



# CITY OF HAYWARD

Hayward City Hall  
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## Cover Memo

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**File #:** CONS 16-259, **Version:** 1

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**DATE:** June 14, 2016

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

### **SUBJECT**

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

### **RECOMMENDATION**

That the Council adopts the attached resolution (Attachment I) authorizing the City Manager to enter into an amendment to the Exclusive Right to Negotiate Agreement (ERNA) with William Lyon Homes, Inc.

### **BACKGROUND AND DISCUSSION**

On January 19, 2016, the City Council authorized the City Manager to enter into an Exclusive Right to Negotiate Agreement (ERNA) with William Lyon Homes, Inc. to purchase and develop 17.76 acres of land in South Hayward near Dixon and Valle Vista Avenues (see related file CONS 16-017: Authorization to Enter into an Exclusive Right to Negotiate Agreement, January 19, 2016 City Council Meeting). The properties subject to the ERNA are identified in Attachment II to this report.

The City and William Lyon Homes have executed the ERNA and have begun the Phase One tasks outlined in that agreement. Phase One of the ERNA runs for 120 days and the tasks include work to identify:

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

Task 9 is probably one of the most crucial elements of Phase One because it will help William Lyon and the City determine the overall project feasibility, how many units can be developed, and the appropriate land values given possible physical and environmental constraints on the properties. William Lyon

Homes has embarked on these tasks. On several of the properties, the initial investigation has revealed the presence of earthquake fault traces. Additional exploration needs to occur on these properties to determine how much of the land is available for development. This exploration will include geologic trenching and analysis on the sites performed by a geotechnical engineering firm. The cost of this work will be approximately \$150,000-220,000.

Typically, this type of further exploration is not undertaken by a developer until they actually own the land and much later in the development process. However, both parties have a strong interest in understanding the site development constraints and the potential impact on land value this will have much sooner in the process. William Lyon has agreed to cover these costs during Phase One of the ERNA. Recognizing the risk that William Lyon has assumed in undertaking this additional work, staff has negotiated an amendment to the ERNA whereby the City would reimburse William Lyon for these expenses if and only if either party decides to not proceed to Phase Two of the ERNA. If William Lyon proceeds with Phase Two and continues to pursue development of the properties, they will be responsible for the entire cost of this work as part of their overall project costs.

Regardless of whether William Lyon Homes or some other builder was developing these properties, the City would need this site information to appropriately determine land values and would ultimately need to pay for the additional geologic investigation. This amendment to the ERNA prevents the City from having to pay for these costs up front since William Lyon is currently pursuing the development. However, it protects William Lyon's financial interests in case either party decides not to pursue the development after Phase One of the ERNA expires.

## **ECONOMIC AND FISCAL IMPACT**

The potential economic and fiscal impacts of the overall development were discussed in the January 19, 2016 staff report (related file CONS 16-017). This amendment to the ERNA will have no fiscal impact on the City at this point in time. If the City or William Lyon do not pursue Phase Two of the ERNA, the City would be responsible for the actual consultant costs expended for the additional site explorations up to \$220,000. If necessary, these costs would be paid from the capital project previously established by the Council to cover staff and consultant expenses related to the disposition of the former 238 bypass parcels.

## **PUBLIC CONTACT**

No public contact is necessary for this action.

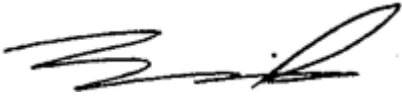
## **NEXT STEPS**

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

*Prepared and Recommended by:*

Kelly McAdoo, Assistant City Manager

Approved by:

A handwritten signature in black ink, appearing to read "Fran David".

Fran David, City Manager

Attachments:

- Attachment I Resolution Authorizing Amendment to the ENRA with William Lyon Homes, Inc.
- Attachment II Properties Subject to the ENRA