (B) irrigation scheduling parameters used to set the controller;
 - (C) landscape and irrigation maintenance schedule (see Section 10-12.10);
 - (D) irrigation audit report (see Section 10-12.11); and
 - (E) soil analysis report, if not submitted with Landscape Documentation Package, and documentation verifying implementation of soil report recommendations (see Section 10-12.06); and
 - (F) landfill diversion verification statement (see Appendix C. Part 7)
- (b) The project applicant shall:

- (1) submit the signed Appendix C - Certificate of Completion to the City for review;
 - (2) ensure that copies of the approved Certificate of Completion are submitted to the property owner or his or her designee.
- (c) The City shall:
- (1) receive the signed Appendix C - Certificate of Completion from the project applicant;
 - (2) perform a verification field inspection by City Landscape Architect upon receipt of the Certificate of Completion prior to issuance of Certificate of Occupancy. If the inspection fails, City Landscape Architect shall provide a correction list to the project applicant.

SEC.10-12.10 LANDSCAPE AND IRRIGATION MAINTENANCE SCHEDULE.

- (a) Landscapes shall be maintained to ensure water use efficiency. A regular maintenance schedule shall be submitted with the Certificate of Completion.
- (b) A regular maintenance schedule shall include, but not be limited to, routine inspection; auditing, adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; topdressing with compost, replenishing mulch; fertilizing; pruning; weeding in all landscape areas, and removing obstructions to emission devices. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.
- (c) Repair of all irrigation equipment shall be done with the originally installed components or their equivalents or with components with greater efficiency.
- (d) A project applicant is encouraged to implement established landscape industry sustainable Best Practices for all landscape maintenance activities:
 - (1) Use the “Bay-Friendly Landscape Model Maintenance Manual” as an official reference document in the landscape maintenance contract and/or with on-site landscape staff

SEC.10-12.11 IRRIGATION AUDIT, IRRIGATION SURVEY, AND IRRIGATION WATER USE ANALYSIS.

- (a) All landscape irrigation audits shall be conducted by a local agency landscape irrigation auditor or a third party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape.

- (b) In large projects or projects with multiple landscape installations (i.e. production home developments) an auditing rate of one (1) in seven (7) lots or approximately fifteen (15%) will satisfy this requirement.
- (c) For new construction and rehabilitated landscape projects installed after December 1, 2015, as described in Section 10-12.03:
 - (1) the project applicant shall submit an irrigation audit report with the Appendix C - Certificate of Completion to the City that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule, including configuring irrigation controllers with application rate, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming;
 - (2) the City shall administer programs that may include, but not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for compliance with the Maximum Applied Water Allowance.

SEC.10-12.12 IRRIGATION EFFICIENCY.

- (a) For the purpose of determining Estimated Total Water Use, average irrigation efficiency is assumed to be 0.75 for overhead spray devices and 0.81 for drip system devices.

SEC.10-12.13 RECYCLED WATER.

- (a) The installation of recycled water irrigation systems shall allow for the current and future use of recycled water.
- (b) All recycled water irrigation systems shall be designed and operated in accordance with all applicable local and State laws.
- (c) Landscapes using recycled water are considered Special Landscape Areas. The ET Adjustment Factor for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

SEC.10-12.14 GRAYWATER SYSTEMS.

- (a) Graywater systems promote the efficient use of water and are encouraged to assist in on-site landscape irrigation.
- (b) New single-family residential projects which meet the criteria of applicability as defined in Section 10-12.03 shall install basic “laundry to landscape” plumbing in each residence.
- (c) All graywater systems shall conform to the California Plumbing Code (Title 24, part 5, Chapter 16) and any applicable local ordinance standards.

- (d) Refer to Section 10-12.03(c) for the applicability of this ordinance to landscape areas less than 2,500 square feet with the Estimated Total Water Use met entirely by graywater.

SEC.10-12.15 STORMWATER MANAGEMENT, RAINWATER RETENTION, AND RAINWATER CATCHMENT.

- (a) Stormwater management practices minimize runoff and increase infiltration which recharges groundwater and improves water quality. Implementing stormwater best management practices into the landscape and grading design plans to minimize runoff and to increase on-site rainwater retention and infiltration are encouraged.
- (b) Project applicants shall refer to the local agency or Regional Water Quality Control Board for information on any applicable stormwater technical requirements.
- (c) All planted landscape areas are required to have friable soil to maximize water retention and infiltration. Refer to Section 10.12.07(a)(4).
- (d) It is strongly recommended that landscape areas be designed for capture and infiltration capacity that is sufficient to prevent runoff from impervious surfaces (i.e. roof and paved areas) from either: the one inch, 24-hour rain event or (2) the 85th percentile, 24-hour rain event, and/or additional capacity as required by any applicable local, regional, state or federal regulation.
- (e) It is recommended that storm water projects incorporate any of the following elements to improve on-site storm water and dry weather runoff capture and use:
- (1) Grade impervious surfaces, such as driveways, during construction to drain to vegetated areas.
 - (2) Minimize the area of impervious surfaces such as paved areas, roof and concrete driveways.
 - (3) Incorporate pervious or porous surfaces (e.g., gravel, permeable pavers or blocks, pervious or porous concrete) that minimize runoff.
 - (4) Direct runoff from paved surfaces and roof areas into planting beds or landscaped areas to maximize site water capture and reuse.
 - (5) Incorporate rain gardens, cisterns, and other rain harvesting or catchment systems.
 - (6) Incorporate infiltration beds, swales, basins and drywells to capture storm water and dry weather runoff and increase percolation into the soil.
 - (7) Consider constructed wetlands and ponds that retain water, equalize excess flow, and filter pollutants.

- (f) New single-family residential projects which meet the criteria of applicability as defined in Section 10-12.03 shall install a minimum fifty (50) gallon covered rain catchment device per residence.

SEC.10-12.16 PUBLIC EDUCATION.

- (a) Publications. Education is a critical component to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management and maintenance that save water is encouraged in the community.
 - (1) The City shall provide information to owners of permitted renovations and new, single-family residential homes regarding the design, installation, management, and maintenance of water efficient landscapes based on a water budget.
- (b) Model Homes. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this ordinance.
 - (1) Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient theme. Signage shall include information about the site water use as designed per the local ordinance; specify who designed and installed the water efficient landscape; and demonstrate low water use approaches to landscaping such as using native plants, graywater systems, and rainwater catchment systems.
 - (2) Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

SEC.10-12.17 ENVIRONMENTAL REVIEW.

- (a) The City must comply with the California Environmental Quality Act (CEQA), as appropriate.

SEC.10-12.18 EXISTING LANDSCAPE IRRIGATION AUDIT, IRRIGATION SURVEY, AND IRRIGATION WATER USE ANALYSIS.

- (a) This section shall apply to all existing landscapes that were installed before December 1, 2015 and are over one acre in size.
 - (1) For all existing landscapes that have a water meter, the City shall may require, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the Maximum Applied Water

Allowance for existing landscapes. The Maximum Applied Water Allowance for existing landscapes shall be calculated as: $MAWA = (0.8) (ET_o)(LA)(0.62)$.

- (2) For all existing landscapes that do not have a meter, the City may require, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary in order to prevent water waste.
- (b) All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.

SEC.10-12.19 EFFECTIVE PRECIPITATION.

- (a) A local agency may consider Effective Precipitation (25% of annual precipitation) in tracking water use and may use the following equation to calculate Maximum Applied Water Allowance:
 $MAWA = (ET_o - Eppt) (0.62) [(0.55 \times LA) + (0.45 \times SLA)]$ for residential areas.
 $MAWA = (ET_o - EPPT) (0.62) [(0.45 \times LA) + (0.55 \times SLA)]$ for non-residential areas.

Appendix A - Reference Evapotranspiration (ETo) Table*

County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ETo
ALAMEDA													
Fremont	1.5	1.9	3.4	4.7	5.4	6.3	6.7	6.0	4.5	3.4	1.8	1.5	47.0
Livermore	1.2	1.5	2.9	4.4	5.9	6.6	7.4	6.4	5.3	3.2	1.5	0.9	47.2
Oakland	1.5	1.5	2.8	3.9	5.1	5.3	6.0	5.5	4.8	3.1	1.4	0.9	41.8
Oakland Foothills	1.1	1.4	2.7	3.7	5.1	6.4	5.8	4.9	3.6	2.6	1.4	1.0	39.6
Pleasanton	0.8	1.5	2.9	4.4	5.6	6.7	7.4	6.4	4.7	3.3	1.5	1.0	46.2
Union City **	1.4	1.8	3.1	4.2	5.4	5.9	6.4	5.7	4.4	3.1	1.5	1.2	44.2

* The values in this table were derived from:

- 1) California Irrigation Management Information System (CIMIS);
- 2) Reference EvapoTranspiration Zones Map, UC Dept. of Land, Air & Water Resources and California Dept of Water Resources 1999; and
- 3) Reference Evapotranspiration for California, University of California, Department of Agriculture and Natural Resources (1987) Bulletin 1922;
- 4) Determining Daily Reference Evapotranspiration, Cooperative Extension UC Division of Agriculture and Natural Resources (1987), Publication Leaflet 21426

**ETo of Union City shall be used for City of Hayward.

Appendix B – Water Efficient Landscape Worksheet.

WATER EFFICIENT LANDSCAPE WORKSHEET

This worksheet is filled out by the project applicant and it is a required element of the Landscape Documentation Package.

City of Hayward Reference Evapotranspiration (ETo) 44.2

Hydrozone # /Planting Description ^a	Plant Factor (PF)	Irrigation Method ^b	Irrigation Efficiency (IE) ^c	ETAF (PF/IE)	Landscape Area (sq. ft.)	ETAF x Area	Estimated Total Water Use (ETWU) ^e
Regular Landscape Areas							
				Totals	(A)	(B)	
Special Landscape Areas							
				1			
				1			
				1			
				Totals	(C)	(D)	
				ETWU Total			
				Maximum Allowed Water Allowance (MAWA)^e			

^a**Hydrozone #/Planting Description**
 E.g
 1.) front lawn
 2.) low water use plantings
 3.) medium water use planting

^b**Irrigation Method**
 overhead spray or drip
 or drip

^c**Irrigation Efficiency**
 0.75 for spray head
 0.81 for drip

^d**ETWU (Annual Gallons Required) =**
 $Eto \times 0.62 \times ETAF \times Area$
 where 0.62 is a conversion factor that converts acre-inches per acre per year to gallons per square foot per year.

^e**MAWA (Annual Gallons Allowed) =**
 $(Eto) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$
 where 0.62 is a conversion factor that converts acre-inches per acre per year to gallons per square foot per year, LA is the total landscape area in square feet, SLA is the total special landscape area in square feet, and ETAF is .55 for residential areas and 0.45 for non-residential areas.

**ETAF Calculations
 All Landscape Areas**

Total ETAF x Area	(B+D)
Total Area	(A+C)
Sitewide ETAF	(B+D) ÷ (A+C)

Regular Landscape Area

Total ETAF x Area	(B)
Total Area	(A)
Sitewide ETAF	B ÷ A

Average ETAF for Regular Landscape Areas must be 0.55 or below for residential areas and 0.45 or below for non-residential areas.

Appendix C – Certificate of Completion.

PART 1. CERTIFICATE OF COMPLETION

This certificate is filled out by the project applicant upon completion of the landscape project.

Project Street Address:	Building Permit Number:	
City:	State:	Zip Code:

Property Owner:

Name:	Telephone No.:	
	Fax No.:	
Title:	Email Address:	
Company:	Street Address:	
City:	State:	Zip Code:

Property Owner

“I/we certify that I/we have received copies of all the documents within the Landscape Documentation Package and the Certificate of Completion and that it is our responsibility to see that the project is maintained in accordance with the Landscape and Irrigation Maintenance Schedule.”

Property Owner Signature

Date

PART 2. CERTIFICATION OF INSTALLATION

“I/we certify that based upon periodic site observations, the work has been completed in accordance with the ordinance and that the landscape planting and irrigation installation conform with the criteria and specifications of the approved Landscape Documentation Package.”

Signature*	Date	
Name (print)	Telephone No.	
	Fax No.	
Title	Email Address	
License No. or Certification No.		
Company	Street Address	
City	State	Zip Code

*Signer of the landscape design plan, signer of the irrigation plan, or a licensed landscape contractor.

PART 3. IRRIGATION SCHEDULING

Attach parameters for setting the irrigation schedule on controller per ordinance Section 10.12-08.

PART 4. SCHEDULE OF LANDSCAPE AND IRRIGATION MAINTENANCE

Attach schedule of Landscape and Irrigation Maintenance per ordinance Section 10.12-10.

PART 5. LANDSCAPE IRRIGATION AUDIT REPORT

Attach Landscape Irrigation Audit Report per ordinance Section 10-12.11.

PART 6. SOIL MANAGEMENT REPORT

Attach soil analysis report, if not previously submitted with the Landscape Documentation Package per ordinance Section 10-12.07.

Attach documentation verifying implementation of recommendations from soil analysis report per ordinance Section 10-12-06.

PART 7. LANDFILL DIVERSION VERIFICATION

Attach Landfill Diversion Verification Statement per ordinance Section 10-12.07



APPENDIX C – PART 7 LANDFILL DIVERSION VERIFICATION STATEMENT

100% of excavated soil and plant and land clearing debris are required to divert for reuse or recycled purposes, and shall be delivered to an authorized facility to maximize recycling. Contaminated materials shall not be calculated as a part of the diversion. Be sure to share this information with your contractor, as s/he shall be required to submit the lower half of this form as a part of Certificate of Completion before scheduling a final inspection by City Landscape Architect.

Permit Number: _____ Project Address: _____

Check the boxes and sign below:

- I understand that debris may only be removed from the project site per the requirements on the back of this form.
- If I use a roll-off container, I understand that it must be from Waste Management of Alameda County.
- I understand that if debris is not hauled by Waste Management of Alameda County¹, an authorized hauler and facility must be used.

Applicant Signature: _____ **Date:** _____

CONTRACTOR: Prior to requesting a final inspection, submit all weigh tags and this form documenting tons recycled or landfilled to:

Mail: Department of Development Services, Hayward City Hall, 777 B Street, Hayward, CA 94541
Fax: 510-583-3649;
Email: landscape@hayward-ca.gov

Contractor Name: _____ Phone: _____ Email: _____

Vehicle ¹	Material ²	Tons or Cubic Yards		Name of Facility(s) ³	Weigh Tags ⁴ (Y/N)
		Recycled	Landfilled		
	Mixed Debris				
	Separated Recyclable Materials <i>(Asphalt, concrete, bricks, doors, fixtures, cardboard, dirt, unpainted drywall & wood, pallets, scrap metal, plant debris)</i>				
	Garbage <i>(must be less than 5% recyclable material)</i>	N/A		Waste Management of Alameda County	

¹ For "Vehicle", please indicate one of the following: roll-off container, pick-up truck, stake-side truck, or end-dump truck.

² Plant debris must be separated and taken to designated facility, in accordance with the Alameda County Landfill Ban of 2009.

³ If you indicated "Roll-Off" in the first column, then you must indicate "Waste Management of Alameda County" or "WMAC" as the name of the facility.

⁴ Weigh tags must be provided and must indicate City of Hayward as the jurisdiction of origin.

APPROVAL TO SCHEDULE FINAL INSPECTION

City Staff Initials: _____ Date Approved: _____

Appendix D – Prescriptive Compliance Option

- (a) This appendix contains prescriptive requirements which may be used as a compliance option to the Model Water Efficient Landscape Ordinance.
- (b) Compliance with the following items is mandatory and must be documented on a landscape plan in order to use the prescriptive compliance option:
- (1) Submit a Landscape Documentation Package which includes the following elements:
 - (A) date
 - (B) project applicant
 - (C) project address (if available, parcel and/or lot number(s))
 - (D) total landscape area (square feet), including a breakdown of turf and plant material
 - (E) project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed)
 - (F) water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the applicant is not served by a private well
 - (G) contact information for the project applicant and property owner
 - (H) applicant signature and date with statement, “I agree to comply with the requirements of the prescriptive compliance option to the MWELO”.
 - (2) Incorporate compost at a rate of at least four cubic yards per 1,000 square feet to a depth of six (6) inches into landscape area (unless contra-indicated by a soil test).
 - (3) Plant material shall comply with all of the following:
 - (A) For residential areas, install climate adapted and native plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for seventy five percent (75%) of the plant area excluding edibles and areas using recycled water; For non-residential areas, install climate adapted and native plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for 100% of the plant area excluding edibles and areas using recycled water;
 - (B) A minimum three inch (3") layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, groundcover areas receiving closely spaced grass plugs as a lawn alternative, or direct seeding applications where mulch is contraindicated.
 - (4) Turf shall comply with all of the following:
 - (A) Turf shall not exceed twenty five percent (25%) of the landscape area in residential areas, and there shall be no turf in non-residential areas;
 - (B) Turf shall not be planted on sloped areas which exceed twenty five percent (25%), a slope of one (1) foot vertical elevation change for every four (4) feet of horizontal length; and
 - (C) Turf is prohibited in parkways less than ten feet (10') wide, unless the parkway is adjacent to a parking strip and used to enter and exit vehicles. Any turf in parkways must be irrigated by sub-surface irrigation or by other technology that creates no overspray or runoff.

- (5) Irrigation systems shall comply with the following:
 - (A) Automatic irrigation controllers are required and must use evapotranspiration or soil moisture sensor data and utilize a rain sensor.
 - (B) Irrigation controllers shall be of a type which does not lose programming data in the event the primary power source is interrupted.
 - (C) Pressure regulators shall be installed on the irrigation system to ensure the dynamic pressure of the system is within the manufacturers recommended pressure range.
 - (D) Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be installed as close as possible to the point of connection of the water supply.
 - (E) All irrigation emission devices must meet the requirements set in the ANSI standard, ASABE/ICC 802-2014. "Landscape Irrigation Sprinkler and Emitter Standard," All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.
 - (F) Areas less than ten feet (10') in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.

- (6) For non-residential projects with landscape areas of 1,000 square feet or more, shall be installed.

- (7) Alameda County law prohibits disposal of plant debris in county landfills. ACWMA Plant Debris Landfill Ban Ordinance 2008-01 requires landscape professionals, to separate all plant debris from garbage. <http://www.recyclingrulesac.org/docs/Landfill-Ban-WMA-Ordinance2008-01.pdf>

- (c) At the time of final inspection, the permit applicant must provide the owner of the property with a certificate of completion, certificate of installation, irrigation schedule and a schedule of landscape and irrigation maintenance.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2015, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2015, 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

ORDINANCE NO. 15-

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 2, SECTION 11.2.46 OF THE HAYWARD MUNICIPAL CODE RELATING TO DEDICATED IRRIGATION SERVICE METERS

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

SEC. 11-2.46 SEPARATE IRRIGATION METER. Certain water services shall include the installation of a separate irrigation meter to measure the volume of water used for landscape irrigation. This requirement shall apply to non-residential irrigated landscapes of 1,000 square feet or more, and residential irrigated landscapes of 5,000 square feet or more.

For the purposes of this Section, "non-residential landscape" means landscapes in commercial, institutional, industrial and public setting that may have areas designated for recreation or public assembly. It also includes portions of common areas of common interest developments with designated recreational areas.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2015, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2015, 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

Landscape Design Comparison Street Median



Projects constructed under current regulations have turf and higher water using plants.



Projects under the new regulations would potentially use more mulch and would not contain any turf or high water using plants.



Landscape Design Comparison Commercial

Example of a commercial project constructed under the current regulations.



Below are examples of what commercial projects may look like under the updated regulations.



Landscape Design Comparison Multi-Family Residential

An example of a multi-family landscape project is shown to the right.



Multi-family projects constructed under the updated regulations could potentially look like the photos below.



Landscape Design Comparison Single-Family Residential

ATTACHMENT IV



These projects show the differences in what could be expected in single-family residential landscaping.



CITY OF HAYWARD

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

Staff Report

File #: PH 15-089

DATE: October 13, 2015

TO: Mayor and City Council

FROM: Director of Human Resources
Director of Utilities & Environmental Services

SUBJECT

Approval of Temporary Appointment of Solid Waste Manager (Report from Director of Human Resources Collins and Director of Utilities & Environmental Services Ameri)

RECOMMENDATION

That the City Council adopts the attached resolution for an exception to the 180-day wait period for the hiring of CalPERS annuitants and to temporarily appoint Vera Dahle-Lacaze as a recent CalPERS annuitant to the position of Solid Waste Manager in the Utilities & Environmental Services Department.

BACKGROUND

As of January 1, 2013, CalPERS requires a retired employee to wait for 180 days before accepting temporary employment with a CalPERS agency. Per Government Code 7522(f)(1), an exception to the 180-day waiting period may be made if the employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The Government Code also limits compensation to the hourly rate for the position that is most closely related to the duties performed, in this case, the Solid Waste Manager classification. By law, temporary employees may not receive benefits, compensation in lieu of benefits, or any other form of compensation.

Vera Dahle-Lacaze has served as a Solid Waste Manager in the Utilities & Environmental Services Department for almost two decades and is responsible for a multitude of specialized assignments in the Solid Waste, Recycling, and other waste diversion activities. They include analytical and management tasks, such as preparing and monitoring the Recycling Fund budget, developing policies and procedures for waste diversion, and preparing and submitting annual reports on waste diversion and on existing grants.

Due to an unexpected development, Ms. Dahle-Lacaze is unable to continue working full time, has submitted her resignation, and plans to retire on October 30, after an 18-year career with the City as the City's Solid Waste Manager. In order to accomplish several critical current and upcoming tasks that require specialized knowledge and skills, staff recommends the temporary appointment of Ms. Dahle-Lacaze to the position of Solid Waste Manager, in accordance with Government Code §21224.

DISCUSSION

Staff recommends that the Council approve temporarily appointing Ms. Dahle-Lacaze as a CalPERS annuitant to the position of Solid Waste Manager to perform the functions described above and other comparable projects for which she is uniquely qualified. The appointment can be terminated at any time by either party; however, the current plan is that it would continue until a new Solid Waste Manager is recruited for and filled on a permanent basis, and some knowledge transfer has occurred. The number of hours would not exceed 960 in a fiscal year. Ms. Dahle-Lacaze is agreeable to the terms and conditions of the proposed temporary employment.

With Ms. Dahle-Lacaze's upcoming retirement, staff has considered various options to continue work on important efforts in support of the Council's sustainability priorities, as well as to complete other near term limited duration assignments that are time sensitive and require specialized knowledge. While some of her responsibilities can and will be assigned to other existing staff, and, in time, a replacement Solid Waste Manager, the most cost effective means of accomplishing pending or near-term assignments within the required time frame is to temporarily appoint Ms. Dahle-Lacaze to the position. Recruitment and selection of a permanent successor to Ms. Dahle-Lacaze has already been initiated; however, there is typically a period of several months before an appointment is made and the new staff is on board.

Ms. Dahle-Lacaze's specialized expertise is particularly needed in the near term in the following areas:

- New Solid Waste Franchise Agreement - Analyzing monthly remittances, expense records and other reports.
- Special Assessments for Delinquent Trash Bills - Evaluating the list of delinquent property owners and remitting the file to the County Tax Assessor, responding to queries from property owners, and reconciling amounts due Waste Management and amounts retained by the City.
- Annual Report to State of California (CalRecycle) - Reviewing and compiling tonnage disposed documents, and completing CalRecycle's report to calculate the diversion rate.
- Annual Report to CalRecycle for Used Oil Grant - Preparing an annual grant application each June and a fiscal year-end expenditure report in August.
- Report of Measure D Revenue and Expenses - This report, which is required by StopWaste, includes a detailed description of expenses, as well as subscription levels for trash, recycling and organics collection services for single-and multi-family properties, and businesses with cart, bin and roll-off services.
- Assist with preparation of Solid Waste Management Operating FY 2017 Budget, among other matters.

FISCAL IMPACT

Costs would be fully borne by the recycling fund, with no impact on the General Fund. Given that this is continuation of an existing, budgeted position, the cost can be covered through the vacancy savings in the Departmental budget. Since no benefits or additional compensation beyond an hourly salary rate would be paid, the total cost of this temporary appointment, which will not exceed 960 hours in fiscal year 2016, will not exceed \$50,000. A full-time Solid Waste Manager would cost approximately \$75,000 for

File #: PH 15-089

the same period. Likewise, outside consultant assistance for similar work would be considerably more expensive and would still require City staff time to guide and support the consultant.

PUBLIC CONTACT

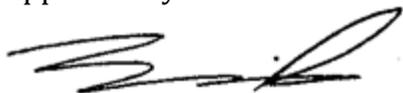
No public contact has been initiated related to this item.

NEXT STEPS

If approved by the City Council, staff will prepare the necessary documents for this temporary appointment, ensuring that all Government Code requirements are met related to retiree employment.

Prepared and Recommended by: Alex Ameri, Director of Utilities & Environmental Services and Nina S. Collins, Director of Human Resources

Approved by:



Fran David, City Manager

Attachments:

Attachment I
Attachment II

Resolution
Letter of Temporary Employment

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD,
AND APPROVAL OF TEMPORARY APPOINTMENT
TO THE POSITION OF SOLID WASTE MANAGER

WHEREAS, Vera Dahle-Lacaze retired from the City of Hayward in the position of Solid Waste Manager, effective October 31, 2015; and

WHEREAS, in order to complete some critically needed assignments, it is necessary to appoint Ms. Dahle-Lacaze to perform the duties of the Solid Waste Manager; and

WHEREAS, section 7522.56 requires that post retirement employment commence no earlier than 180 days after the retirement date, which is April 29, 2016 without this certification resolution; and

WHEREAS, in compliance with Government Code section 7522.56 the City of Hayward must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, section 7522.56 provides that this exception to the 180 day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council of the City of Hayward and Vera Dahle-Lacaze certify that Vera Dahle-Lacaze has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the City Council of the City of Hayward hereby appoints Vera Dahle-Lacaze as an extra help retired annuitant to perform the duties of the Solid Waste Manager for the City of Hayward under Government Code section 21224, effective November 2, 2015; and

WHEREAS, the entire employment agreement, contract or appointment document between Vera Dahle-Lacaze and the City of Hayward has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the maximum base monthly salary for this position is \$9,252.53 and the hourly equivalent is \$53.38, and the minimum base monthly salary for this position is \$7,612.80 and the hourly equivalent is \$43.92; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the hourly rate paid to Vera Dahle-Lacaze will be \$53.38, which is her current hourly rate before retirement; and

WHEREAS, Vera Dahle-Lacaze has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby certifies the nature of the appointment of Vera Dahle-Lacaze as described herein and detailed in the attached appointment document and that this appointment is necessary to fill the critically needed position of Solid Waste Manager for the City of Hayward by November 2, 2015 because of time sensitive and critical tasks for which Vera Dahle-Lacaze has specialized skills and knowledge needed to assist in the following areas:

- 1) New Solid Waste Franchise Agreement;
- 2) Special Assessments for Delinquent Trash Bills;
- 3) Preparation of Annual Report to State of California (CalRecycle);
- 4) Preparation of Annual Report to CalRecycle for Used Oil Grant;
- 5) Preparation of Report of Measure D Revenue and Expenses;
- 6) Preparation of Solid Waste Management Operating FY 2017 Budget.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

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
HEART OF THE BAY

October 8, 2015

Vera Dahle-Lacaze

Dear Ms. Dahle-Lacaze,

I am pleased to offer you a temporary assignment as a Solid Waste Manager with the City of Hayward. Your assignment with the Utilities & Environmental Services Department will be effective Monday, November 2, 2015. Your pay rate will be the fifth (5th) step in the salary range of the Solid Waste Manager, at \$53.38 per hour. Please be aware that this assignment can end at any time. This position is not represented, does not receive health benefits and is not eligible for holiday pay.

Please note, as a CalPERS retiree, you are subject to Government Code §21224 and cannot work more than 960 hours per fiscal year.

Please feel free to call Human Resources if you have any additional questions at (510) 583-4500.

Sincerely,

Nina S. Collins
Director of Human Resources

I accept the temporary position of Solid Waste Manager - Temp as outlined in this letter.

Signature

Date

Human Resources

777 B Street • Hayward • CA • 94541-5007
Tel: 510-583-4500 • Fax: 510-583-3655 • Website: www.hayward-ca.gov