



CITY OF
HAYWARD
HEART OF THE BAY

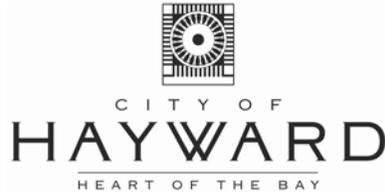
CITY COUNCIL AGENDA

SEPTEMBER 27, 2011

**MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE BARBARA HALLIDAY
COUNCIL MEMBER OLDEN HENSON
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER BILL QUIRK
COUNCIL MEMBER MARK SALINAS
COUNCIL MEMBER FRANCISCO ZERMEÑO**

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CITY COUNCIL MEETING FOR SEPTEMBER 27, 2011
777 B STREET, HAYWARD CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 5:00 PM

1. **PUBLIC COMMENTS** *(Limited to items agendaized for Closed Session)*
 2. Conference with Labor Negotiators
Pursuant to Government Code 54957.6
 - Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager Morariu, Human Resources Director Robustelli, and Finance Director Vesely
 - Under Negotiation: All Bargaining Units
 3. Adjourn to Special Joint City Council/Redevelopment Agency/Housing Authority Meeting
-

**SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT AGENCY/
HOUSING AUTHORITY MEETING**
Council Chambers - 7:00 PM

CALL TO ORDER Pledge of Allegiance Mayor Sweeney

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PROCLAMATION October Breast Cancer Awareness Month

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 Informational Staff Presentation 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 Boards, Commissions, Committee, Task Force, and 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 anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

1. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on September 13, 2011
[Draft Minutes](#)
2. Execution of FY 12-14 Cooperation Agreement Between the City of Hayward and the County of Alameda to Participate in the Alameda County HOME Consortium
[Staff Report](#)
[Attachment I Resolution](#)
3. First Amendment to the Hayward Hangars, LLC Commercial Site Lease at Hayward Executive Airport
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[Attachment I Resolution](#)
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[Attachment III Lease Site Location](#)
4. Approval of a Transfer Payment Agreement Between the City and the Redevelopment Agency to Facilitate Remittance Payments to the State of California Under the Provisions of ABx1 27 (the “so-called” Voluntary Redevelopment Program Act)
[Staff Report](#)
[Attachment I City Resolution Transfer Payment Agreement](#)
[Attachment II Agency Resolution Transfer Payment Agreement](#)
[Attachment III Transfer Payment Agreement](#)

The following order of business applies to items considered as part of Public Hearings and Legislative Business:

- *Disclosures*
 - *Staff Presentation*
 - *City Council Questions*
 - *Public Input*
 - *Council Discussion and Action*
-



PUBLIC HEARING

5. Certification of a Supplemental Environmental Impact Report, Adoption of Amendments to the General Plan, and Introduction of Ordinances involving Zoning Reclassifications and Text Changes to the Zoning Ordinance and Related Municipal Code Sections, to Enact and Implement the South Hayward BART/Mission Boulevard Form-Based Code

[Staff Report](#)

[Attachment I - Resolution](#)

[Attachment II - Zoning Reclassification Ordinance](#)

[Attachment III - Text Amendment Ordinance](#)

[Attachment IV - Meeting Minutes of 9-13-11 CC Mtg](#)

[Attachment V - Map of Certain Uses in Code Area](#)

[Attachment VI - Alcohol Beverage Outlet Regulations](#)

[Attachment VII - Revised Table 9](#)

LEGISLATIVE BUSINESS

6. Appointment of City Council Members to the Board of the Joint Powers Authority with the Bay Area Rapid Transit District (BART) for South Hayward BART Station Access

[Staff Report](#)

[Attachment I Resolution Appointing JPA Members](#)

[Attachment II Joint Powers Agreement](#)

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

OCTOBER 4, 2011 COUNCIL MEETING *CANCELED*****

NEXT SPECIAL MEETING – 7:00 PM, TUESDAY, OCTOBER 11, 2011

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 and their address before speaking and are expected to honor the allotted time. A Speaker's Card must be completed by each speaker and is 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.

SEPTEMBER 27, 2011



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****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.

Please visit us on:





**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 13, 2011, 7:00 p.m.**

The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HA Member Zermeño.

ROLL CALL

Present: COUNCIL/RA/HA MEMBERS, Zermeño, Halliday, Peixoto, Salinas,
Henson
MAYOR/CHAIR Sweeney
Absent: COUNCIL/RA/HA MEMBER Quirk

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson noted that Council met with Labor Negotiators pursuant to Government Code 54957.6; with Legal Counsel pursuant to Government Code 54956.9, regarding Bracy v. City of Hayward, Alameda County Superior Court HG 10518975; with Legal Counsel pursuant to Government Code 54956.9 regarding Dillard v. A.C.A.P. Governing Board, Alameda County Superior Court No. RG 11572661; with Legal Counsel pursuant to Government Code 54956.9, regarding City of Hayward v. California State University Trustees Alameda County Superior Court Nos. RG 09-480852 and RG 09-481095; and with Legal Counsel pursuant to Government Code 54956.9 regarding anticipated litigation. It was noted there were no reportable items.

PRESENTATIONS

**Healthy Eating Active Living (HEAL) Cities Campaign Presentation to the City by
HEAL Director Charlotte Dickson**

Mayor Sweeney mentioned that on July 26, 2011, the Council passed Resolution 11-134 and officially joined the Healthy Eating Active Living (HEAL) Cities Campaign. It was noted that the campaign is a partnership between the League of California Cities and the California Center for Public Health Advocacy and Hayward is one of 88 cities in California that have joined and are actively addressing the obesity crisis by implementing land use and employee policies that encourage physical activity and healthy food facilities. Ms. Charlotte Dickson, Director of HEAL Cities Campaign presented the Mayor with a plaque in recognition for the City's participation and thanked the City for setting an example for cities in California.

PROCLAMATION

Chabot College – 50th Anniversary

Mayor Sweeney read the proclamation announcing that Chabot Community College opened its doors to students on September 11, 1961, and for fifty years has continued to serve students.

Mayor Sweeney proclaimed the year September 13, 2011 to September 12, 2012 to be a year of celebration for Chabot Community College and the Chabot-Las Positas Community College District. Mayor Sweeney presented the proclamation to Chabot Community College President Celia Barbarena. President Barbarena and Dr. Kinnamon, Chancellor of the Chabot-Las Positas Community College District, were delighted to accept the proclamation and thanked the City for the recognition and introduced faculty/administration representatives. Council Member Zermeño thanked his colleagues and faculty and congratulated Chabot Community College on its 50th Anniversary.

PUBLIC COMMENTS

Mr. Albert Castellanos, Dickens Avenue resident, mentioned there is traffic congestion in the morning when exiting Dickens Avenue to Tennyson Road and requested that the speed bumps on Dickens Avenue be raised so vehicles are forced to slow down.

Mr. Frank Goulart, with business address on Main Street, announced free Sunday concerts at the Memorial Park and noted that proceeds will benefit non-profit organizations.

Mr. Kim Huggett, Hayward Chamber of Commerce President, announced the last Downtown Street Party of the season on Saturday, September 17, 2011.

Mr. Mark Smythe, Chabot Community College employee, appreciated the recognition that was given to Chabot Community College on its 50th Anniversary and noted the College is a valuable asset to the community.

Mr. Doug Ligibel, downtown resident, referred to a public records request that he submitted to the City Manager related to Measure A (Utility Users Tax.) Mr. Ligibel said he received a letter in response to the request, but it did not address the total expenditures from revenues derived from the Police Department. Mr. Ligibel reiterated his request. He also requested a report from the Police Department about its plans for monitoring the New Year's Eve celebration. Lastly, he was concerned about the increase in foreclosed properties.

CONSENT

Consent item # 5 was removed for further discussion.

1. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on July 26, 2011



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Tuesday, September 13, 2011, 7:00 p.m.**

It was moved by Council/RA/HA Member Henson, seconded by Council/RA/HA Member Halliday, and carried with Council/RA/HA Member Quirk absent, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of July 26, 2011.

2. Approval of the Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on August 2, 2011

It was moved by Council/RA/HA Member Henson, seconded by Council/RA/HA Member Halliday, and carried with Council/RA/HA Member Quirk absent, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of August 2, 2011.

3. Resolution Adopting Integrated Pest Management Policy for the City of Hayward and the use of Pesticides on City of Hayward Property

Staff report submitted by Administrative Secretary DeLand, dated September 13, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11-146, "Resolution Adopting Integrated Pest Management Policy for the City of Hayward and the Use of Pesticides on City of Hayward Property"

4. West Winton Landfill Drainage Culvert Repair and Cap Replacement Project: Award of Contract and Appropriation of Additional Funds

Staff report submitted by Deputy Director of Public Works Ameri, dated September 13, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:

Resolution 11-147, "Resolution Awarding the Contract for the West Winton Landfill Drainage Culvert Repair and Cap Replacement Project, Project No. 7504 to O.C. Jones & Sons, Inc."

Resolution 11-148, "Resolution Amending Resolution 11-094, Budget Resolution for Capital Improvement Projects for Fiscal Year 2012, for an Appropriation of Funds from the Sewer System Capital Improvement Fund (Fund 613) to the West Winton Landfill Drainage Culvert Repair and Cap Replacement Project No. 7504"

5. Annual Report on Measure A (Utility Users Tax)

Staff report submitted by City Manager David, dated September 13, 2011, was filed.

Council Member Peixoto stated that clarification was needed about the expenditures of the revenue collected from the Measure A and noted that the public would like to know how Measure A revenues are being spent and suggested that a cost allocation plan could show how Measure A revenues are allocated.

Council Member Henson emphasized that information exemplifying the positive impact of Measure A, such as how it saved the City's public safety programs, should be documented in a detailed fashion. Mr. Henson added that as part of the Council motion of March 3, 2009, he had suggested that an annual Utility Users Tax expenditure annual report be kept separately, apart from the General Fund. He added that public entities need to know that programs were in fact saved by revenue derived from Measure A.

Council Member Halliday noted that Measure A was passed as a general tax and not as a tax-specific to any purpose. Council Member Halliday commented that if the percentage allocated from the General Fund toward public safety (Police and Fire) is 85%, then it would be accurate to state that 85% of Measure A funds goes toward public safety because this would be in proportion to the General Fund allocation.

In response to Council Member Salinas' question of why Measure A funds were not earmarked for specific uses instead of being placed in the General Fund, City Manager David responded that when Council designates revenue sources to specific funds, there is less flexibility to make serious budget choices.

Mayor Sweeney concurred with Council Member Halliday and said it would be simpler to identify the right percentage of Measure A revenue allocation, in proportion to the General Fund allocation, and then equate that to how much money it represents and provide that information as requested.

It was moved by Council Member Zermeño, seconded by Council Member Henson, and carried with Council Member Quirk absent, to adopt the following:

6. Adoption of Enforceable Obligations Payment Schedule (EOPS) Required Under ABx1 26 (the Redevelopment "Dissolution Act")

Staff report submitted by Assistant City Manager/Interim Redevelopment Agency Director Morariu, dated September 13, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Halliday, and carried with Council Member Quirk absent, to adopt the following:



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Redevelopment Resolution 11-15, "Resolution of the Redevelopment Agency of the City of Hayward Approving and Adopting the Enforceable Obligation Payment Schedule Pursuant to Part 1.8 of the Redevelopment Law"

PUBLIC HEARING

7. Designation of Additional Preferential Residential Permit Parking Areas

Staff report submitted by Deputy Director of Public Works Fakhrai, dated September 13, 2011, was filed.

Public Works Director Bauman announced the item and introduced Deputy Director of Public Works Fakhrai who provided a synopsis of the report.

Deputy Director of Public Works Fakhrai confirmed for Council Member Peixoto that the fees associated with permit violations will be utilized for the implementation, maintenance, and enforcement of the program. Mr. Fakhrai added that aside from some residents expressing concern about paying for permits that allow them to park in front of their homes, there has been a general consensus among residents in the affected areas favoring the program.

In response to Council Member Zermeño's question about the fee amounts not appearing in the language of the proposed resolution, City Manager David responded that because the fees change on annual basis, they are included in the Master Fee Schedule every year.

Council Member Henson favored the program because the majority of the residents are requesting it. In response to the support received from affected areas, Deputy Director of Public Works Fakhrai indicated that the program received 100% support from Ocie/Edloe residents and 75% support from University Court residents. Mr. Henson noted that as part of this process staff should inform the appropriate agencies, such as County offices and the University, the impact to the affected neighborhoods as it relates to parking taken by non-residents.

Mayor Sweeney opened the public hearing at 7:50 p.m.

Ms. Donna Klein, Edloe Drive resident, expressed support for designating Edloe/Ocie areas as preferential residential permit parking areas. Ms. Klein stated that due to the street parking on Edloe Drive being filled up with vehicles belonging to non-residents, a street sweeper has not been able to sweep Edloe Drive in the last five years.

Ms. Mary McCracken, Ocie Way resident, supported the designation as proposed. She shared her experience when she had to save a parking space in front of her residence for the roofers who

repaired her roof. She noted that street sweepers are unable to adequately sweep the streets on Ocie Way and are only able to clean the space in front of residents' driveways.

Mr. George Medeiros, Edloe Drive resident, expressed support for the proposal and noted that he has been working on getting the designation implemented for the last three years. Mr. Medeiros noted that most of the street parking is taken by individuals conducting business at County offices located off of Winton Avenue and cars sometimes remain parked long into the evening.

Mr. Jose Ramones, Highland Boulevard resident, opposed the program claiming that he does not utilize the parking on the street in front of his home and therefore he does not object to sharing the neighborhood streets with non-residents. Mr. Ramones did not agree with the statement made that non-residents who park in his neighborhood are noisy and dirty. He suggested that Council postpone implementing the permit program and meanwhile consider placing a three-hour parking restriction for residential neighborhoods.

Ms. Joan Sieber, Quail Canyon Court resident, expressed support for the program and stated that the parking situation is worse from 8:00 a.m. until 10:00 p.m., and that most of the street parking is taken by University students and faculty. Ms. Sieber said that due to the lack of parking, the residents in her neighborhood are unable to invite guests over to their homes. She also noted that the street sweeper is unable to come through her street.

Ms. Betty Harris, Quail Canyon Court resident, referred to an administrative error on the map where there should be six additional residential permit parking spaces. Deputy Director Fakhrai clarified that this area will be an expansion of the no parking zone which is designated as bus and loading zones. Ms. Harris noted that residents would not be required to purchase a parking permit if they have adequate parking. She also emphasized that loitering and nuisance problems are due to non-residents parking on the street. She said that even though the University is building a new parking structure, students will not use it because of high parking permit fees.

Ms. Mace Clayton, Edloe Drive resident, expressed the need for permit parking in her neighborhood. Ms. Clayton noted that she finds cars parked in front of her home when she leaves to go to work and has had to reserve a parking space in front of her house for her visitors.

Mr. Tom Evans, University Court resident, said he had mixed feelings about the proposed program as it relates to his neighborhood. Mr. Evans expressed that although he does not oppose the residential parking permit fee, he suggested implementing a two-hour parking limit between the hours of 6:00 a.m. to 6:00 p.m. Mr. Evans stated that the University is placing a burden on the community because they are inconsiderate of the fact that students and faculty will continue to park on neighborhood streets because they do not want to pay high fees to park in the new parking garage and suggested that the City intervene. Mr. Evans added that students who park on residential streets leave behind garbage.

Mayor Sweeney closed the public hearing at 8:04 p.m.

Council Member Zermeño made a motion per staff recommendation and Council Member Henson seconded the motion.



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Council Member Halliday supported the proposed program and appreciated the work that went into this program by residents of both neighborhoods.

Council Member Henson offered a friendly amendment that staff notify the appropriate agencies of the negative impact that these agencies have on City streets and the surrounding neighborhoods and to ask them to identify measures to help solve the problems. Council Member Zermeño was amenable to the friendly amendment.

It was moved by Council Member Zermeño, seconded by Council Member Henson, and carried with Council Member Quirk absent, to adopt the following with a friendly amendment:

Resolution 11-149, “Resolution Designating Edloe Drive, Ocie Way, Modoc Avenue, and Portions of University Court and Highland Boulevard as Preferred Residential Permit Parking Areas”

8. Certification of a Supplemental Environmental Impact Report, Adoption of Amendments to the General Plan, and Introduction of Ordinances involving Zoning Reclassifications and Text Changes to the Zoning Ordinance and Related Municipal Code Sections, to Enact and Implement the South Hayward BART/Mission Boulevard Form-Based Code – *Continued from July 26, 2011*

Staff report submitted by Development Services Director Rizk, dated September 13, 2011, was filed.

Development Services Director Rizk provided a synopsis of the report.

Council Member Henson noted that the South Hayward BART/Mission Form-Based Code is going to change the surrounding neighborhood through the development process and asked staff to address how those changes would lead to substantive improvements to Dixon Street and the surrounding areas. Development Services Director Rizk responded that there will be improvements to the north portion of Dixon Street, south of Tennyson Road associated with the Transportation for Livable Communities grant, which will improve sidewalks and landscaping along the northern portion of Dixon Street. He added that the South Hayward BART Station Transit-Oriented Development Project is going to incentivize new high quality development in that area.

Council Member Henson stated that there are some existing uses in the Mission Boulevard area that were not consistent with improvements envisioned for this area and would be better suited for industrial areas.

Council Member Halliday asked about the status of the Mission Paradise Project between Hancock

and Webster Streets. Development Services Director Rizk noted that the project developers requested and received a couple of extensions, the latest of which would allow the project entitlement to be valid until June of 2013. Mr. Rizk clarified for Council Member Halliday that if a different builder wants to continue with the construction plan, they would be subject to a site plan review. Ms. Halliday noted that better treatment of the roof tops would create a better view from the hill.

Council Member Halliday stated that the proposed project would encourage the type of development that is envisioned along Mission Boulevard and the new improvements would maintain property values in the area and allow community groups and schools to purchase property in this area.

In response to Council Member Halliday's question about the impact that the loss of redevelopment funding would have on the development plan for this project, City Manager David responded that without redevelopment funds, the City does not have the financial resources to incentivize developers nor the ability to move forward.

Council Member Salinas referred to a letter submitted by Mr. Ersted in which he expressed concerns with the allowed uses in the T4 Zone and requested that Council prohibit alcohol sales, check cashing and loans, dance/nightclub, massage parlor, pawnshop, and tattoo parlor, and modify Table 9 of the Form-Based Code. Mr. Salinas suggested that the Council consider eliminating the uses suggested by Mr. Ersted, which appear in Table 9. Council Member Salinas stated that the vision for the Mission Boulevard corridor is to develop an area which is in line with the City's priorities, an area that would be healthy, clean, and green.

Council Member Zermeño expressed that in the future, the City would have to consider permitting the construction of buildings that have more floors than what is currently permitted. Mr. Zermeño thanked staff for changing the zoning to allow the four auto-related businesses.

Council Member Zermeño requested that one of the new streets in the proposed development area be called Cesar Chavez Way. In reference to the Bicycle Standards, Council Member Zermeño suggested that bicycle lanes be painted green, as a safety measure.

Council Member Peixoto agreed with Council Member Salinas that the City does not need the uses that were highlighted in Table 9 along the Mission Boulevard corridor. Director Rizk clarified for Council Member Peixoto that the Planning Commission will be able to evaluate uses in the development area on an individual basis, issuing conditional use permits as needed.

In response to Mr. Peixoto's question related to homeless shelters and transitional housing included in at least one zoning district, per Program 20, Mr. Rizk indicated that Program 20 will be included so that it is compatible with other residential neighborhoods in the Mission Boulevard area.

Mayor Sweeney opened the public hearing at 9:06 p.m.

Mr. Joseph Oberman, Jefferson Street resident, stated that since the stoplight at Jefferson Street was removed the residents are unable to enter Mission Boulevard due to the traffic on Mission Boulevard and asked if the new roadway will go behind Bowman School and all the way down to



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Sorensen Road. Director Rizk stated that the new roadway would not continue all the way to Sorensen Road, but noted that the redevelopment of the Mission Plaza shopping center would create an avenue of public streets leading to Sorensen Road. Mr. Oberman emphasized the need for a stoplight at Jefferson Street/Mission Boulevard.

Mr. Jim Pestana, Jim's Automotive owner on Mission Boulevard, appreciated the response he received from Council and staff regarding the T4 Zoning. He concurred with the T4 Zoning changes because they are consistent and fair with the surrounding area.

Mr. Kenneth Little, Dixon Street resident, asked how the zoning changes would affect him if he sells his home. Director Rizk stated that if the new Code is adopted, then Mr. Little's property will only be impacted if either he or a future owner expands the single-family home, adding that Mr. Little's property is classified as a legal non-conforming use.

Mayor Sweeney closed the public hearing at 9:14 p.m.

Council Member Henson noted that Alameda County will allocate \$43 million to Priority Development Areas such as the South Hayward BART Station and emphasized that this is a great opportunity to receive additional funding for the development project.

Council Member Henson concurred with Council Member Salinas' suggestion to reconsider some of the uses listed on Table 9 - Standard Function and Use. He stated that the City already has many of the uses which were highlighted in Mr. Ersted's letter and that there was not a need to add those types of uses to the Mission Boulevard corridor. Mr. Rizk clarified for Mr. Henson that alcohol sales can be permitted for restaurants that meet the criteria of a full-service restaurant.

Council Member Zermeño offered a motion to move the staff recommendation and encouraged staff to explore naming one of the newly created streets in the area Cesar Chavez Way and painting the bicycle lanes green as a safety measure. He added that Council Member Salinas' suggestion to eliminate certain uses depicted in Table 9 need to be considered.

Discussion ensued related to painting the bicycle lanes green and Council Member Zermeño modified his motion and asked staff to explore the idea of adding green bicycle lanes and also naming one of the new streets in the Mission Boulevard corridor Cesar Chavez Way.

Council Members Halliday and Henson seconded the item.

Council Member Salinas stated that the reconsideration of the highlighted uses on Table 9 should not preclude restaurants from serving alcohol as long as the restaurants meet the criteria of a full-service restaurant and that the highlighted uses would apply to the entire development in the South Hayward/Mission Boulevard area. Discussion ensued about alcohol sales and what would be permitted.

Development Services Director Rizk suggested that this item be continued so that staff can reexamine the definition of alcohol sales in the Form-Based Code and amend it to meet Council's direction. Assistant City Attorney Conneely concurred with Director's Rizk recommendation and stated that making changes to the uses may impact property owners and they must be notified. Ms. Conneely added that it is within the Council's authority to eliminate those uses and to give direction to staff to develop some changes to the Ordinance and to bring these changes back to Council at a future time for further consideration.

Mayor Sweeney expressed that the Council was amenable for staff to bring back those changes.

Council Member Halliday agreed that staff revise the language and bring it back to Council in the future.

Council Member Henson added that staff also review the other highlighted uses presented in Table 9 of the Form-Based Code.

Mayor Sweeney restated the motion to approve the staff recommendation with two amendments: to consider naming one of the new streets in the development area after Cesar Chaves and revise the uses highlighted in yellow in Table 9 and come back to Council with a revised Ordinance stating the uses that are not permitted in the project area. He noted that full-service restaurants would be able to serve alcohol, but there was concern about stand-alone alcohol uses such as bars and liquor stores.

Assistant City Attorney Conneely suggested that the entire matter be continued because the proposed ordinances were inconsistent with the motion on the floor. Ms. Conneely advised Council that it would not be necessary to have an entire hearing on the Form-Based Code, but a hearing limited to the consideration of the elimination of those uses from either the T4 or T5, or from both.

Council Member Zermeño withdrew his motion on the floor and offered a motion to continue the item to September 27, 2011.

It was moved by Council Member Zermeño, seconded by Council Member Halliday and Council Member Henson, and carried with Council Member Quirk absent, to continue the item to September 27, 2011.

LEGISLATIVE BUSINESS

9. Introduction of an Ordinance Amending Hayward Traffic Code Section 6.33 to Regulate Commercial Vehicle Parking in Residential Neighborhoods

Staff report submitted by Deputy City Attorney Alvarado Jr., dated September 13, 2011, was filed.

City Attorney Lawson announced the item and introduced Deputy City Attorney Alvarado Jr., who provided a synopsis of the report.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 13, 2011, 7:00 p.m.**

Council Member Peixoto asked staff how the proposed revision to the Ordinance pertaining to vehicles equipped with rear-dual wheels, affects individuals who own pickups for personal or recreational use, and not for business purposes. Police Chief Urban responded that California Vehicle Code requires all qualifying trucks to be registered as commercial vehicles, regardless of whether these trucks are used for business purposes or for personal use. Police Chief Urban clarified for Council Member Peixoto that per the revision to this Ordinance, commercial trucks meeting the new criteria cannot park in residential neighborhoods.

Council Member Halliday supported the change and expansion in the Ordinance because it addressed problems in some neighborhoods. Ms. Halliday asked if the proposed Ordinance would include commercial vehicles that do not have rear dual wheels. Deputy City Attorney Alvarado stated that tow-vehicles exceeding 10,000 pounds, regardless of whether they have single or dual real wheels, would be prohibited from parking on residential streets under the current Ordinance.

Police Chief Urban clarified for Council Member Henson that sometimes citizens reserve the right to park their vehicles in their driveways, even when they may not be able to legally park on the residential streets.

In response to Council Member Henson's inquiry about issues with employees who take their commercial work vehicles home due to their work schedule and park them on the residential streets, Deputy City Attorney Alvarado stated that the nature of most complaints received by the Police Department usually involve larger vehicles already in violation of the weight requirement and vehicles parked over extended periods of time.

Mayor Sweeney opened the public hearing at 9:44 p.m.

Mr. Bruce Anthony, Gamble Court resident, thanked staff for organizing community meetings and expressed support for the revisions to the Ordinance.

Ms. Cindy Colosimo, Contessa Street resident, stated that typically at least a couple of scavenger trucks are parked and sometimes overnight in her neighborhood and contain sheet metal, cardboard, and other recyclables. She projected images depicting multiple scavenger trucks. Deputy City Attorney Alvarado stated that staff would look into this category of vehicles.

Mayor Sweeney closed the public hearing at 9:48 p.m.

Council Member Halliday offered a motion per staff recommendation. Ms. Halliday stated that the situation with scavenger trucks needs to be further examined since it can present a safety problem in neighborhoods.

Council Member Zermeño expressed support for the recommendation and thanked staff for the work done with the revisions of the Ordinance.

Council Member Henson supported his fellow members' comments and stated that an expansion of the Ordinance was needed to address the current problems that neighborhoods are facing with commercial trucks. He added that the presence of scavenger trucks on residential roadways detracts from the beauty of neighborhoods and asked staff to begin to develop a policy.

It was moved by Council Member Halliday, seconded by Council Member Zermeño, and carried with Council Member Quirk absent, to adopt the following:

Introduction of Ordinance 11-_, "An Ordinance of the City of Hayward Repealing Section 6.33 of the Hayward Traffic Code and Adopting a New Section 6.33 Prohibiting Certain Commercial Vehicles from parking in Residence Districts"

Due to a possible conflict of interest because Mayor Sweeney works for a non-profit agency, Mayor Sweeney recused himself from participating in the next item and turned the gavel to Mayor Pro Tempore Halliday who presided over item 10. Mayor Sweeney exited the Council Chambers.

10. Introduction of Ordinance Amending the Hayward Municipal Code to Consolidate the Human Services Commission and the Citizens Advisory Commission into a Single and Unified Commission

Staff report submitted by Director of Library and Community Services Reinhart., dated September 13, 2011, was filed.

Director of Library and Community Services Reinhart provided a synopsis of the report and acknowledged the presence of Human Services Commission (HSC) Chair Samayoa and Citizens Advisory Commission (CAC) Chair Linnen.

Director of Library and Community Services Reinhart confirmed for Council Member Zermeño that Social Services Planning Manager Culver would be the liaison for the new Community Services Commission.

Council Member Peixoto who serves as Council Liaison to the HSC said he supported the consolidation noting that the merger would not only create more efficiency, but it would complement Community Development Block Grant (CDBG) programming with social service programs.

Director of Library and Community Services Reinhart confirmed for Council Member Peixoto that the Housing and Urban Development (HUD) funding sets the timeline for notices of funding availability, review of the applications and use of the funding, and for Council's allocations. Director Reinhart noted that a key innovation in the combination of the two Commissions is a unified, single-funding application for all non-profit agencies seeking City resources.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 13, 2011, 7:00 p.m.**

Mayor Pro Tempore Halliday opened the public hearing at 10:06 p.m.

Ms. Allison McManus, CAC Commissioner, was supportive of the merge and expressed that this merger would lead to positive changes in the City.

Ms. Diane Fagalde, HSC Commissioner, stated that there will be more people in the community who will need assistance due to the increasing unemployment rate and added that she is eager to learn more about the new application process.

Ms. Elizabeth Samayoa, HSC Chairperson, supported the merger and stated that the consolidation will enable non-profit agencies to have one access point for applications and one review body capable of making recommendations.

Ms. Lynette Foy Linnen, CAC Chairperson, fully supported the merger and noted that she has also served on the HSC and mentioned that the mission of both commissions was similar and involved building a community.

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

Mayor Pro Tempore Halliday, Council Liaison to the CAC, supported staff's recommendation stating that the two Commissions worked well together throughout the year. She indicated that the merger will create more efficiency and a better process, and it will get people more engaged with the community. She thanked all the Commissioners and staff for their work.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried with Council Member Quirk and Mayor Sweeney absent, to adopt the following:

Introduction of Ordinance 11-_, "An Ordinance of the City Council of the City of Hayward Repealing Sections 2-3.70 Through 2-3.88 of the Hayward Municipal Code Relating to the Human Services Commission and Citizens Advisory Commission and Adding Sections 2-3.90 Through 2-3.93 Establishing the Community Services Commission"

Mayor Sweeney returned to the dais.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Henson announced that in an effort to improve energy efficiency, stopwaste.org initiated a contest called "Energize for the Prize." He explained that when a household signs up for an energy upgrade, the school organization of its choice earns \$100, and schools that sign up the most households earn additional money.

Council Member Salinas reported that during the past year he joined efforts with Planning Commission Lamnin and Lt. Boykins to develop a “Take Profit Out of Panhandling” initiative to stem panhandling in the downtown and promote City services. Mr. Salinas reminded the audience about the last Downtown Street Party of the season and the last free movie on the Plaza. He also encouraged students to volunteer in Hayward.

Council Member Zermeño noted that “Make a Difference Day” was approaching and encouraged all to volunteer. He also noted that Council was making strides to reduce carbon footprint by using iPads to review agenda reports.

ADJOURNMENT

Mayor/Chair Sweeney adjourned the meeting at 10:24 p.m., in memory of Herbert Stouffer and Peter Hendley. Herbert Stouffer was born in Philadelphia, Pennsylvania, and at the age of 17 joined World War II. Stouffer resided in Hayward for over 50 years, served on the Hayward Area Recreation District (HARD) Foundation Board, and contributed to the Hayward Animal Shelter. Mayor Sweeney asked that a tree be planted in his memory and expressed condolences to his family. Council Members spoke highly of Peter Hendley noting he was a significant contributor to the City, active in the Hayward Demos Club, and member of the Human Services Commission and the Growth Management Task Force. Mr. Hendley was described as soft-spoken community treasure respected by many, a good friend, a human and civil rights advocate, advisor, and Hayward teacher. Mayor Sweeney asked staff that a tree be planted in his memory and expressed condolences to his wife Linda and his family.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency/Housing Authority

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Housing Authority

DATE: September 27, 2011

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Execution of FY 12-14 Cooperation Agreement Between the City of Hayward and the County of Alameda to Participate in the Alameda County HOME Consortium

RECOMMENDATION

That the City Council adopts the attached resolution authorizing the City Manager to execute the Cooperation Agreement (the Agreement) and all other implementing documents to enable the City of Hayward to participate in the Alameda County HOME Consortium for FY12 through FY14.

BACKGROUND

Since 1991, the City of Hayward has been part of the Alameda County HOME Consortium (the Consortium), which includes Unincorporated Alameda County and the cities of Alameda, Fremont, Livermore, Pleasanton, San Leandro, and Union City. Hayward’s participation in the Consortium has assured the City a total allocation of \$10.3 million of Federal HOME Investment Partnership funds since FY 1992.

HOME funds must be used for HOME-eligible housing assistance activities, including acquiring, rehabilitating, and constructing housing affordable to low-income households, as well as providing homebuyer and tenant-based rental assistance. HOME program regulations require that 100% of HOME funds be used to assist households with incomes at or below eighty percent (80%) of the area median income (AMI) adjusted for household size. In 2011, this eighty-percent figure in Alameda County for a family of four is \$65,750.

DISCUSSION

The City’s participation in the Consortium assures the City an annual allocation of HOME funds and alleviates the administrative burden of the funds. As the representative of the Consortium, the County of Alameda¹ acts as the lead member for administrative and Federal reporting purposes and coordinates the production of the Consolidated Annual Performance and Evaluation Report (CAPER) required by the Department of Housing and Urban Development (HUD). Several other reporting activities are also carried out in a joint effort by the participating jurisdictions.

¹ The Department of Housing and Community Development (HCD) is the responsible Agency at the County

The overall objective of the program is to provide high-quality affordable housing. In previous years, HOME funds were used in Hayward to help finance the construction of the Glenn Berry and Sara Conner Court Apartments, the rehabilitation of Huntwood Commons and Tennyson Gardens Apartments, and the acquisition of Cypress Glen Apartments. Funds have also been set aside to pay for rental subsidies for participants of Project Independence, a program that provides services and rental subsidies to emancipated youth (youth from 18 to 24 who have aged out of the foster care system). Current HOME funding commitments include \$900,000 for the South Hayward BART affordable housing project and \$325,000 for the Leidig Court affordable apartment complex.

Staff recommends that the City Council approves the continued participation in the Alameda County HOME Consortium for the next three Federal fiscal years – October 1, 2011 through September 30, 2014. If HUD continues to fund the HOME program at the current level, the funding allocation to Hayward will total over \$1.6 million during the three-year period.

ECONOMIC IMPACT

Providing for affordable housing is an important part of an overall strategy to prevent homelessness within Hayward and is a goal of the City's Housing Element. HOME funding is critical to further this goal to the extent that it must be used to acquire, rehabilitate, and construct affordable housing. Ensuring that Hayward residents have access to decent, safe and sanitary housing helps the City prevent homelessness and housing crises. These conditions are not only damaging to the physical, mental, and economic health of individuals and families, but have serious costs to the community as well. The costs to the community include the costs of providing emergency housing, mental health crisis services, emergency medical care, etc. Joining the County HOME Consortium provides Hayward with access to a significant amount of Federal funds to support affordable housing goals annually while alleviating the administrative burden of receiving these funds.

FISCAL IMPACT

Participation in the Consortium ensures that the City receives an annual allocation of Federal HOME funds. Hayward's FY 12 (October 1, 2011 to September 30, 2012) allocation is approximately \$550,000. A maximum of 10% of these funds may be used to pay for the administrative costs associated with the HOME program. Half of the administrative funds are retained by the County as payment for the costs associated with its administrative and reporting lead role in the Consortium. The other half of the HOME administrative funds are used to pay for a portion of the salaries of City staff overseeing the HOME program in the City's Housing Authority.

PUBLIC CONTACT

This is a standard three-year contract allowing the City to participate in the Alameda County HOME Consortium, and does not commit funds for any particular project. Therefore, staff has not had any public inquiry regarding this matter, and no public hearing is required.

NEXT STEPS

Project-related funds will be used for HOME-eligible housing assistance activities. The appropriation of those funds for such activities will require Council approval. Staff will return to Council to recommend the allocation of HOME funds to eligible housing projects or programs when they are identified. No projects or programs have been identified for this Agreement term yet.

Upon execution by the City Manager, the Agreement will be sent to the County for execution. The County will forward the signed Agreement to HUD headquarters.

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I Resolution authorizing execution of the HOME Consortium Cooperation Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION APPROVING CONTINUED PARTICIPATION IN THE ALAMEDA COUNTY HOME CONSORTIUM AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME CONSORTIUM COOPERATION AGREEMENT WITH ALAMEDA COUNTY

BE IT RESOLVED by the City Council of the City of Hayward that continued participation in the Alameda County HOME Consortium is hereby approved for a three-year period including Federal fiscal years 2012 through 2014 (October 1, 2011 through September 30, 2014) and the City Manager is authorized and directed to execute, on behalf of the City of Hayward, the HOME Consortium Cooperation Agreement and all other documents necessary to enable participation between the City of Hayward and the County of Alameda.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

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

DATE: September 27, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: First Amendment to the Hayward Hangars, LLC Commercial Site Lease at Hayward Executive Airport

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a first Amendment to the Hayward Hangars, LLC Commercial Site Lease.

BACKGROUND

In a commercial site lease dated July 1, 2006, the City granted Hayward Hangars, LLC a five year period, until June 30, 2011, to complete construction of a proposed new hangar project. This date was later changed to January 1, 2012. Although Hayward Hangars submitted construction drawings and the City issued master building permits on October 20, 2009, no further progress was made. In a letter dated August 12, 2010, the Airport Manager informed James Altschul, President of Hayward Hangars, LLC, that the company was in non-compliance with construction requirements and that an extension of time to complete the project would not be granted. Despite this, there was no apparent effort to jumpstart the project, and the building permits effectively expired on June 20, 2011.

During the five year construction period, Hayward Hangars, LLC also allowed the condition of the leasehold to deteriorate. Loose pavement on the aircraft parking apron presented a safety hazard, unauthorized electrical modifications were made to the existing hangar, landscaping was neglected, and, despite repeated requests, a dumpster area remained unenclosed. There were other issues, including the on-site storage of a construction trailer, storage containers and a large semi-trailer, that were not used for aviation purposes. The City also cited a subtenant for security violations and failure to provide proper commercial insurance. These ongoing issues were in violation of Section 6.01 of the site lease requiring the leasehold to be maintained in a safe and clean condition, consistent with the highest business practices and the issues demonstrated an apparent difficulty in the company's ability to manage the leasehold.

DISCUSSION

At the City's request, a meeting was held with the leaseholder on June 15, 2011 to address these issues. Hayward Hangars, LLC requested certain modifications to the existing site lease, including an extension of time to complete the project. City staff informed Hayward Hangars, LLC that an extension could not be granted because satisfactory progress on the project had not been made, to date, and that a plan must be developed to resolve numerous safety and appearance issues on the leasehold. There was, subsequently, an exchange of correspondence, additional meetings were held, and Hayward Hangars, LLC successfully resolved the maintenance issues to comply with its contractual obligations. Specifically, Hayward Hangars, LLC completed the following improvements to the leasehold to address the maintenance concerns raised by the City:

- Unauthorized electrical cables were disconnected
- A Conex storage box was painted
- Temporary repairs were made to an asphalt aircraft parking apron
- An open vehicle access gate was secured
- A cinder block wall was completed
- Landscaping issues were resolved

In addition, Hayward Hangars secured hangar keepers' liability insurance and delivered additional sets of construction drawings, as requested by the City.

Hayward Hangars, LLC has expressed a strong desire to move forward with the hangar construction project, and staff is now recommending approval of an extension of time and some of the other concessions that had been requested by the company in order for the new hangar construction project to be financially viable. The proposed lease amendment addresses the following:

- Section 2.01 (c) of the existing Construction Agreement is amended to extend the time of performance for completion of the hangar construction to October 1, 2012. This extension, however, is conditioned upon the following requirements being met by January 1, 2012:
 - (a) Execution of a binding construction agreement for the project with a licensed general contractor; and
 - (b) Execution of a binding agreement for full construction financing of the project; and
 - (c) Continuous construction activity and substantial progress toward the completion of hangar building "B."
- Section 2.01 (d) of the Construction Agreement is revised with regard to the completion of the second hangar building "A," which may be further extended beyond October 1, 2012, in the event that assurance, as determined at the sole discretion of the City, is not provided from the City by April 2, 2012, that necessary pavement improvements to a taxiway area on the adjacent EPIC leasehold will be completed on or before October 1, 2012, so that the new hangars can be accessed once completed.
- Section 1.07 of the Site Lease is modified to provide that the lease term will be extended to December 31, 2037, upon the granting of a Certificate of Occupancy for one of the two planned hangar buildings, and then further extended until December 31, 2048, following full construction. This phasing was needed for construction financing of the second hangar building.

- In addition to the above lease term modifications, the amendment addresses conceptual approval for the following requested cost saving proposals to the hangar project design, per Section 2.01b of the lease:
 - (a) Modify the fire loop so it is not located in the adjacent leasehold;
 - (b) Modify the size of the sewer service line from 8 to 6 inches in diameter;
 - (c) Allow the abandonment in place of existing storm drain by filling it with grout;
 - (d) Allow an alternative type of storm drain material;
 - (e) Delete sewer and water lines to Hangar Building A.

In view of the recent satisfactory performance by Hayward Hangars, LLC and the potential benefit of the proposed construction project to the City, staff recommends that Council adopt the attached resolution approving the first amendment to the lease with Hayward Hangars.

FISCAL IMPACT

None of the terms of the lease amendment will result in any reduction in lease payments, and staff expects that completion of the new hangars will result in additional revenues to the City in the form of both possessory property taxes and potentially aircraft personal property taxes, assuming aircraft new to the airport occupy the new hangars.

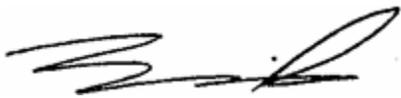
PUBLIC CONTACT

On July 28, 2011, staff provided the Council Airport Committee (CAC) and interested public an informational update on the status of the Hayward Hangar leasehold and proposed hangar construction project. Based on the resolution of several issues by Hayward Hangars and further commitments to complete the proposed hangar project, staff was favorably inclined to recommend this lease amendment.

Prepared by: Douglas McNeeley, Airport Manager

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



Fran David, City Manager

- Attachments: Attachment I: Resolution
 Attachment II: Lease Amendment
 Attachment III: Lease Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE HAYWARD HANGARS, LLC COMMERCIAL AVIATION SITE LEASE

WHEREAS, the City of Hayward (“City”) owns and operates the Hayward Executive Airport; and

WHEREAS, Hayward Hangars, LLC and the City executed a Commercial Aviation Site Lease on June 27, 2006 for certain real property at Hayward Executive Airport owned by the City; and

WHEREAS, both parties agree to amend the aforesaid lease in certain respects.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is authorized to execute the First Amendment to the Hayward Hangars, LLC Commercial Aviation Site Lease, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

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

FIRST AMENDMENT

Hayward Hangars, LLC Commercial Aviation Site Lease

THIS FIRST AMENDMENT TO LEASE made and entered into this _____ day of (month) 2011, by and between the City of Hayward, a municipal corporation located in the County of Alameda, State of California (hereafter “Lessor”, or “City”) and Hayward Hangars, LLC, a Delaware Limited Liability Company, (hereafter called “Lessee”), whose address is 45 East End Avenue, Apartment 2C, New York, NY 10028. The parties agree as follows:

RECITALS:

WHEREAS, the aforesaid parties have entered into that certain agreement and lease dated June 27, 2006, entitled “Commercial Aviation Site Lease between City of Hayward, Hayward Executive Airport & Hayward Hangars, LLC (hereafter called Lease), and;

WHEREAS, the parties desire to amend the aforesaid lease in certain respects:

FIRST AMENDMENT

NOW, THEREFORE, in consideration of the covenants, conditions, and terms hereafter set forth, Lessor and Lessee do hereby agree that the lease dated June 27, 2006, entitled Commercial Aviation Site Lease between City of Hayward, Hayward Executive Airport & Hayward Hangars, LLC, whose purpose was and is, to provide aviation commercial sales, services and activities on the designated leasehold, is hereby amended in the following particulars only, to wit:

1. The First Amendment set forth below, shall be effective on the first day of (month) 2011. All other provisions of said lease, not expressly changed hereby, remain the same and in full force and effect.
2. Exhibit “C” Construction Agreement, Section 2.01(c) is revised and the Date of Performance is amended from January 1, 2012 and hereby extended until October 1, 2012 contingent upon successful completion of all of the following milestones by the Lessee no later than January 1, 2012:
 - (a) Execution of a binding construction agreement for the project with a licensed general contractor; and

- (b) Execution of a binding agreement for full construction financing of the project;
and
 - (c) Continuous construction activity and substantial progress toward the completion of hangar building "B".
3. Exhibit "C" Construction Agreement, Section 2.01 (d) is revised with regard to the completion of hangar building "A" which may be further extended beyond October 1, 2012 in the event that assurance, as determined at the sole discretion of the City, is not provided to the Lessee by April 2, 2012 that necessary pavement improvements to a taxiway area approximately 71-feet by 502-feet on adjacent property owned by the City will be completed on or before October 1, 2012.
4. The last sentence of Section 1.07 of the Site Lease is revised to read:

Lease Term shall be automatically extended until December 31, 2037 upon the issuance of a Certificate of Occupancy for hangar "B" and following full compliance by the Lessee with all other terms and conditions of the Lease, as determined by the City in the exercise of its sole but reasonable discretion. Furthermore the Lease Term shall be automatically extended until December 31, 2048 upon the issuance of a Certificate of Occupancy for hangar "A" and following full compliance by the Lessee with all other terms and conditions of the Lease, as determined by the City in the exercise of its sole but reasonable discretion.

5. In Accordance with section 2.01b of the lease the parties further agree in principle to the following modifications to the approved design for the construction of the new hangars, subject to final review and approval by the City of Hayward Development Services Department for compliance with Construction Code and safety regulations:
- (a) Modify the fire loop so it is not located in the adjacent leasehold;
 - (b) Modify the size of the sewer service line from 8 to 6 inches in diameter;
 - (c) Allow the abandonment in place of existing storm drain by filling it with grout;
 - (d) Allow an alternative type of storm drain material;

(e) Delete sewer and water lines to Hangar Building A.

This First Amendment to Lease contains the agreement of the parties and all negotiations and agreements between the parties herein, or their respective agents acting on the consent of the Lessee are hereby declared to be merged into this agreement.

IN WITNESS WHEREOF, the parties hereto agree to these terms and have therefore presented this amendment, as represented by Mr. James S. Altschul, President of Hayward Hangars, LLC and the City of Hayward, a municipal corporation, by and through the City Manager, duly authorized to act, have caused this First Amendment to Lease document to be executed the day and year written below.

RECOMMENDED BY:

LESSEE: HAYWARD HANGARS, LLC

Douglas McNeeley
Airport Manager

BY: _____
James Altschul
President

APPROVED BY:

CITY OF HAYWARD, a municipal corporation

Robert A. Bauman
Director of Public Works

By: _____
Fran David
City Manager

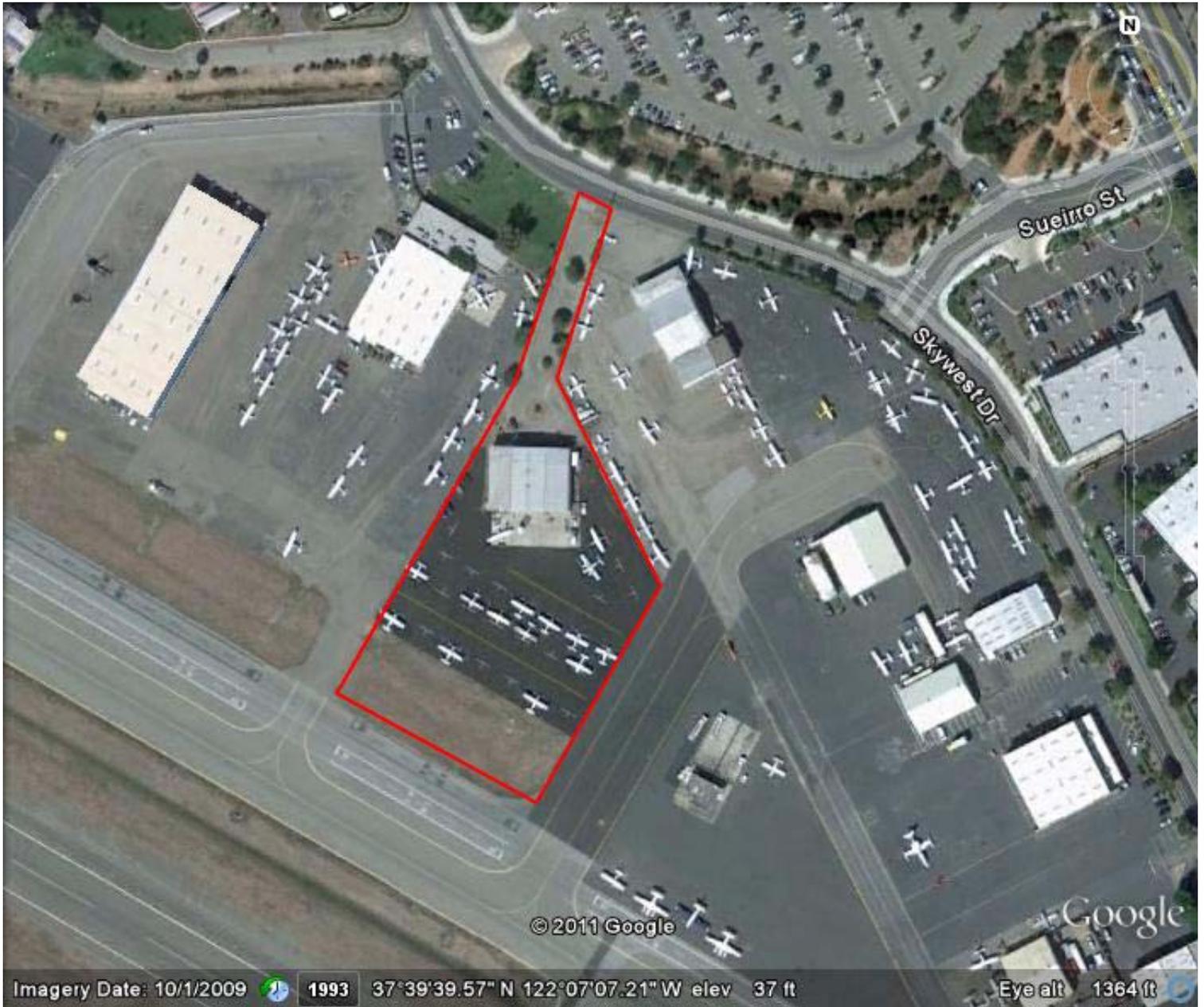
DATE: _____

Approved as to Form:

ATTEST:

Michael Lawson
City Attorney

Miriam Lens
City Clerk



Location of Site Lease

DATE: September 27, 2011

TO: Mayor and City Council
Agency Chair and Board Members

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Approval of a Transfer Payment Agreement Between the City and the Redevelopment Agency to Facilitate Remittance Payments to the State of California Under the Provisions of ABx1 27 (the “so-called” Voluntary Redevelopment Program Act)

RECOMMENDATION

That the Council and Agency Board adopt the attached resolutions to: (1) approve a Transfer Payment Agreement between the City and the Agency to facilitate remittance payments to the State of California under the provisions of ABx1 27 (the “so-called” Voluntary Redevelopment Program Act) (Attachments I and II).

BACKGROUND AND DISCUSSION

On September 20, 2011, the Council and Agency Board considered an agenda item to approve a Transfer Payment Agreement between the City and the Redevelopment Agency and also an amendment to the Cooperation and Funding Agreement between the City and Redevelopment Agency¹. This prior report outlines the background and rationale for requesting Council and Agency Board approval of these items. In addition, the staff presentation for the September 20 agenda item can be found on the City’s website².

This item is returning to Council for a few reasons. One, staff has revised the resolutions associated with approval of the Transfer Payment Agreement (Attachments I and II) to ensure that the operation of the terms of the Transfer Payment Agreement are conditioned upon resolution of the redevelopment lawsuit currently pending with the State Supreme Court. In addition, staff has included the entire Transfer Payment Agreement with this report for the Council and Agency Board’s information (Attachment III).

¹ The September 20, 2011 staff report and attachments are available on the City’s website at: <http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca092011full.pdf#page=17>.

² <http://www.hayward-ca.gov/citygov/meetings/cca/rp/2011/cca092011-P01.pdf>.

Second, staff has removed the recommended amendment to the Cooperation and Funding Agreement from this action. As it is currently written, the Agreement identifies \$30 million in redevelopment projects that should be listed on this year's Agency Statement of Indebtedness (SOI). Any other language changes to the Agreement will need to return to Council at a later date following resolution of the pending Court case in order to take effect.

Lastly, at the recommendation of Council, staff has modified all language in this report and in the resolutions to reflect that ABx1 27 is not a voluntary program as purported by the State. As such, staff has inserted the words "so-called" in the appropriate locations throughout the report and resolutions.

Environmental Review: The actions recommended in this report are exempt under Section 15378(b)(4) of the California Environmental Quality Act ("CEQA") in that the activities are not defined as a "project," but instead are actions required to continue a governmental funding mechanism. The appropriate environmental review shall be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program. A Notice of Exemption may be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

ECONOMIC AND FISCAL IMPACT

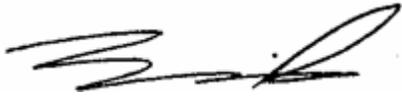
With the approval of the Transfer Payment Agreement, staff will be able to identify the agreement on this year's Redevelopment Agency Statement of Indebtedness (SOI). The intent of this action is to capture the total obligations and indebtedness of the Agency and to record these on the SOI, thereby limiting the future increases in the State remittance payments required under ABx1 27. By limiting these increases, the Agency will have additional tax increment dollars that can be reinvested locally in public improvements, blight elimination, and economic development activities.

NEXT STEPS

If the Agency Board and Council approve this action tonight, staff will proceed to finalize the agreements and the Statement of Indebtedness for submission to the County Auditor. Additionally, following the adoption of the "opt-in" ordinance on August 2, 2011, the Council asked staff to return with a more comprehensive analysis of the Redevelopment Agency budget and scenarios related to securing Agency assets at risk. Staff is currently working on this analysis and plans to return to the Council later this fall for a more comprehensive discussion of this topic. Staff is also monitoring actions at the State legislature as bills to "clean-up" the RDA legislation are introduced and will continue to forward relevant information to the Agency Board and Council as it arises.

Prepared and Recommended by: Kelly McAdoo Morariu, Assistant City Manager/Interim
Redevelopment Agency Director

Approved by:



Fran David, City Manager/Executive Director

Attachments:

Attachment I: City Council Resolution Approving and Authorizing Execution of the
Agency Transfer Payment Agreement with the Redevelopment Agency

Attachment II: Agency Board Resolution Approving and Authorizing Execution of the
Agency Transfer Payment Agreement with the City of Hayward

Attachment III: Transfer Payment Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced By Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
 HAYWARD APPROVING AND AUTHORIZING THE EXECUTION
 OF THE AGENCY TRANSFER PAYMENT AGREEMENT WITH THE
 REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD
 PURSUANT TO PART 1.9 OF THE REDEVELOPMENT LAW

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; the “Redevelopment Law”), the City Council (the “City Council”) of the City of Hayward (the “City”) adopted in accordance with the Redevelopment Law, a redevelopment plan for the Downtown Hayward Redevelopment Project (the “Project Area”) by Ordinance No. 75-029 C.S. on December 30, 1975, as amended by Ordinance No. 86-041 on December 6, 1986, Ordinance No. 87-009 on April 21, 1987, Ordinance No. 92-21 on July 28, 1992, Ordinance No. 94-30 on December 20, 1994, Ordinance No. 98-16 on November 10, 1998, Ordinance No. 01-07 on June 25, 2001, Ordinance No. 04-03 on March 16, 2004, and Ordinance No. 06-10 on May 12, 2006 (collectively, the “Redevelopment Plan”) as amended from time to time; and

WHEREAS, the Redevelopment Agency of the City of Hayward (the “Agency”) is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law; and

WHEREAS, as part of the 2011-2012 State budget bill, ABx1 26 (the “Dissolution Act”) and ABx1 27 (the “so-called” Voluntary Program Act) (collectively, the “Redevelopment Restructuring Acts”) have been enacted to significantly modify the Redevelopment Law generally as follows:

- The Dissolution Act immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 21, 2011; and
- The “so-called” Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law (“Part 1.9”), establishes an alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller (the “Continuation Ordinance”); and

WHEREAS, on August 11, 2011, the California Supreme Court (the “Court”) agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as

modified on August 17, 2011 (the “Stay”), including a stay of the provisions of the “so-called” Voluntary Program Act; and

WHEREAS, the City has enacted the Continuation Ordinance prior to consideration of this Resolution; and

WHEREAS, Section 34194.2 of the California Redevelopment Law authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law to the County Auditor-Controller; and

WHEREAS, for reasons further set forth in the staff report accompanying this Resolution (the “Staff Report”), the City and the Agency desire to enter into an agreement, whereby the Agency will transfer to the City sufficient funds to make the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law, and the City will make the annual remittances to the County Auditor-Controller in satisfaction of the requirements under Chapter 3 of Part 1.9 of the Redevelopment Law (the “Agency Transfer Payment Agreement”); and

WHEREAS, as fully set forth in the Agency Transfer Payment Agreement, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Stay and the Court's determination that the “so-called” Voluntary Program Act is constitutional; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4) the approval of the Agency Transfer Payment Agreement is exempt from the requirements of the California Environmental Quality Act (“CEQA”), in that it is not a project, but instead consists of the creation and continuation of a governmental funding mechanism and does not commit funds to any specific project or program; and

WHEREAS, the City Council has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project, but instead consists of the creation and continuation of a governmental funding mechanism and does not commit funds to any specific project or program. The City Council therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Alameda in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the City Council hereby approves the Agency Transfer Payment Agreement and authorizes the City Manager to execute, on behalf of the City,

the Agency Transfer Payment Agreement, with such revisions thereto as may be approved by the City Attorney.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Agency Transfer Payment Agreement on behalf of the City.

BE IT FURTHER RESOLVED, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Supreme Court's current Stay and the Court's determination that the "so-called" Voluntary Program Act is constitutional.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

The above and foregoing resolution was duly and regularly passed and adopted at a meeting by the City Council on the 27 day of September, 2011 by the following vote:

HAYWARD, CALIFORNIA

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

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA 11-_____

Introduced by Agency Member _____

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY
OF HAYWARD APPROVING AND AUTHORIZING THE
EXECUTION OF THE AGENCY TRANSFER PAYMENT
AGREEMENT WITH THE CITY OF HAYWARD PURSUANT TO
PART 1.9 OF THE REDEVELOPMENT LAW

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; the “Redevelopment Law”), the City Council (the “City Council”) of the City of Hayward (the “City”) adopted in accordance with the Redevelopment Law, a redevelopment plan for the Downtown Hayward Redevelopment Project (the “Project Area”) by Ordinance No. 75-029 C.S. on December 30, 1975, as amended by Ordinance No. 86-041 on December 6, 1986, Ordinance No. 87-009 on April 21, 1987, Ordinance No. 92-21 on July 28, 1992, Ordinance No. 94-30 on December 20, 1994, Ordinance No. 98-16 on November 10, 1998, Ordinance No. 01-07 on June 25, 2001, Ordinance No. 04-03 on March 16, 2004, and Ordinance No. 06-10 on May 12, 2006 (collectively, the “Redevelopment Plan”), as amended from time to time; and

WHEREAS, the Redevelopment Agency of the City of Hayward (the “Agency”) is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law; and

WHEREAS, as part of the 2011-2012 State budget bill, ABx1 26 (the “Dissolution Act”) and ABx1 27 (the “so-called” Voluntary Program Act) (collectively, the “Redevelopment Restructuring Acts”) have been enacted to significantly modify the Redevelopment Law generally as follows:

- The Dissolution Act immediately suspended all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 21, 2011; and
- The “so-called” Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law (“Part 1.9”), establishes an alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller (the “Continuation Ordinance”); and

WHEREAS, on August 11, 2011, the California Supreme Court (the “Court”) agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as

modified on August 17, 2011 (the “Stay”), including a stay of the provisions of the “so-called” Voluntary Program Act; and

WHEREAS, the City has enacted the Continuation Ordinance prior to consideration of this Resolution; and

WHEREAS, Section 34194.2 of the California Redevelopment Law authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law to the County Auditor-Controller; and

WHEREAS, for reasons further set forth in the staff report accompanying this Resolution (the “Staff Report”), the City and the Agency desire to enter into an agreement, whereby the Agency will transfer to the City sufficient funds to make the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law, and the City will make the annual remittances to the County Auditor-Controller in satisfaction of the requirements under Chapter 3 of Part 1.9 of the Redevelopment Law (the “Agency Transfer Payment Agreement”); and

WHEREAS, as fully set forth in the Agency Transfer Payment Agreement, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Stay and the Court's determination that the “so-called” Voluntary Program Act is constitutional; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of the Agency Transfer Payment Agreement is exempt from the requirements of the California Environmental Quality Act (“CEQA”), in that it is not a project, but instead consists of the creation and continuation of a governmental funding mechanism and does not commit funds to any specific project or program; and

WHEREAS, the Agency Board has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Agency Board finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the Agency Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project, but instead consists of the creation and continuation of a governmental funding mechanism and does not commit funds to any specific project or program. The Agency Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Alameda in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the Agency Board hereby approves the Agency Transfer Payment Agreement and authorizes the Agency Executive Director to execute, on

behalf of the Agency, the Agency Transfer Payment Agreement, with such revisions thereto as may be approved by the Agency Counsel.

BE IT FURTHER RESOLVED, that the Agency Board authorizes the Agency's Executive Director to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Agency Transfer Payment Agreement on behalf of the Agency.

BE IT FURTHER RESOLVED, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Supreme Court's current Stay and the Court's determination that the "so-called" Voluntary Program Act is constitutional.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

The above and foregoing resolution was duly and regularly passed and adopted at a meeting by the Agency Board on the 27 day of September, 2011 by the following vote:

HAYWARD, CALIFORNIA

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:
CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST:

Secretary of the Redevelopment Agency of the City
of Hayward

APPROVED AS TO FORM:

General Counsel

AGENCY TRANSFER PAYMENT AGREEMENT

This Agency Transfer Payment Agreement (the “Agreement”), is entered into as of September __, 2011, by and between Redevelopment Agency of the City of Hayward, a public body, corporate and politic (the “Agency”) and the City of Hayward, a municipal corporation (the “City”) with reference to the following facts, understandings and intentions of the parties:

RECITALS

A. Pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the “Redevelopment Law”), the City Council (the “City Council”) of the City adopted Ordinance No. ____ in December 1969 declaring the need for the Agency to function in the City.

B. Also in accordance with the Redevelopment Law, the City Council adopted a redevelopment plan for the Downtown Hayward Redevelopment Project (the “Project Area”) by Ordinance No. 75-029 C.S. on December 30, 1975, as amended by Ordinance No. 86-041 on December 6, 1986, Ordinance No. 87-009 on April 21, 1987, Ordinance No. 92-21 on July 28, 1992, Ordinance No. 94-30 on December 20, 1994, Ordinance No. 98-16 on November 10, 1998, Ordinance No. 01-07 on June 25, 2001, Ordinance No. 04-03 on March 16, 2004, and Ordinance No. 06-10 on May 12, 2006 (collectively, the “Redevelopment Plan”), as amended from time to time, and the Agency is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law.

C. ABx1 26 (the “Dissolution Act”) and ABx1 27 (the “so-called Voluntary Program Act”); and together with the Dissolution Act, the “Redevelopment Restructuring Acts”) have been enacted to significantly modify the Redevelopment Law generally as follows:

1. The Dissolution Act immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011; and

2. The so-called Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law (the “so-called Voluntary Redevelopment Program”), allows a redevelopment agency to avoid dissolution under the Dissolution Act by opting into an alternative redevelopment program requiring specified annual contributions to the State to supplant required funding for local schools and special districts.

D. Specifically, Section 34193(a) of the Redevelopment Law (as added to the Redevelopment Law by the so-called Voluntary Program Act) authorizes the City Council to enact an ordinance to comply with Part 1.9 of the Redevelopment Law, thereby exempting the Agency from the provisions of the Dissolution Act, and enabling the Agency to continue to exist and function under the Redevelopment Law, so long as the City and the Agency comply with the so-called Voluntary Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

E. On August 11, 2011, the California Supreme Court (the “Court”) agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as modified on August 17, 2011 (the “Stay”), including a stay of the provisions of the so-called Voluntary Program Act.

F. Through the adoption and enactment of Ordinance No. 11-08 on August 2, 2011 (the “Continuation Ordinance”), the City Council, pursuant to Section 34193(a) of the Redevelopment Law, has elected to participate for itself and on behalf of the Agency in the so-called Voluntary Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

G. Pursuant to Sections 34193.2(b) and 34195(b) of the Redevelopment Law, the City Council understands that participation in the so-called Voluntary Redevelopment Program requires remittance of certain payments as set forth in Chapter 3 of Part 1.9 of the Redevelopment Law, and also constitutes an agreement on the part of the City, in the event the City fails to make such remittance payments, to assign to the State of California its rights to any payments owed by the Agency, including, but not limited to, payments from loan agreements and this Agreement.

H. Pursuant to Section 34194.2 of the Redevelopment Law, the City and Agency have elected to enter into this Agreement, whereby the Agency agrees to transfer a portion of the Agency's tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law, for purposes of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals.

I. Pursuant to Section 34194.1 of the Redevelopment Law, the City may use any available funds not otherwise obligated for other uses to make the remittances to the County Auditor-Controller required pursuant to Chapter 3 of Part 1.9 of the Redevelopment Law.

J. The purpose of this Agreement is to provide for the transfer of tax increment and other funds from the Agency to the City in the amounts required to make each of the annual remittances mandated under Chapter 3 of Part 1.9 of the Redevelopment Law.

K. The obligations of the Agency under this Agreement constitute an indebtedness of the Agency with respect to the redevelopment project for the Redevelopment Plan within the meaning of Section 16 of Article XVI of the California Constitution.

L. The City Council does not intend, by execution of this Agreement, to waive any rights of appeal regarding the amount of any remittance payments established by the California Department of Finance, as provided in the so-called Voluntary Program Act.

M. Under Title 14 of the California Code of Regulations, Section 15378(b)(4) this Agreement is exempt from the requirements of the California Environmental Quality Act (“CEQA”), in that it is not a project, but instead consists of the creation and continuation of a governmental funding mechanism and does not commit funds to any specific project or program.

N. Accordingly, the parties intend that, while this Agreement will be binding upon the parties as of the date set forth in the opening paragraph, the operation of the terms of this Agreement will be conditioned upon the lifting of the Stay and the Court's determination that the so-called Voluntary Program Act is constitutional.

NOW, THEREFORE, in consideration of the recitals hereof and the mutual promises and covenants set forth in this Agreement, the Agency and the City agree as follows:

ARTICLE 1.
OBLIGATIONS OF THE PARTIES

1.1 General Purpose. To the extent required by law to maintain the existence and powers of the Agency under the Redevelopment Law, and conditioned as further provided in Section 2.9 below, the City and the Agency hereby enter into this Agreement whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount equal to the annual remittances required under Chapter 3 of Part 1.9 of the Redevelopment Law, for the purpose of financing activities within the redevelopment area that are related to accomplishing the Agency's project goals for the Project Area.

1.2 Transfers to City. The Agency shall transfer to the City, in a timely manner, funds from sources described in Section 1.3, in an amount equal to the annual remittances required under Chapter 3 of Part 1.9 of the Redevelopment Law, as such may be adjusted (the "Agency Transfer Payments").

1.3 Source of Agency Transfer Payments. Any combination of the following shall constitute eligible sources for the Agency Transfer Payments:

a. Any tax increment funds allocated to the Agency pursuant to Section 33670 of the Redevelopment Law net of existing debt service payments and existing third-party contractual obligations, and excluding: (1) amounts required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Redevelopment Law; and (2) any funds on deposit in the Agency's Low and Moderate Income Housing Fund;

b. Any other funds previously or subsequently made available to the City by the Agency, including any unencumbered funds previously pledged to the City by the Agency under an agreement for payment of public improvements and other redevelopment activities;

c. Notwithstanding anything to the contrary, for the 2011-2012 fiscal year alone, any portion of the amount of tax increment required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Redevelopment Law for the 2011-2012 fiscal year, to the extent the Agency makes the finding that there are insufficient other funds to meet its debt and other obligations, current priority program needs, or its obligations to provide the Agency Transfer Payments under this Agreement.

1.4 Payment of Remittances by City. Subject to the receipt of sufficient Agency Transfer Payments pursuant to Section 1.2 above, the City shall remit to the County Auditor-Controller the payments required pursuant to Chapter 3 of Part 1.9 of the Redevelopment Law on or before the dates prescribed in Section 34194(d)(1). The City's obligations to make the remittances required hereunder shall be a special limited obligation of the City payable solely from the Agency Transfer Payments provided to the City pursuant to the terms of this Agreement, and such remittances shall be made exclusively from the Agency Transfer Payments or from other funds that become available as a result of the City's receipt of the Agency Transfer Payments. Nothing in this Agreement shall be deemed to be a pledge of the City's General Fund revenues or other assets for the purposes of funding the remittances required by Chapter 3 of Part 1.9 of the Redevelopment Law.

1.5 Subordination. The City shall consider in good faith any request by the Agency to subordinate the City's interest herein and to allow the Agency to pledge all or any portion of the tax increment revenue on a senior pledge basis to secure payments due on future indebtedness pledged with tax increment.

ARTICLE 2. GENERAL PROVISIONS

2.1 No Third Party Beneficiaries. No person or entity other than the Agency and the City and their permitted successors and assigns, shall have any right of action under this Agreement.

2.2 State Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

2.3 Additional Acts. The parties each agree to take such other and additional actions and execute and deliver such other and additional documents as may be reasonably requested by the other party for purposes of implementing the actions contemplated under this Agreement.

2.4 Litigation Regarding Agreement Validity. In the event litigation is initiated attacking the validity of this Agreement, each party shall in good faith, defend and seek to uphold the Agreement.

2.5 Severability. If any provisions of this Agreement, or the application thereof to any person, party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby.

2.6 Entire Agreement; Modification and Amendment. This Agreement contains all of the agreements and understandings of the parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement cannot be amended or modified except by written agreement of the parties.

2.7 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties to this Agreement, whether by agreement or operation of law, and including, without limitation, any successor to the Agency. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

2.8 Time of the Essence. Time is of the essence in the performance of all duties and obligations under this Agreement.

2.9 Binding Effect; Operation of Agreement. This Agreement shall be binding upon the parties as of the date set forth in the opening paragraph of this Agreement. The operation of the terms of this Agreement shall be conditioned upon the lifting of the Stay and the Court's determination that the so-called Voluntary Program Act is constitutional.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth in the opening paragraph of this Agreement.

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

By: _____
Frances David, Executive Director

APPROVED AS TO FORM:

Maureen Conneely, Assistant Agency Counsel

ATTEST: _____
Miriam Lens, Agency Secretary

CITY OF HAYWARD

By: _____
Frances David, City Manager

APPROVED AS TO FORM:

Maureen Conneely, Assistant City Attorney

ATTEST: _____
Miriam Lens, City Clerk

DATE: September 27, 2011 (continued from September 13, 2011)

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Certification of a Supplemental Environmental Impact Report, Adoption of Amendments to the General Plan, and Introduction of Ordinances involving Zoning Reclassifications and Text Changes to the Zoning Ordinance and Related Municipal Code Sections, to Enact and Implement the South Hayward BART/Mission Boulevard Form-Based Code

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) and introduces the attached ordinances (Attachments II and III), incorporating recommendations from the Planning Commission and staff as summarized at the September 13, 2011 public hearing¹; and also, as reflected in revised Attachment III, incorporates Council direction at the September 13, 2011 hearing to prohibit certain uses in the Form-Based Code project area. Adoption of the attached resolution and introduction of the attached two ordinances regarding the South Hayward BART/Mission Boulevard Form-Based Code (Code) and Supplemental Program Environmental Impact Report (SEIR) would:

- Certify the South Hayward BART/Mission Boulevard Form-Based Code Supplemental Program Environmental Impact Report and related Mitigation Monitoring and Reporting Program and Re-adopt a Statement of Overriding Considerations;
- Amend the General Plan Land Use Map to revise all existing designations in the Code project area to the Sustainable Mixed Use, Parks and Recreation, and Public and Quasi-Public designations;
- Approve a General Plan Text Amendment to General Plan Appendix C to allow densities with a Sustainable Mixed Use designation up to 100.0 dwelling units per net acre, versus the currently allowed 55.0 units per net acre, and to Appendix D, the Zoning Consistency Matrix;
- Approve a Zoning Ordinance Text Amendment to include the South Hayward BART/Mission Boulevard Form-Based Code as a new Article 24 to Chapter 10 of the Hayward Municipal Code;
- Approve a Zoning Map Amendment to revise all existing designations in the Project area to be consistent with the Regulating Plan of the South Hayward BART/Mission Boulevard Form-Based Code;

¹The September 13, 2011 staff report and attachments are available on the City's website at: <http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca091311full.pdf#page=84>.

- Repeal the Mission Boulevard Residential (MBR) Zoning District (Hayward Municipal Code Sections 10-1.550 et seq), the Station Area Residential (SAR) Zoning District (Hayward Municipal Code Sections 10-1.650 et seq), the South Hayward BART/Mission Boulevard Special Design Overlay District(SD-6) (Section 10-1.2635 of the Hayward Municipal Code), and amend or repeal associated Off-Street Parking regulations (Hayward Municipal Code Sections 10-2.1000(f), 10-2.204, 10-2.404(a)(b)&(c), 10-2.407(b)&(c), 10-2.417, 10-2.418, and 10-2.419); and
- Repeal the 2006 South Hayward BART/Mission Boulevard Concept Design Plan.

SUMMARY

Based on Council direction on September 13, 2011, staff has revised recommendations regarding liquor stores, dance/nightclubs, check cashing stores, massage parlors, and tattoo parlors by prohibiting them in the Form-Based Code area. Staff is also recommending that tobacco stores be prohibited in the Code area, and is suggesting that Council reconsider outright prohibiting dance/nightclubs, due to the potential that well-managed establishments could contribute to the area by encouraging other desired uses, and allow them with a conditional use permit.

BACKGROUND

As indicated in the September 13, 2011 staff report to City Council, the South Hayward BART/Mission Boulevard Form-Based Code (Code) is intended to replace the zoning and related regulations associated with the approximately 240-acre area along Mission Boulevard and surrounding the South Hayward BART station area east of the BART tracks. City staff has been working on developing the Code since the summer of 2008.

As indicated in the attached draft minutes of the September 13, 2011 Council meeting (Attachment IV), the Council expressed concerns with some of the uses or functions listed as conditional uses in Table 9 of the Code, and directed staff to return to Council with a proposal that essentially prohibits such uses. Those uses included alcohol sales, check cashing & loan stores, dance/nightclubs, massage parlors, pawn shops and tattoo parlors. Staff has also included tobacco sales as a use of concern.

The remainder of this report will focus on issues related to direction Council provided to staff at the September 13 meeting. Background information, discussion and analysis of the Form-Based Code, Program Supplemental Environmental Impact Report and various technical studies can be found in the September 13, 2011 staff report and attachments.

DISCUSSION

Since the September 13 hearing, staff conducted a survey of the Form-Based Code project area and has identified various uses that could be considered nonconforming if revisions to the draft Code are made, as described in this report (see map, Attachment V). As the map indicates, no massage or tattoo parlors, or pawn shops exist in the Code area, and only one check cashing store exists (in the Mission Plaza Center). There are two nightclubs (The Dirty Bird Lounge {29308 Mission Boulevard} and El Paraiso Restaurant and Nightclub {29097 Mission Boulevard}), located generally across from each other on Mission Boulevard near Valle Vista Avenue. The Dirty Bird Lounge is a nonconforming use in that it does not have a conditional use permit, so Council action

would not change its nonconforming status. However, El Paraiso would become a nonconforming use if Council prohibits nightclubs in the Code area, which would prohibit expansion of that facility.

Also, as shown in Attachment V, there are four establishments in the Code area that sell alcohol that would be considered “liquor stores” per the revised Form-Based Code and Zoning Ordinance definitions, in that they are less than 10,000 square feet in gross area and involve alcohol sales that comprise more than 5 percent of their floor area: TNT Liquor & Bait (27575 Mission Boulevard), Quick Service Market (27826 Mission Boulevard), 76 Gas Station (28590 Mission Boulevard), and 7 Star Food & Liquor (29633 Mission Boulevard).

Conditional Use Permit Process - Staff feels it appropriate to provide a summary of the conditional use permit process to Council, given that all uses that were identified as uses of concern in the previous Code version presented to Council on September 13 would require a conditional use permit. In order for a conditional use permit to be approved, the Planning Commission, at a noticed public hearing, would need to make all of the following four findings:

- a. The proposed use is desirable for the public convenience or welfare;
- b. The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- c. The proposed use will not be detrimental to the public health, safety, or general welfare; and
- d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

Additionally, per the City’s Alcohol Beverage Outlet Regulations, the following additional findings are required to be made when approving a conditional use permit for alcohol sales uses:

- a. In making the findings required by Section 10-1.3225 governing conditional use permits, the Planning Director, or the Planning Commission on referral or appeal, shall consider whether the proposed use will result in an undue concentration in the area of establishments dispensing alcoholic beverages.
- b. The Planning Commission, or City Council on referral or appeal, shall also consider whether the proposed use will detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: residential structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses.

Any Planning Commission decision would be appealable to the City Council by any aggrieved party, or could be called up by a Council member for Council consideration at an additional noticed public hearing.

Alcohol Sales – The Form-Based Code defines alcohol sales as those covered by the City’s Alcohol Beverage Outlet regulations in Section 10-1.2735 of the Zoning Ordinance (see Attachment VI). Those include any establishments which sell alcohol for either on-site or off-site consumption, including restaurants that serve alcohol, grocery stores that sell alcohol, and nightclubs. As reflected in the September 13 meeting minutes (Attachment IV), it appears the Council desires to prohibit liquor stores or stand-alone alcohol establishments, but allow stores that sell alcohol, as well as restaurants that do so. Therefore, staff is recommending that liquor stores be defined in the Form-Based Code as, “Any business of less than 10,000 square feet (gross) where more than five

percent of such floor area is for the sale, display, and storage of distilled spirits” and such uses be specifically listed as prohibited in the Code area. This definition differs from the definition in the Zoning Ordinance in that the Zoning Ordinance defines a liquor store as any retail establishment that sells alcohol (including beer and wine) and is less than 10,000 square feet in gross floor area. Staff is recommending a variation to that definition for the Form-Based Code to better define liquor stores and allow smaller markets to sell alcohol, provided such sales comprise a small area (\leq five percent) of the store. The five percent threshold is used in the Zoning Ordinance for larger stores ($>10,000$ square feet), which allows grocery stores, such as Lucky’s and Safeway, to sell alcohol without a conditional use permit. This change would allow smaller retail stores, such as the Nuevo Mercado Mexico market at the southeast corner of Mission Boulevard and Hancock Street, to sell alcohol without a conditional use permit if such sales/storage/display comprises a small portion of the store area. The staff-recommended changes would also allow boutique wine shops or micro-breweries less than 10,000 square feet in size with a conditional use permit.

Regarding the desire to outright prohibit dance/nightclubs, staff believes there is potential to have such facilities be a positive contribution to the Code area, if strictly regulated. Currently, as reflected in City’s Alcohol Beverage Outlet regulations (Attachment VI), new night clubs would only be allowed with a conditional use permit and be required to be located at least 500 feet from any other on-sale or off-sale alcohol related commercial activity, and at least 500 feet from any school, public park, library, playground, recreational center, day care center, or other similar use. An article from May of 2010 in *Night Club and Bar Magazine*, available at <http://www.nightclub.com/bar-management/operations/measuring-nightlife-economy>, identifies challenges and also the potential positive contributions of such uses in three large example cities: San Francisco, Seattle, and New York. A quote from a San Francisco administrator reflects the positive contributions of such establishments: “Our nightlife economy is really important to San Francisco,” says Jocelyn Kane, the commission’s deputy director. “The city is a destination — people drive in from around the Bay Area to party, which is good for the city’s economy,” she explains. However, Ms. Kane also acknowledges in the article that such establishments create concerns with noise, which constantly need to be regulated and which San Francisco’s Entertainment Commission seeks to mediate by involving concerned neighbors and nightclub operators without needing to involve the SF Police Department. There is certainly potential for negative impacts associated with such uses, but there is also the potential for such uses to positively contribute to a vibrant entertainment district or area and therefore, staff recommends that Council reconsider allowing such uses via conditional use permits.

In summary, as reflected in revised Table 9 of the Code (Attachment VII), alcohol sales would be allowed with a conditional use permit, unless such activity is specifically listed as not allowed (liquor stores, dance/nightclubs – per Council’s September 13 direction) or is allowed by the City’s Alcohol Beverage Outlet regulations or the Form-Based Code without a conditional use permit (e.g., full-service restaurants that have at least 60 percent of gross sales from non-alcohol sales; retail stores {including grocery stores} where not more than five percent of such floor area is for the sale, display, and storage of alcoholic beverages). If the Council wishes to allow dance/nightclubs with a conditional use permit per the staff recommendation above, this change could be made as part of the Council motion.

Massage Parlor – Massage parlors, or massage establishments, are regulated by the City’s Massage Permit Ordinance (Chapter 6, Article 10 of the Hayward Municipal Code) and State law. Those provisions provide strict oversight and regulations related to massage therapy and massage

establishments, including requiring a massage establishment permit for such facilities from the Hayward Police Department (HPD), and a massage therapy technician permit from HPD for any persons practicing such massage. The provisions also exclude physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists, or acupuncturists, who are duly licensed to practice their respective professions in the State. Because existing and future residents in and around the Code area may desire such establishments, and because they are strictly regulated, staff is recommending that such establishments, unless allowed by right by State law, be allowed with a conditional use permit, as previously indicated. Such recommendation is reflected in Attachment VII (revised Table 9 of the Code).

Other Uses of Concern – As shown in Attachment VII, and as directed by Council, staff has revised Table 9 to indicate that check cashing & loan stores, pawn shops, and tattoo parlors are not allowed in the Code area. Also, in line with City policy to encourage a healthy active lifestyle and in line with the City’s strong smoking pollution control ordinance, staff has added a new use, tobacco specialty store, as a use that is not allowed, and recommends that a new definition be added to the Code, as follows: “Tobacco Specialty Store: A tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods.”

PUBLIC CONTACT/INPUT

The Council continued the September 13 hearing to September 27, eliminating the legal requirement to notice this hearing. However, staff provided a notice of this hearing that was published in *The Daily Review* on September 24 and sent notices to commercial property owners along Mission Boulevard regarding this hearing item.

NEXT STEPS

Should the City Council adopt the attached resolution and introduce the attached ordinances regarding the South Hayward BART/Mission Boulevard Form-Based Code and Supplemental Program EIR, staff will present the ordinances to Council, along with a revised Code that incorporates Council’s direction, for adoption at the October 11 City Council meeting. Should the Council adopt the ordinances, they would be effective immediately, and the Form-Based Code would be in effect on October 11, 2011. Should Council not accept staff’s recommendations and wish to modify further the attached ordinances and/or resolution, staff will again modify the documents as directed, and present the final resolution, ordinances, and Form-Based Code for adoption on at a later date, depending on the complexity of changes.

Prepared and Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

ATTACHMENTS:

- Attachment I: Draft Resolution regarding Supplemental Program Environmental Impact Report and General Plan Amendment (General Plan Amendment Application No. PL-2011-0195),
- Attachment II: Draft Ordinance Rezoning Certain Property (Zone Change Application No. PL-2011-0196)
- Attachment III: Draft Ordinance Regarding Text Amendment - *Revised* (Text Amendment Application No. PL-2011-0197)
- Attachment IV: Draft minutes of the September 13, 2011 City Council meeting
- Attachment V: Map identifying certain uses in the Form-Based Code area
- Attachment VI: City of Hayward Alcohol Beverage Outlet Regulations
- Attachment VII: Revised Table 9 of the South Hayward BART Form-Based Code

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-_____

RESOLUTION CERTIFYING THE FINAL SUPPLEMENTAL PROGRAM ENVIRONMENTAL IMPACT REPORT, READOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM, REPEALING THE SOUTH HAYWARD BART/MISSION BOULEVARD CONCEPT DESIGN PLAN, ADOPTING THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE, APPROVING THE RELATED GENERAL PLAN AMENDMENTS, ZONING RECLASSIFICATIONS AND TEXT CHANGES FOR THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE AREA

WHEREAS, on December 2, 2008, the City Council/Redevelopment Agency Board authorized the Executive Director of the Redevelopment Agency to enter into a contract with Hall Alminana, Inc. for the preparation of a South Hayward BART/Mission Boulevard Form-Based Code (the "Form-Based Code"), which area is comprised of approximately 240 acres extending both north and south along Mission Boulevard, generally between Harder Road and Industrial Parkway (the "Project Area"); and

WHEREAS, the Form-Based Code was subsequently prepared with extensive community outreach including, but not limited to, a week-long public charrette and the following publicly noticed meetings: January 15, 2009, May 26, 2009, September 29, 2009, September 30 through October 4, 2009, March 2, 2010, April 7, 2010, April 15, 2010, April 27, 2010, May 13, 2010, April 26, 2011 and April 28, 2011. To achieve the goals envisioned by the Form-Based Code, the General Plan and the Planning, Zoning and Subdivision Regulations must be amended to change certain land use designations and sections of text (collectively the "Related Land Use Actions"); and

WHEREAS, the Related Land Use Actions include amendments to the General Plan Land Use Map changing the land use designation for all properties within the Project Area, as set forth in Exhibits "A" and "B", as well as amendments to the text of General Plan Appendices C and D, as set forth in Exhibits "C" and "D" (General Plan Amendment Application No. PL-2011-0195); text changes to the Planning, Zoning and Subdivision Regulations to add the Form-Based Code, text changes to the Zoning Ordinance and Off-Street Parking Regulations to repeal provisions contrary to and in conflict with the Form-Based Code, and rezoning all properties in the Project Area to conform to and adequately implement the proposed amended General Plan (Text Amendment Classification Application No. PL-2011-0196 and Zone Change Application No. PL-2011-0197), all as more specifically set forth in the accompanying Ordinance Nos. 11-_____ and 11-_____ ; and

WHEREAS, a draft and final Supplemental Program Environmental Impact Report

("Supplemental EIR") has been prepared to assess the potential environmental impacts of the proposed Form-Based Code and Related Land Use Actions (collectively the "Project"), describing alternatives to the Form-Based Code and potential feasible mitigation measures. The Supplemental EIR relates to and, as provided for by California Environmental Quality Act (CEQA) Guidelines Section 15163, serves as a supplement to the South Hayward BART/Mission Boulevard Concept Design Plan Program EIR (State Clearinghouse No. 2005092093), certified by the Hayward City Council on June 27, 2006, and the Route 238 Bypass Land Use Study Program EIR, (State Clearinghouse No. 2008072066), certified by the Hayward City Council on June 30, 2009, (collectively these documents referred to herein as the "Previous CEQA Documents"); and

WHEREAS, the Planning Commission has considered the Supplemental EIR and the Project at a public hearing held on June 23, 2011, and has recommended the City Council certify the Supplemental EIR, re-adopt the Statement of Overriding Considerations previously adopted in conjunction with certification of the Previous CEQA Documents, approve the proposed mitigation measures and Mitigation Monitoring and Reporting Program, with such Program attached hereto as Exhibit "F", and to adopt General Plan Amendment Application No. PL-2011-0195, Text Amendment Classification Application No. PL-2011-0196, and Zone Change Application No. PL-2011-0197, that adopt the Form-Based Code; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on September 13 and 27, 2011.

NOW, THEREFORE, the City Council hereby adopts the following findings and actions:

I. Form-Based Code. The purposes of the Form-Based Code, as articulated in Section 10-24.115, include the following:

"Chapter 2 of the Hayward General Plan ("Land Use Element") describes how the City's Planning Area is comprised of certain neighborhoods (see General Plan Figure 2-2), including the Mission/Garin neighborhood, and further designates, among other things, certain significant Focus Areas (see General Plan Figure 2-3) for the implementation of smart growth principles. This Code implements such principles for portions of the South Hayward BART Area and Mission Boulevard Corridor.

This Code carries out the policies of the Hayward General Plan by classifying and regulating the types and intensities of development and land uses within the Code area consistent with, and in furtherance of, the policies and objectives of the General Plan. This Code is adopted to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of the community. More specifically, the purposes of this Code are to ensure:

FOR THE COMMUNITY

a. That neighborhoods and Transit-Oriented Development is compact, pedestrian-oriented

and mixed-use.

- b. That neighborhoods should be the preferred pattern of development and that districts specializing in a single use should be the exception.
- c. That ordinary activities of daily living occur within walking distance of most dwellings, allowing independence to those who do not drive.
- d. That interconnected networks of Thoroughfares be designed to disperse traffic and reduce the length of automobile trips.
- e. That within neighborhoods, a range of housing types and price levels be provided to accommodate diverse ages and incomes.
- f. That affordable housing should be distributed throughout the region to match job opportunities and to avoid concentrations of poverty.
- f. That appropriate building Densities and land uses be provided within walking distance of transit stops.
- g. That Civic, institutional, and Commercial activity should be embedded in neighborhoods, not isolated in remote single-use complexes.
- h. That schools be sized and located to enable children to safely walk or bicycle to them.
- i. That a range of Open Space including Parks, Squares, Plazas and playgrounds be distributed within neighborhoods.
- j. That the region should include a framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile.

FOR THE TRANSECT

- a. That communities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
- b. That the Transect Zone descriptions on Table 1 including, in particular the T-4 General Urban Zone, T-5 Urban Center Zone, and CS Civic Spaces, shall constitute the Intent of this Code with regard to the general character of each of these environments within the Code area.

FOR THE BLOCK AND THE BUILDING

- a. That buildings and landscaping contribute to the physical definition of Thoroughfares as Civic places.

- b. That development adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
- c. That the design of streets and buildings reinforce safe environments, but not at the expense of accessibility.
- d. That architecture and landscape design grow from local climate, topography, history, and building practice.
- e. That buildings provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- f. That Civic Buildings and public gathering places be provided as locations that reinforce community identity and support self-government.
- g. That Civic Buildings be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the city.
- h. That the preservation and renewal of historic buildings be facilitated to affirm the continuity and evolution of society.
- i. That the harmonious and orderly evolution of urban areas be secured through form-based codes.

A. General Plan Amendments. The Project proposes changes to the General Plan Land Use Map, as identified in attached Exhibits "A" and "B", and text changes to General Plan Appendix C (Land Use Map), as identified in attached Exhibit "C", and changes to Appendix D (General Plan and Zoning Consistency Matrix), as identified in Exhibit "D".

B. General Plan Amendments - Findings of Approval.

(1) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The changes proposed to the General Plan text and Land Use Map related to the Form-Based Code will promote the public health, safety and general welfare of the residents of Hayward by preserving and enhancing the aesthetic quality of the City by increasing opportunities for open space and park areas and by allowing for an appropriate mix of land uses and forms in an orderly manner near a transit station and along a transit corridor, consistent with regional and local policies that promote transit-oriented development.

(2) The proposed change is in conformance with the purposes of the General Plan and all applicable, officially adopted policies and plans.

The proposed General Plan amendments related to the Form-Based Code would further the following policies and strategies of the Land Use Chapter of the General Plan, as reflected in the Regulating Plan of the Code and the stated purposes of the Code:

Transit-Oriented Development

- Support higher-intensity and well-designed quality development in areas within ½ mile of transit stations and ¼ mile of major bus routes in order to encourage nonautomotive modes of travel.
 - Encourage mixed-use zoning that supports integrated commercial and residential uses, including live-work spaces, in activity centers and along major transit corridors.
 - Encourage high-density residential development along major arterials and near major activity or transit centers, and explore the establishment of minimum densities in these areas.
 - Consider shared parking arrangements for mixed-use developments within the Downtown area and along major arterials.
 - Encourage design that orients development to the transit station and facilitates the use of transit.

South Hayward BART Station Area

- Seek to integrate greater intensity of development and enhance the surrounding neighborhood within ½ mile of the South Hayward BART Station.
 - Develop a conceptual design plan for the South Hayward BART Station area to determine appropriate land use and infrastructure needs.
 - Create opportunities to integrate mixed-use development in the South Hayward BART Station vicinity to achieve a balance of land uses.
 - Provide park and recreational facilities to support existing and planned residential development.

(3) Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified.

Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified to the recommended General Plan Land Use designations, as required by the mitigation measures of the Supplemental Environmental Impact Report and as indicated by the New Thoroughfare Plan of the Form-Based Code.

(4) All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The Form-Based Code reflects the City's development goals and objectives as articulated in the General Plan, for the reasons identified in the *Purpose* section of the Code. Additionally, the Form-Based Code will promote transit-oriented development in the South Hayward BART/Mission Boulevard transit corridor and thereby help relieve regional automobile congestion and reduce air pollution, and create a distinctively attractive mixed-use area that seeks to integrate a greater intensity of development and enhance the neighborhood surrounding the South Hayward BART Station, including along Mission Boulevard. The Code will locate high-density housing close to the South Hayward BART Station and Mission Boulevard transit corridor and will help the City

accommodate its share of regional housing without expansion into areas that are less suitable for residential development. Additionally, the Form-Based Code will provide opportunities for new commercial development, particularly neighborhood-serving retail development, which will stimulate economic activity and provide benefits for the City and its residents. The Code will also provide opportunity for development of new public facilities, including a new community center and park, as well as opportunity for the expansion of Bowman Elementary School with potential for a joint school-park facility at that site.

C. South Hayward BART/Mission Boulevard Concept Design Plan - Repeal. The Project is intended to replace the South Hayward BART/Mission Boulevard Concept Design Plan (the "Concept Design Plan") in its entirety, including its related components within the Zoning Ordinance and Off-Street Parking Regulations. Therefore, the repeal of the Concept Design Plan and its related components, as described and accomplished through **Ordinance No. _____**, is necessary to prevent, amongst other things, conflicting and contradictory development regulations within the Project Area.

D. Planning, Zoning and Subdivision Regulations - Text Changes. The Form-Based Code is to be included within the Planning, Zoning and Subdivision Regulations, Chapter 10 of the Hayward Municipal Code, as a new Article 24 titled the "South Hayward BART/Mission Boulevard Form-Based Code." All necessary procedural requirements and evaluation standards to be applicable within the Project Area, including the relationship of Article 24 to existing, unaltered Planning, Zoning and Subdivision Regulations, are provided therein.

E. Planning, Zoning and Subdivision Regulations Text Changes and Zoning Ordinance Reclassifications - Findings for Approval. Application of the Form-Based Code to properties requires the reclassification of all properties in the Project area, as described in **Ordinance No. 11-_____**. The proposed text amendments conform to the General Plan, as amended and described above under Section I, Form-Based Code, and reflect the City's development goals and objectives as articulated in the General Plan.

(1) Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The Form-Based Code will promote the public health, safety and general welfare of the residents of Hayward in that opportunities would be created for the development of much-needed housing in close proximity to the South Hayward BART station and along the Mission Boulevard transit corridor, which will promote smart growth principles and non-reliance on automobiles, resulting in less traffic and air pollution. The Code will help preserve and enhance the aesthetic quality of the City by increasing opportunities for open space and park areas and for allowing an appropriate mix of land uses and forms in an orderly manner near a transit station and along a transit corridor, consistent with regional and local policies that promote transit-oriented development.

(2) The proposed change is in conformance with the purposes of the Zoning Ordinance and all applicable, officially adopted policies and plans.

The Form-Based Code conforms to the General Plan, as amended herein, and reflects the City's development goals and objectives as articulated in the General Plan, and as reflected in the stated purpose of the Code reflected in the SUMMARY section of this report. The Code would provide opportunity to integrate greater intensity of development and enhance the neighborhoods surrounding the South Hayward BART station.

(3) Streets and public facilities existing or proposed are adequate to serve all uses permitted when the text amendment and zone classification is adopted.

Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified to the recommended General Plan Land Use designations, as required by the mitigation measures of the Supplemental Environmental Impact Report and as indicated by the New Thoroughfare Plan of the Form-Based Code.

(4) All uses permitted when the text amendment is adopted will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

A beneficial effect will be achieved with the Form-Based Code that is not obtainable under existing regulations because higher-density transit-oriented development around the South Hayward BART Station and along Mission Boulevard would be possible that would result in less traffic than would be generated by more traditional development, due to the proximity of residents to public transit and also because much-needed housing would be provided that would not otherwise be developed.

II. Supplemental EIR. The Previous CEQA Documents evaluated the potentially significant environmental effects associated with land use and development within the Project area under their respective projects. The Supplemental EIR evaluates the potential environmental impacts that might reasonably be anticipated to result from several modifications to the previous projects, as evaluated in their respective Program EIRs. The proposed modifications include: (1) new General Plan and zoning designation changes; (2) mixed-use zoning throughout the Project area; (3) increased residential densities, and (4) increased commercial space.

The Supplemental EIR also evaluates the potential environmental impacts that might reasonably be anticipated to result from the following circumstances that have changed since certification of the Previous CEQA Documents: (1) the Route 238 Corridor Improvement Project has started construction; (2) the South Hayward Mixed Use transit-oriented development project was approved; and (3) the Mission Paradise development project was approved.

The Supplemental EIR also evaluates the potential environmental impacts based on the following new information which has become available after certification of the Previous CEQA Documents: (1) the CEQA Guidelines were amended to include requirements for addressing greenhouse gas emissions and global climate change; and (2) new thresholds and guidelines for determining air quality impacts were approved by the Bay Area Air Quality Management District (BAAQMD).

A. Supplemental EIR - Certification. The City Council has reviewed the documents

comprising the Draft and Final Supplemental Program EIR for the South Hayward BART/Mission Boulevard Form-Based Code and the Related Land Use Actions and hereby finds the Supplemental EIR reflects the independent judgment of the City Council and its staff, and that it is an adequate and extensive assessment of the environmental impacts of the Form-Based Code. Moreover, the City Council finds the Supplemental EIR is in accord with CEQA Guidelines Section 15163(b) in that it contains only the information necessary to make the Previous CEQA Documents adequately apply to the Project in the changed situation described above. Accordingly, the City Council hereby certifies such Supplemental EIR as having been prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA"). The City Council also incorporated by this reference the findings contained in the Supplemental EIR as to the environmental effects of the Form-Based Code, together with the additional findings contained in this Resolution.

B. Supplemental EIR - Consideration of Project Alternatives. The Supplemental EIR evaluated the potentially significant impacts of the Project, acknowledged the six (6) previously considered but ultimately rejected alternatives considered in the Previous CEQA Documents, and determined that, under the current Project, all previously considered alternatives remained feasible. The Supplemental EIR also investigated whether any of the previously considered alternatives would avoid or substantially lessen the environmental effects of the Project, and determined the current Project represents the environmentally superior alternative with the fewest impacts and which would meet the City objectives to the same extent as the project evaluated in the Previous CEQA Documents.

C. Significant Environmental Impacts. The Supplemental EIR indicates that all potentially significant impacts can be avoided or mitigated to the less-than-significant level, but that certain significant impacts associated with the Previous CEQA Documents would remain under the Project. Specifically, the significant impacts relating to cumulative air quality through the generation of ozone precursors which are a constituent of regional air pollution, and cumulative traffic impacts related to regional traffic growth and roadway congestion.

D. Statement of Overriding Considerations. The City of Hayward re-adopts and hereby incorporates by reference the findings related to the Statement of Overriding Considerations contained in Section V of City Council Resolution No. 06-089, more particularly described in Exhibit E attached to this resolution.

III. General Plan Amendment. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the General Plan amendments set forth in Application No. PL-2011-0195 and text amendments to the Planning, Zoning and Subdivision Regulations set forth in Application No. PL-2011-0197, subject to adoption of the companion ordinance.

IV. Concept Design Repeal. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves, in whole, the repeal of the South Hayward BART/Mission Boulevard Concept Design Plan.

V. Planning, Zoning and Subdivision Regulations Amendments. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the Form-Based Code as a new Article 24 to Chapter 10, Planning Zoning, and Subdivision Regulations of the Hayward Municipal Code.

VI. Zoning Ordinance and Off-Street Parking Ordinance Amendments. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the Zoning Ordinance and Off-Street Parking Ordinance text amendments set forth in Application No. PL-2011-0197, subject to adoption of the companion ordinance.

VII. Zoning Ordinance Reclassifications. Based on the foregoing findings, the City Council hereby determines that it is in the public interest and hereby approves and adopts the Zoning Ordinance Reclassifications set forth in Application No. PL-2011-0197, subject to adoption of the companion ordinance.

VIII. Mitigation Measures. The City Council also finds that the proposed mitigations set forth in the Supplemental EIR, including those previously adopted in the Previous CEQA Documents, and the accompanying Mitigation Monitoring and Reporting Program will reduce all the environmental impacts of the Project to a less than significant level. The City Council accordingly approves the mitigation measures and Mitigation Monitoring and Reporting Program, as set forth in Exhibit "F".

IX. Administrative Record. A copy of the Supplemental EIR, Previous CEQA Documents, staff reports and communications to the Planning Commission and City Council are on file in the office of the City Clerk. In addition, other documents comprising the administrative record on this matter are on file in the office of the Development Services Department.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

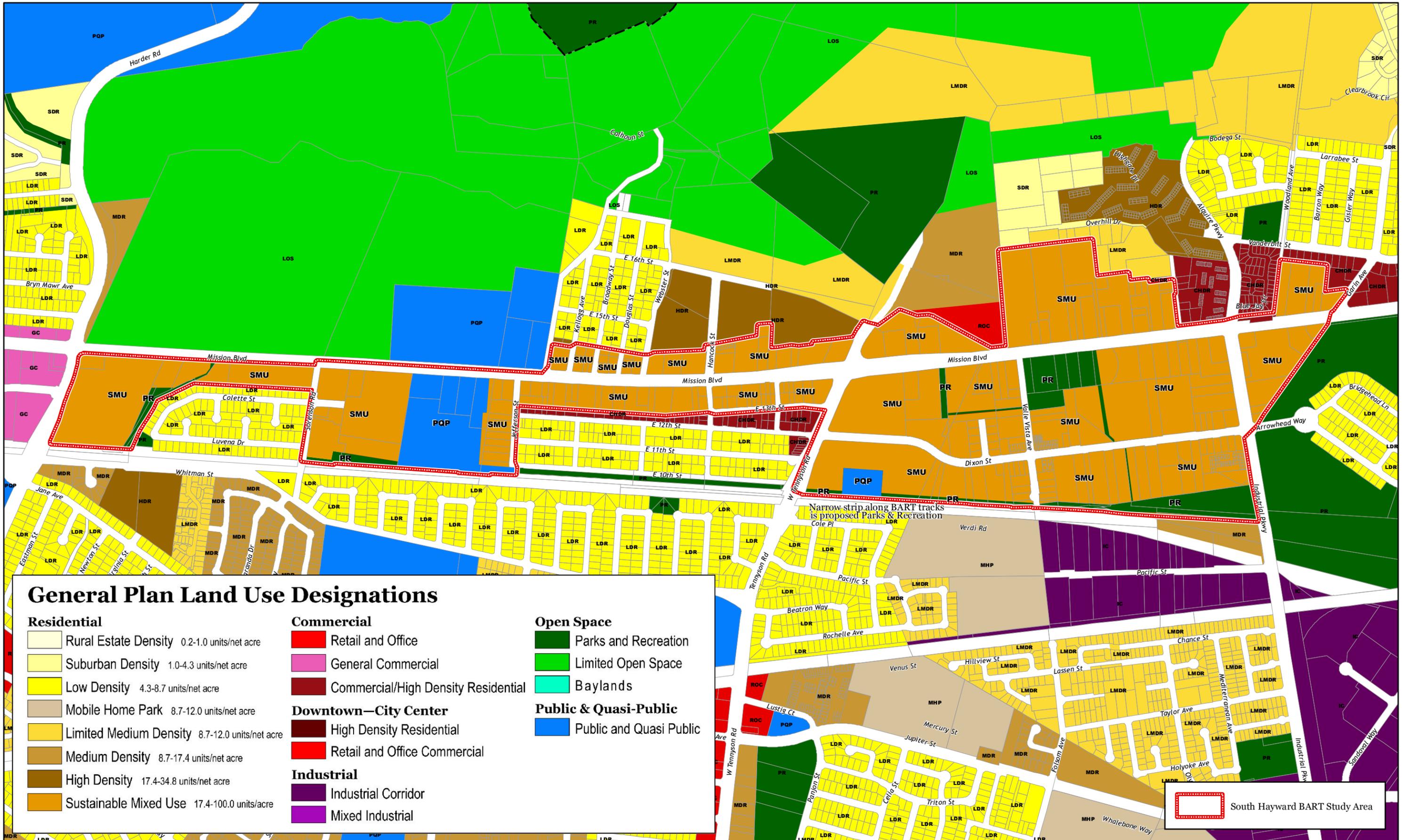
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Proposed General Plan Designations



General Plan Land Use Designations

Residential

- Rural Estate Density 0.2-1.0 units/net acre
- Suburban Density 1.0-4.3 units/net acre
- Low Density 4.3-8.7 units/net acre
- Mobile Home Park 8.7-12.0 units/net acre
- Limited Medium Density 8.7-12.0 units/net acre
- Medium Density 8.7-17.4 units/net acre
- High Density 17.4-34.8 units/net acre
- Sustainable Mixed Use 17.4-100.0 units/acre

Commercial

- Retail and Office
- General Commercial
- Commercial/High Density Residential
- High Density Residential
- Retail and Office Commercial

Industrial

- Industrial Corridor
- Mixed Industrial

Open Space

- Parks and Recreation
- Limited Open Space
- Baylands

Public & Quasi-Public

- Public and Quasi Public

South Hayward BART Study Area

RECOMMENDED GENERAL PLAN LAND USE DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing General Plan Designation	Proposed General Plan Designation	Acres
078C-0435-001-03	VALLE VISTA AVE	HDR	PR	0.002
078C-0626-001-13	MISSION BLVD	CHDR	SMU	0.003
078C-0438-057-00	29300 DIXON ST 312	HDR	SMU	0.004
078C-0438-065-00	29300 DIXON ST 215	HDR	SMU	0.004
078C-0438-052-00	325 VALLE VISTA AVE	HDR	SMU	0.004
078C-0438-050-00	325 VALLE VISTA AVE 210	HDR	SMU	0.004
078C-0438-054-00	29300 DIXON ST 311	HDR	SMU	0.004
078C-0438-061-00	325 VALLE VISTA AVE 114	HDR	SMU	0.004
078C-0438-053-00	325 VALLE VISTA AVE 211	HDR	SMU	0.004
078C-0438-063-00	325 VALLE VISTA AVE	HDR	SMU	0.004
078C-0438-056-00	29300 DIXON ST 212	HDR	SMU	0.004
078C-0438-059-00	325 VALLE VISTA AVE	HDR	SMU	0.004
078C-0438-051-00	325 VALLE VISTA AVE	HDR	SMU	0.004
078C-0438-066-00	325 VALLE VISTA AVE	HDR	SMU	0.004
083-0455-010-01	PACIFIC ST	HDR	PR	0.004
078C-0438-058-00	29300 DIXON ST 113	HDR	SMU	0.005
078C-0438-062-00	29300 DIXON ST 214	HDR	SMU	0.005
078C-0438-064-00	29300 DIXON ST 115	HDR	SMU	0.005
078C-0438-069-00	325 VALLE VISTA AVE	HDR	SMU	0.005
078C-0438-055-00	29300 DIXON ST 112	HDR	SMU	0.005
078C-0438-070-00	325 VALLE VISTA AVE	HDR	SMU	0.005
078C-0438-060-00	325 VALLE VISTA AVE	HDR	SMU	0.005
078C-0438-067-00	29300 DIXON ST 116	HDR	SMU	0.005
078C-0433-009-01	216 VALLE VISTA AVE	HDR	SMU, PR	0.005
078C-0438-068-00	29300 DIXON ST 216	HDR	SMU	0.005
078C-0436-133-00	260 INDUSTRIAL PKWY 24	HDR	SMU	0.006
078C-0436-135-00	260 INDUSTRIAL PKWY 26	HDR	SMU	0.006
078C-0436-134-00	260 INDUSTRIAL PKWY 25	HDR	SMU	0.006
078C-0436-127-00	260 INDUSTRIAL PKWY 18	HDR	SMU	0.007
078C-0436-137-00	260 INDUSTRIAL PKWY 28	HDR	SMU	0.007
078C-0436-131-00	260 INDUSTRIAL PKWY 22	HDR	SMU	0.007
078C-0436-128-00	260 INDUSTRIAL PKWY 19	HDR	SMU	0.007
078C-0436-129-00	260 INDUSTRIAL PKWY 20	HDR	SMU	0.007
078C-0436-136-00	260 INDUSTRIAL PKWY 27	HDR	SMU	0.007
078C-0436-130-00	260 INDUSTRIAL PKWY 21	HDR	SMU	0.008
078C-0438-038-00	29300 DIXON ST 206	HDR	SMU	0.008
078C-0436-132-00	260 INDUSTRIAL PKWY 23	HDR	SMU	0.009
078C-0438-023-00	29300 DIXON ST 201	HDR	SMU	0.009
078C-0438-039-00	325 VALLE VISTA AVE	HDR	SMU	0.009
078C-0438-025-00	325 VALLE VISTA AVE 102	HDR	SMU	0.009
078C-0438-029-00	29300 DIXON ST	HDR	SMU	0.009
078C-0436-126-00	260 INDUSTRIAL PKWY 17	HDR	SMU	0.009
078C-0438-037-00	29300 DIXON ST 106	HDR	SMU	0.009
078C-0438-033-00	29300 DIXON ST 304	HDR	SMU	0.009

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078C-0438-045-00	29300 DIXON ST 308	HDR	SMU	0.009
078C-0438-024-00	29300 DIXON ST 301	HDR	SMU	0.009
078C-0438-049-00	325 VALLE VISTA AVE	HDR	SMU	0.009
078C-0438-036-00	325 VALLE VISTA AVE 305	HDR	SMU	0.010
078C-0455-008-12	MISSION BLVD	HDR	SMU	0.010
078C-0436-145-00	260 INDUSTRIAL PKWY 36	HDR	SMU	0.010
078C-0438-027-00	29300 DIXON ST 302	HDR	SMU	0.010
078C-0438-048-00	29300 DIXON ST 309	HDR	SMU	0.010
078C-0438-032-00	325 VALLE VISTA AVE 204	HDR	SMU	0.010
078C-0438-028-00	325 VALLE VISTA AVE	HDR	SMU	0.010
078C-0438-046-00	325 VALLE VISTA AVE 109	HDR	SMU	0.010
078C-0438-035-00	29300 DIXON ST 205	HDR	SMU	0.010
078C-0438-031-00	325 VALLE VISTA AVE 104	HDR	SMU	0.010
078C-0438-044-00	325 VALLE VISTA AVE	HDR	SMU	0.010
078C-0438-022-00	29300 DIXON ST 101	HDR	SMU	0.010
078C-0438-034-00	29300 DIXON ST 105	HDR	SMU	0.010
078C-0436-144-00	260 INDUSTRIAL PKWY 35	HDR	SMU	0.010
078C-0436-112-00	260 INDUSTRIAL PKWY 3	HDR	SMU	0.010
078C-0438-043-00	29300 DIXON ST 108	HDR	SMU	0.010
078C-0438-026-00	325 VALLE VISTA AVE	HDR	SMU	0.010
078C-0438-042-00	29300 DIXON ST 307	HDR	SMU	0.010
078C-0438-041-00	325 VALLE VISTA AVE 207	HDR	SMU	0.010
078C-0438-030-00	325 VALLE VISTA AVE	HDR	SMU	0.010
078C-0436-140-00	260 INDUSTRIAL PKWY 31	HDR	SMU	0.011
078C-0436-138-00	260 INDUSTRIAL PKWY 29	HDR	SMU	0.011
078C-0436-143-00	260 INDUSTRIAL PKWY 34	HDR	SMU	0.011
078C-0436-117-00	260 INDUSTRIAL PKWY 8	HDR	SMU	0.011
078C-0438-047-00	325 VALLE VISTA AVE	HDR	SMU	0.011
078C-0436-148-00	260 INDUSTRIAL PKWY 39	HDR	SMU	0.011
078C-0436-111-00	260 INDUSTRIAL PKWY 2	HDR	SMU	0.011
078C-0438-040-00	325 VALLE VISTA AVE	HDR	SMU	0.011
452-0056-017-00	SORENSEN RD	CHDR	SMU	0.011
078C-0436-116-00	260 INDUSTRIAL PKWY 7	HDR	SMU	0.011
078C-0436-113-00	260 INDUSTRIAL PKWY 4	HDR	SMU	0.011
078C-0436-141-00	260 INDUSTRIAL PKWY 32	HDR	SMU	0.012
078C-0436-139-00	260 INDUSTRIAL PKWY 30	HDR	SMU	0.012
078C-0436-114-00	260 INDUSTRIAL PKWY 5	HDR	SMU	0.012
078C-0436-142-00	260 INDUSTRIAL PKWY 33	HDR	SMU	0.012
078C-0436-147-00	260 INDUSTRIAL PKWY 38	HDR	SMU	0.012
078C-0436-146-00	260 INDUSTRIAL PKWY 37	HDR	SMU	0.012
078C-0436-123-00	260 INDUSTRIAL PKWY 14	HDR	SMU	0.012
078C-0436-118-00	260 INDUSTRIAL PKWY 9	HDR	SMU	0.012
078C-0436-124-00	260 INDUSTRIAL PKWY 15	HDR	SMU	0.013
078C-0436-122-00	260 INDUSTRIAL PKWY 13	HDR	SMU	0.013

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078C-0436-119-00	260 INDUSTRIAL PKWY 10	HDR	SMU	0.013
078C-0436-121-00	260 INDUSTRIAL PKWY 12	HDR	SMU	0.013
078C-0436-120-00	260 INDUSTRIAL PKWY 11	HDR	SMU	0.013
078C-0626-014-00	813 HANCOCK ST 5	HDR	SMU	0.013
078C-0626-013-00	811 HANCOCK ST	HDR	SMU	0.013
078C-0626-011-00	807 HANCOCK ST	HDR	SMU	0.013
078C-0436-115-00	260 INDUSTRIAL PKWY 6	HDR	SMU	0.013
078C-0436-149-00	260 INDUSTRIAL PKWY 40	HDR	SMU	0.013
078C-0626-012-00	809 HANCOCK ST 3	HDR	SMU	0.013
078C-0436-110-00	260 INDUSTRIAL PKWY 1	HDR	SMU	0.013
078C-0436-125-00	260 INDUSTRIAL PKWY 16	HDR	SMU	0.014
078C-0626-010-00	805 HANCOCK ST	HDR	SMU	0.014
078C-0626-015-00	815 HANCOCK ST	HDR	SMU	0.014
078C-0436-152-00	260 INDUSTRIAL PKWY 43	HDR	SMU	0.014
078C-0436-153-00	260 INDUSTRIAL PKWY 44	HDR	SMU	0.015
078C-0436-155-00	260 INDUSTRIAL PKWY 46	HDR	SMU	0.015
078C-0436-151-00	260 INDUSTRIAL PKWY 42	HDR	SMU	0.015
078C-0436-156-00	260 INDUSTRIAL PKWY 47	HDR	SMU	0.015
078C-0436-154-00	260 INDUSTRIAL PKWY 45	HDR	SMU	0.016
078C-0436-157-00	260 INDUSTRIAL PKWY 48	HDR	SMU	0.016
078C-0436-150-00	260 INDUSTRIAL PKWY 41	HDR	SMU	0.017
078C-0438-071-00	325 VALLE VISTA AVE 217	HDR	SMU	0.018
078C-0438-072-00	29300 DIXON ST 317	HDR	SMU	0.020
078C-0434-021-00	29245 DIXON ST	HDR	SMU	0.022
078C-0434-018-00	29239 DIXON ST	HDR	SMU	0.022
078C-0438-015-01	29553 MISSION BLVD	MBR	SMU	0.026
078C-0440-019-00	29192 DIXON ST	HDR	SMU	0.028
078C-0440-018-00	29190 DIXON ST	HDR	SMU	0.028
078C-0440-020-00	29194 DIXON ST	HDR	SMU	0.028
078C-0440-021-00	29196 DIXON ST	HDR	SMU	0.028
078C-0440-017-00	29188 DIXON ST	HDR	SMU	0.028
078C-0440-022-00	29198 DIXON ST	HDR	SMU	0.028
078C-0434-020-00	29243 DIXON ST	HDR	SMU	0.029
078C-0434-019-00	29241 DIXON ST	HDR	SMU	0.030
083-0455-009-00	PACIFIC ST	HDR	PR	0.037
452-0020-011-00	WHITMAN ST	HDR	PR	0.056
078C-0434-002-01	VALLE VISTA AVE	HDR	SMU	0.060
078C-0644-007-00	27690 MISSION BLVD	HDR	SMU	0.068
078C-0644-006-00	720 BROADWAY ST	HDR	SMU	0.069
078C-0434-002-02	VALLE VISTA AVE	HDR	SMU	0.072
078C-0434-017-03	VALLE VISTA AVE	HDR	PR	0.074
078C-0637-015-00	DOUGLAS ST	HDR	SMU	0.075
078C-0441-001-24	MISSION BLVD	LOS	SMU	0.078
078C-0644-008-00	27654 MISSION BLVD	HDR	SMU	0.079

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452-0084-086-02	28475 MISSION BLVD	CHDR	SMU	0.080
452-0084-075-02	28293 MISSION BLVD	MBR	SMU	0.083
452-0084-088-00	28495 MISSION BLVD	CHDR	SMU	0.083
078C-0434-017-02	VALLE VISTA AVE	HDR	PR	0.084
452-0084-077-00	28368 E 13TH ST	MBR	SMU	0.084
452-0084-087-00	28485 MISSION BLVD	CHDR	SMU	0.084
452-0084-076-02	28390 E 13TH ST	MBR	SMU	0.086
452-0084-098-00	28458 E 13TH ST	CHDR	SMU	0.087
452-0084-079-00	28320 E 13TH ST	MBR	SMU	0.087
452-0084-081-00	28276 E 13TH ST	MBR	SMU	0.088
452-0084-074-00	28285 MISSION BLVD	MBR	SMU	0.088
078C-0637-014-00	737 DOUGLAS ST	HDR	SMU	0.089
452-0084-080-00	28298 E 13TH ST	MBR	SMU	0.092
452-0084-078-00	28348 E 13TH ST	MBR	SMU	0.093
452-0084-084-00	28200 E 13TH ST	MBR	SMU	0.093
452-0084-073-00	MISSION BLVD	MBR	SMU	0.093
078C-0644-010-00	KELLOGG AVE	HDR	SMU	0.095
078C-0433-004-09	292 VALLE VISTA AVE	HDR	SMU	0.101
078C-0433-012-00	VALLE VISTA AVE	HDR	SMU, PR	0.102
078C-0433-004-13	29187 DIXON ST	HDR	SMU	0.115
078C-0433-004-07	29185 DIXON ST	HDR	SMU	0.115
078C-0433-004-11	29183 DIXON ST	HDR	SMU	0.119
078C-0455-007-13	643 GREELEY CT	HDR	SMU	0.121
078C-0440-016-02	29170 DIXON ST	HDR	SMU	0.121
078C-0440-003-06	308 COPPERFIELD AVE	HDR	SMU	0.122
078C-0638-009-00	727 BROADWAY ST	HDR	SMU	0.125
078C-0433-008-03	218 VALLE VISTA AVE	HDR	SMU, PR	0.125
078C-0644-005-00	744 BROADWAY ST	HDR	SMU	0.133
078C-0455-007-06	627 GREELEY CT	HDR	SMU	0.135
452-0068-034-02	27550 E 12TH ST	HDR, CHDR	SMU, CHDR	0.137
452-0080-043-02	28075 MISSION BLVD	HDR	SMU	0.139
452-0068-017-00	27511 MISSION BLVD	HDR	SMU	0.141
078C-0438-001-09	29314 DIXON ST	HDR	SMU	0.142
078C-0440-007-00	316 COPPERFIELD AVE	HDR	SMU	0.143
078C-0434-022-00	DIXON ST	HDR	SMU	0.144
078C-0433-002-08	29175 DIXON ST	HDR	SMU	0.145
078C-0440-014-00	323 COPPERFIELD AVE	HDR	SMU	0.146
078C-0440-010-00	338 COPPERFIELD AVE	HDR	SMU	0.147
078C-0434-006-06	29213 DIXON ST	HDR	SMU	0.147
078C-0638-010-00	743 BROADWAY ST	LDR	SMU, LDR	0.147
078C-0440-009-00	332 COPPERFIELD AVE	HDR	SMU	0.148
078C-0440-008-00	324 COPPERFIELD AVE	HDR	SMU	0.148
078C-0440-012-00	339 COPPERFIELD AVE	HDR	SMU	0.149
078C-0455-007-14	635 GREELEY CT	HDR	SMU	0.149

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078C-0440-013-00	331 COPPERFIELD AVE	HDR	SMU	0.149
078C-0637-013-01	27820 MISSION BLVD	HDR	SMU	0.149
078C-0440-015-00	315 COPPERFIELD AVE	HDR	SMU	0.150
078C-0455-001-05	648 OVERHILL DR	HDR	SMU	0.153
078C-0644-011-00	KELLOGG AVE	HDR	SMU	0.154
078C-0434-003-02	227 VALLE VISTA AVE	HDR	SMU	0.159
452-0084-089-00	28521 MISSION BLVD	CHDR	SMU	0.162
078C-0437-002-02	29660 DIXON ST	HDR	SMU	0.164
078C-0455-008-06	657 OVERHILL DR	HDR	SMU	0.165
078C-0434-004-02	231 VALLE VISTA AVE	HDR	SMU	0.165
452-0084-097-00	28470 E 13TH ST	CHDR	SMU	0.167
452-0084-099-02	28406 E 13TH ST	CHDR	SMU	0.169
078C-0644-009-00	27630 MISSION BLVD	HDR	SMU	0.169
452-0068-020-03	27651 MISSION BLVD	HDR	SMU	0.170
452-0068-020-04	27641 MISSION BLVD	HDR	SMU	0.172
078C-0455-007-16	GREELEY CT	HDR	SMU	0.173
452-0084-090-00	28529 MISSION BLVD	CHDR	SMU	0.174
078G-2651-013-00	339 INDUSTRIAL PKWY	ROC	SMU	0.175
078C-0447-005-00	398 VALLE VISTA AVE	ROC	SMU	0.176
452-0084-096-00	28538 E 13TH ST	CHDR	SMU	0.177
078C-0638-004-00	744 DOUGLAS ST	LDR	SMU, LDR	0.177
078C-0436-004-02	29683 DIXON ST	HDR	SMU	0.178
452-0084-085-02	28200 E 13TH ST	MBR	SMU	0.178
452-0084-083-00	28202 E 13TH ST	MBR	SMU	0.181
078C-0437-003-09	29668 DIXON ST	HDR	SMU	0.181
078C-0436-002-02	29659 DIXON ST	HDR	SMU	0.183
078C-0436-006-02	29695 DIXON ST	HDR	SMU	0.183
078C-0437-001-02	29642 DIXON ST	HDR	SMU	0.183
078C-0626-002-03	MISSION BLVD	HDR	SMU	0.184
078C-0436-003-02	29667 DIXON ST	HDR	SMU	0.184
078C-0436-008-03	29697 DIXON ST	HDR	SMU	0.186
452-0084-082-00	28240 E 13TH ST	MBR	SMU	0.187
078C-0436-005-02	29689 DIXON ST	HDR	SMU	0.188
078C-0638-007-01	27702 MISSION BLVD	HDR	SMU	0.189
078C-0434-005-02	241 VALLE VISTA AVE	HDR	SMU	0.190
078C-0440-001-02	29018 DIXON ST	HDR	SMU	0.195
078C-0433-007-04	224 VALLE VISTA AVE	HDR	SMU	0.202
078C-0626-003-23	28546 MISSION BLVD	ROC	SMU	0.215
078C-0433-006-02	232 VALLE VISTA AVE	HDR	SMU	0.215
078C-0638-005-01	DOUGLAS ST	HDR	SMU	0.221
452-0068-010-00	604 JEFFERSON ST	CHDR	SMU	0.223
452-0056-002-01	677 SORENSON RD	CHDR	SMU	0.224
078C-0626-016-00	813 HANCOCK ST	HDR	SMU	0.227
452-0068-018-00	27541 MISSION BLVD	HDR	SMU	0.227

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078C-0455-006-08	29426 MISSION BLVD	ROC	SMU	0.229
452-0068-022-00	27703 MISSION BLVD	HDR	SMU	0.230
452-0080-042-00	28049 MISSION BLVD	HDR	SMU	0.232
452-0068-009-00	592 JEFFERSON ST	MDR	SMU	0.234
078C-0455-006-03	29404 MISSION BLVD	ROC	SMU	0.235
078C-0440-004-02	29182 DIXON ST	HDR	SMU	0.235
452-0068-008-00	586 JEFFERSON ST	MDR	SMU	0.240
078C-0434-006-04	249 VALLE VISTA AVE	HDR	SMU	0.244
078G-2651-011-02	411 INDUSTRIAL PKWY	ROC	SMU	0.246
452-0068-014-02	27451 MISSION BLVD	CHDR	SMU	0.249
452-0080-037-00	27931 MISSION BLVD	HDR	SMU	0.249
078C-0434-016-02	VALLE VISTA AVE	HDR	PR	0.251
452-0020-006-10	MISSION BLVD	HDR	SMU, PR	0.257
078C-0440-023-00	VALLE VISTA AVE	HDR	SMU	0.265
078C-0637-011-02	27826 MISSION BLVD	HDR	SMU	0.266
452-0084-069-02	28105 MISSION BLVD	MBR	SMU	0.271
452-0084-070-01	28149 MISSION BLVD	MBR	SMU	0.273
452-0068-004-02	542 JEFFERSON ST	MDR	SMU	0.273
078G-2651-008-00	29875 MISSION BLVD	ROC	SMU	0.277
452-0080-045-01	650 HANCOCK ST	HDR, CHDR	SMU, CHDR	0.283
452-0068-016-01	27467 MISSION BLVD	CHDR	SMU	0.285
452-0068-031-01	27580 E 12TH ST	HDR, CHDR	SMU, CHDR	0.290
452-0068-005-02	556 JEFFERSON ST	MDR	SMU	0.292
452-0068-007-01	574 JEFFERSON ST	MDR	SMU	0.300
452-0068-013-00	629 JEFFERSON ST	CHDR	SMU	0.312
078C-0455-001-03	29272 MISSION BLVD	HDR	SMU	0.318
452-0068-112-00	27369 MISSION BLVD	CHDR	SMU	0.320
083-0251-085-02	29862 MISSION BLVD	ROC	SMU	0.333
078C-0433-005-02	240 VALLE VISTA AVE	HDR	SMU	0.337
452-0084-072-00	28257 MISSION BLVD	MBR	SMU	0.344
078C-0437-003-07	29686 DIXON ST	HDR	SMU	0.351
078C-0438-003-02	349 VALLE VISTA AVE	HDR	SMU	0.352
452-0068-024-05	27915 MISSION BLVD	HDR	SMU	0.356
078C-0438-004-02	363 VALLE VISTA AVE	MBR	SMU	0.368
078C-0432-002-07	29017 DIXON ST	HDR	SMU, PR	0.376
078C-0447-007-06	378 VALLE VISTA AVE	ROC	SMU, PR	0.379
452-0068-111-00	27423 MISSION BLVD	CHDR	SMU	0.381
078C-0432-006-06	29061 DIXON ST	HDR	SMU, PR	0.384
452-0068-002-01	532 JEFFERSON ST	MDR	SMU	0.385
078C-0455-001-07	29290 MISSION BLVD	HDR	SMU	0.394
078C-0437-003-05	328 INDUSTRIAL PKWY	HDR	SMU	0.396
078G-2651-009-02	29705 MISSION BLVD	ROC	SMU	0.404
078C-0447-006-02	380 VALLE VISTA AVE	ROC	SMU	0.412
078C-0434-012-06	29367 DIXON ST	HDR	SMU	0.414

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452-0056-015-00	26825 COLETTE ST	CHDR	SMU	0.428
078C-0436-001-15	29615 DIXON ST	HDR	SMU	0.436
078C-0455-007-04	29444 MISSION BLVD	HDR	SMU	0.436
078C-0447-003-01	29115 MISSION BLVD	ROC	SMU	0.436
078C-0438-006-00	29213 MISSION BLVD	PR	PR	0.438
078C-0436-010-04	INDUSTRIAL PKWY	HDR	SMU	0.439
078C-0433-003-06	DIXON ST	HDR	SMU, PR	0.441
078C-0447-003-02	29131 MISSION BLVD	ROC	SMU	0.446
452-0068-019-00	27575 MISSION BLVD	HDR	SMU	0.447
452-0068-023-00	27787 MISSION BLVD	HDR	SMU	0.458
452-0068-024-03	27795 MISSION BLVD	HDR	SMU	0.459
083-0251-084-00	29874 MISSION BLVD	ROC	SMU	0.463
078C-0626-003-12	28534 MISSION BLVD	ROC	SMU	0.467
078C-0455-003-00	29350 MISSION BLVD	HDR	SMU	0.469
078C-0455-002-00	29338 MISSION BLVD	HDR	SMU	0.469
078C-0626-006-01	28000 MISSION BLVD	CHDR	SMU	0.487
452-0020-010-02	MISSION BLVD	HDR	SMU, PR	0.507
452-0020-004-03	26135 MISSION BLVD	GC	SMU	0.515
452-0068-011-02	620 JEFFERSON ST	CHDR	SMU	0.517
078C-0441-001-23	MISSION BLVD	LOS	LOS	0.521
078C-0455-007-15	619 GREELEY CT	HDR	SMU	0.526
078C-0438-015-02	29553 MISSION BLVD	MBR	SMU	0.527
078C-0450-001-02	29583 MISSION BLVD	MBR	SMU	0.536
452-0068-095-03	520 JEFFERSON ST	PQP	PQP, SMU	0.557
078C-0447-004-00	29159 MISSION BLVD	ROC	SMU	0.565
078C-0432-013-01	29009 DIXON ST	HDR	SMU, PR	0.573
078C-0626-002-04	28244 MISSION BLVD	HDR	SMU	0.573
078C-0455-005-02	29380 MISSION BLVD	HDR	SMU	0.584
452-0068-024-06	27823 MISSION BLVD	HDR	SMU	0.587
078C-0626-007-03	28030 MISSION BLVD	CHDR	SMU	0.605
078C-0645-013-03	27572 MISSION BLVD	HDR	SMU	0.613
078C-0438-014-00	29547 MISSION BLVD	MBR	SMU	0.623
078C-0437-008-02	390 INDUSTRIAL PKWY	HDR	SMU	0.625
078C-0626-001-15	28150 MISSION BLVD	CHDR	SMU	0.626
452-0056-003-00	26801 MISSION BLVD	ROC	SMU	0.645
452-0084-095-05	650 TENNYSON RD	CHDR	SMU	0.653
078C-0441-001-16	28901 MISSION BLVD	SAR	SMU	0.676
452-0020-008-00	26359 MISSION BLVD	HDR	SMU	0.677
078C-0438-008-00	MISSION BLVD	PR	PR	0.677
078C-0455-008-11	29498 MISSION BLVD	HDR	SMU	0.682
078C-0438-009-00	29335 MISSION BLVD	PR	PR	0.691
078C-0450-003-08	29671 MISSION BLVD	CHDR	SMU	0.696
083-0455-010-02	PACIFIC ST	HDR	PR	0.696
078C-0447-002-01	29097 MISSION BLVD	ROC	SMU	0.701

RECOMMENDED GENERAL PLAN LAND USE DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing General Plan Designation	Proposed General Plan Designation	Acres
078C-0436-001-06	29633 DIXON ST	HDR	SMU	0.718
078C-0436-001-07	29629 DIXON ST	HDR	SMU	0.719
078C-0626-003-25	28590 MISSION BLVD	ROC	SMU	0.729
078C-0450-006-10	418 INDUSTRIAL PKWY	HDR	SMU	0.740
078C-0435-005-02	29571 DIXON ST	HDR	SMU	0.757
083-0460-011-00	INDUSTRIAL PKWY	HDR	PR	0.762
078C-0436-010-03	INDUSTRIAL PKWY	HDR	SMU	0.763
078C-0455-006-01	29414 MISSION BLVD	ROC	SMU	0.771
078C-0433-001-06	29125 DIXON ST	HDR	SMU, PR	0.785
078C-0435-001-04	29397 DIXON ST	HDR	SMU	0.786
452-0080-038-03	27955 MISSION BLVD	HDR, CHDR	SMU, CHDR	0.799
083-0251-086-04	29800 WOODLAND AVE	ROC	SMU	0.802
083-0251-085-04	29824 MISSION BLVD	ROC	SMU	0.806
078G-2651-010-03	29851 MISSION BLVD	ROC	SMU	0.810
078C-0626-009-01	28090 MISSION BLVD	CHDR	SMU	0.811
078C-0435-002-01	DIXON ST	HDR	SMU, PR	0.812
452-0080-039-02	28001 MISSION BLVD	HDR	SMU	0.833
078C-0434-011-11	29359 DIXON ST	HDR	SMU	0.835
078C-0438-013-06	29497 MISSION BLVD	MBR	SMU	0.837
078C-0436-158-00	260 INDUSTRIAL PKWY	HDR	SMU	0.842
078C-0438-012-00	29479 MISSION BLVD	MBR	SMU	0.846
078C-0438-010-00	29339 MISSION BLVD	PR	PR	0.852
078C-0461-005-00	28722 MISSION BLVD	ROC	SMU	0.869
078C-0461-004-00	28700 MISSION BLVD	ROC	SMU	0.894
078C-0440-006-02	350 VALLE VISTA AVE	HDR	SMU	0.901
078C-0461-007-00	28870 MISSION BLVD	HDR	SMU	0.911
078C-0626-003-26	28564 MISSION BLVD	ROC	SMU	0.922
078C-0438-019-04	29360 DIXON ST	HDR	SMU	0.923
078C-0435-003-02	29495 DIXON ST	HDR	SMU	0.926
078C-0455-004-00	29362 MISSION BLVD	HDR	SMU	0.936
452-0068-030-01	27695 MISSION BLVD	HDR, CHDR	SMU, CHDR	0.937
078C-0455-008-13	29490 MISSION BLVD	HDR	SMU	0.942
452-0020-007-06	26295 MISSION BLVD	HDR	SMU, PR	0.981
078C-0438-018-02	29536 DIXON ST	HDR	SMU	0.987
078C-0435-006-00	29599 DIXON ST	HDR	SMU	0.987
078C-0438-005-00	381 VALLE VISTA AVE	PR	PR	0.992
078C-0438-020-00	29324 DIXON ST	HDR	SMU	1.002
452-0056-007-00	27177 MISSION BLVD	PQP	PQP	1.005
078C-0435-004-02	29529 DIXON ST	HDR	SMU	1.014
452-0056-006-00	27151 MISSION BLVD	PQP	PQP	1.015
452-0020-006-11	26253 MISSION BLVD	HDR	SMU, PR	1.043
078C-0433-002-10	29163 DIXON ST	HDR	SMU, PR	1.045
078C-0435-002-04	29405 DIXON ST	HDR	SMU	1.059
078C-0440-002-06	29034 DIXON ST	HDR	SMU	1.112

RECOMMENDED GENERAL PLAN LAND USE DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing General Plan Designation	Proposed General Plan Designation	Acres
078C-0450-008-03	422 INDUSTRIAL PKWY	CHDR	SMU	1.126
078C-0438-073-00	325 VALLE VISTA AVE	HDR	SMU	1.132
078C-0437-007-03	338 INDUSTRIAL PKWY	HDR	SMU	1.177
078C-0626-001-20	28168 MISSION BLVD	HDR	SMU	1.212
452-0056-005-00	27143 MISSION BLVD	PQP	PQP	1.223
078G-2651-014-00	375 INDUSTRIAL PKWY	ROC	SMU	1.230
078C-0438-011-01	MISSION BLVD	MBR, PR	SMU, PR	1.262
078C-0461-006-04	28824 MISSION BLVD	ROC	SMU	1.331
078C-0438-011-02	29459 MISSION BLVD	MBR	SMU	1.339
078C-0432-005-08	29039 DIXON ST	HDR	SMU, PR	1.357
078C-0434-015-05	29371 DIXON ST	HDR	SMU	1.359
078C-0438-007-00	29263 MISSION BLVD	PQP	PR	1.383
078C-0441-001-28	TENNYSON RD	SAR	SMU	1.442
452-0056-008-00	27283 MISSION BLVD	PQP	PQP, SMU	1.457
452-0056-001-15	26781 MISSION BLVD	CHDR	SMU	1.500
078C-0434-009-08	29289 DIXON ST	HDR	SMU	1.576
083-0251-086-06	29824 MISSION BLVD	ROC	SMU	1.592
078C-0461-009-01	28900 MISSION BLVD	HDR	SMU	1.594
078C-0441-001-25	28955 MISSION BLVD	CHDR	SMU, PR	1.751
078C-0447-002-02	29083 MISSION BLVD	ROC	SMU, PR	1.795
078C-0455-006-07	29438 MISSION BLVD	ROC	SMU	1.917
452-0056-014-00	605 SORENSON RD	LDR	SMU, PR	2.102
078C-0441-001-17	28937 MISSION BLVD	SAR	SMU	2.201
452-0056-013-00	26869 MISSION BLVD	ROC	SMU, PR	2.268
078C-0455-005-01	29390 MISSION BLVD	HDR	SMU	2.451
452-0036-030-05	26601 MISSION BLVD	HDR, CHDR	SMU	2.697
078C-0438-016-05	29596 DIXON ST	HDR	SMU	3.090
083-0460-006-03	INDUSTRIAL PKWY	HDR	PR	3.373
078G-2651-012-08	INDUSTRIAL PKWY	ROC	SMU	3.424
078C-0455-001-08	29312 MISSION BLVD	HDR	SMU	4.154
078C-0455-001-04	29212 MISSION BLVD	HDR	SMU	4.656
078C-0438-019-01	DIXON ST	MBR, PR	SMU, PR	5.854
078C-0441-001-20	655 W TENNYSON RD	CHDR	SMU	6.230
452-0056-016-00	26953 MISSION BLVD	ROC	SMU	6.273
078C-0626-003-24	28472 MISSION BLVD	HDR	SMU, HDR	6.459
452-0056-009-02	MISSION BLVD	PQP	PQP, SMU	7.808
078C-0441-001-29	DIXON ST	PQP, SAR	SMU, PQP, PR	9.805
452-0020-009-01	26231 MISSION BLVD	GC	SMU	10.477

Mobile Home Park. Typical density is between 8.7-12.0 dwelling units per acre. This designation covers all mobile home parks and development is limited to mobile home parks.

High Density. Typical density is between 17.4-34.8 dwelling units per net acre. Typical development includes apartments or condominiums within multi-story buildings near major activity centers or along major arterials. Planned Developments may include a variety of housing types within the overall density range.

Downtown-City Center Area. Residential densities range from 40-110 dwelling units per net acre, although the highest densities are reserved for specific areas (see Downtown Hayward Design Plan). Typical development throughout the remaining area will be 3-5 story apartments or condominiums.

Mission Boulevard Residential. Residential densities range from 34.8-55.0 dwelling units per net acre. Typical developments include condominiums or apartments within multi-story buildings along Mission Boulevard in the vicinity of the South Hayward BART Station. To facilitate transit-oriented development along a major transit corridor, developments are required to meet minimum densities.

Station Area Residential. Residential densities range from 75.0-100.0 dwelling units per net acre. Typical developments include condominiums or apartments over ground-floor neighborhood serving retail uses within multi-story buildings in proximity to the South Hayward BART Station. To facilitate transit-oriented development near the South Hayward BART Station, developments are required to meet minimum densities.

Sustainable Mixed Use. Mixed Use Developments may include residential with retail and/or office/commercial uses, or educational and cultural facilities with public open space. Residential densities range from 25.0 – 100.0 dwelling units per net acre for mixed use projects that include a residential component. This land use designation is located along major transit corridors, near transit stations or in close proximity to public higher educational facilities or large employment centers. To facilitate transit-oriented development in these areas, developments will have reduced parking requirements. Neighborhood serving retail uses are highly recommended for residential component mixed use projects to reduce car trips.

Commercial

Retail and Office Commercial. These areas include the regional shopping center (Southland), community shopping centers, concentrations of offices and professional services, and portions of the downtown area and South Hayward BART Station area where mixed retail and office uses are encouraged. Not shown are neighborhood convenience centers that support and are compatible with residential areas.

General Commercial. These areas include concentrations of special uses which are automobile-oriented in terms of product or access, such as automobile sales and service, building supplies, home furnishings etc. Clustering of these uses along major arterials is appropriate where direct access and adequate parking are provided.

Commercial/High-Density Residential. These areas may include Retail and Office or General Commercial uses. Certain areas along major arterials or at key intersections may be appropriate for high-density residential use or mixed commercial/residential use. Development proposals

**Statement of Overriding Considerations Associated with the
South Hayward BART/Mission Boulevard Form-Based Code (Form-Based Code)
Supplemental Program Environmental Impact Report (SEIR)**

1. The City of Hayward adopts and makes this statement of overriding considerations related to adoption of the South Hayward BART/Mission Boulevard Form-Based Code and associated amendments to the General Plan and Zoning Ordinance, and the previously determined unavoidable and significant impacts related to air quality and regional traffic, in order to explain why the benefits of implementing the project override and outweigh such impacts.
2. The Form-Based Code project would not result in any new significant and unavoidable impacts, nor result in a substantial increase the severity of previously identified significant and unavoidable impacts in the previously certified 2006 Concept Design Plan Program EIR (SCH No. 2005092093) and the previously certified 2009 238 Bypass Land Use Study Program EIR (SCH No. 2008072066).
3. The mitigations set forth in the SEIR for the Form-Based Code and the accompanying Mitigation Monitoring and Reporting Program (MMRP), and the mitigations set forth in the certified 2006 Concept Design Plan Program EIR (SCH No. 2005092093) and the certified 2009 Route 238 Bypass Land Use Study Program EIR (SCH No. 2008072066) will reduce all of the environmental impacts of the Form-Based Code project to an insignificant level, with the exception of the impacts previously identified in those EIRs as follows:

2006 Concept Design Plan Program EIR

- Air Quality – Inconsistency with Air Quality Plan (Impact 4.2-1)
- Air Quality – Cumulative Air Quality Impacts (Impact 4.2-2)
- Traffic – Cumulative Traffic Impacts (Impact 4.7-4)

2009 Route 238 Bypass Land Use Study Program EIR

- Traffic – Cumulative Traffic Impacts (Impact 4.11-1)

This EIR identified one significant and unavoidable impact, which would be a ten second increase in vehicular delay in the PM peak hour at the intersection of Foothill Boulevard and D Street (Impact 4.11-1). Due to existing physical constraints at this intersection, roadway improvements to increase vehicular capacity were deemed not feasible and therefore, no mitigation was identified to reduce this significant and unavoidable impact. However, the land use alternative adopted by the City of Hayward for the Route 238 Bypass Land Use Study project resulted in reduced delays at this intersection and a less-than-significant impact, rather than a significant and unavoidable impact. Accordingly, a statement of overriding considerations was not adopted for the adopted land use alternative adopted per the Route 238 Bypass Land Use Study project.

4. In compliance with CEQA Guidelines §15093, the City of Hayward hereby makes findings that acknowledge the continued presence of previously determined significant and unavoidable impacts and hereby readopts the previous statement of overriding

considerations for those previously determined significant and unavoidable impacts that would remain under the Form-Based Code Project, as revised from those projects analyzed in the two previous certified EIRs referenced above.

5. The City of Hayward adopts and makes this Statement of Overriding Considerations related to the adoption of the South Hayward BART/Mission Boulevard Form-Based Code and related land use actions and unavoidable and significant impacts relates to air quality and regional traffic referenced above, in order to explain why the benefits of implemented the Code override and outweigh such impacts.

Adoption and implementation of the Form-Based Code and related land use actions will provide substantial benefits to the City by providing for much needed housing in the City, some of which would be affordable in accordance with the City's Inclusionary Zoning Ordinance and redevelopment area provisions, and assisting the City in meeting quantified housing objectives contained in the Housing Element of the General Plan, without substantially impacting local traffic patterns compared with traditional development trends. In addition, the Form-Based Code project promotes the conversion of older commercial uses and areas that are no longer economically feasible to a state-of-the-art, urban-scale mixed-use neighborhood and will help create a vibrant livable neighborhood with high-quality, safe, and well-used public spaces. The Form-Based Code project will also provide opportunities for intensified land uses to encourage the development of a transit-friendly, smart-growth area near an existing BART station, consistent with regional planning objectives and encourage highest intensity residential uses and essential community services within a short walking distance of an existing BART station, which will lessen reliance on the automobile and reduce traffic and congestion and air pollution. Additionally, the Form-Based Code project will increase local jobs and economic return to the City and provide landowners with incentives to remediate soil and groundwater contamination conditions, as well as offer dedication of new thoroughfares, which will reduce block sizes that will encourage pedestrian movement. The Form-Based Code project will also provide economic incentives to provide missing public infrastructure, improvements and upgrade older facilities and provide opportunity for the development of new public facilities, including a community center and the expansion of Bowman School. Finally, the Form-Based Code project will encourage coordinated development that enhances existing neighborhoods, promotes design that relates to existing neighborhoods through building height, setbacks and massing that steps down to transition to existing buildings and encourages development is oriented toward the street and scaled to the pedestrian.

For all the foregoing reasons, the City of Hayward finds that the significant and unavoidable impacts identified in the previously certified 2006 Concept Design Plan Program EIR (SCH No. 2005092093) and the previously certified 2009 Route 238 Bypass Land Use Study Program EIR (SCH No. 2008072066), are outweighed by the benefits identified above and therefore, readopts the statement of overriding considerations associated with the Concept Design Plan EIR, which is attached hereto.

The City of Hayward adopts and makes this statement of overriding considerations related to adoption of the South Hayward BART/Mission Boulevard Concept Design Plan and associated amendments to the General Plan and Zoning Ordinance, and the resulting unavoidable and significant impacts related to air quality and regional traffic, in order to explain why the benefits of implementing the project override and outweigh such impacts.

Significant and Unavoidable Impacts

Inconsistency with an Air Quality Plan (Impact 4.2-1): Each of the three proposed concept plan alternatives would generate additional population in the City of Hayward that would exceed population projections contained in the regional Clean Air Plan.

As noted in the DEIR, however, such impact would be temporary and would be eliminated once the Association of Bay Area Governments (ABAG) recognizes amendments to the Hayward General Plan related to this project, and incorporates the anticipated additional population in its next round of projections.

Cumulative Air Quality Impacts (Impact 4.2-2): Each of the three proposed concept plan alternatives would result in the generation of significant quantities of ozone precursors which are a constituent of regional air pollution.

Cumulative Traffic Impacts (Impact 4.7-4): Some roadways in the Hayward area will continue to operate at less than acceptable levels. Therefore, cumulative traffic impacts anticipated by the South Hayward BART project are expected to be *potentially significant*.

The Environmental Impact Report on the South Hayward BART/Mission Boulevard Concept Design Plan project utilizes analyses in the General Plan Update EIR related to cumulative traffic impacts associated with regional traffic to conclude that such impacts are significant and unavoidable. As reflected in Table 6.6 and Figure 6.5 of the General Plan Update EIR, some intersections and roadway segments throughout the City are expected to operate at Levels of Service E or F in the year 2025. The General Plan Update EIR indicates that regional through traffic accounts for up to 25 to 30 percent of the peak hour trips on some major arterials within the City and that “the City’s ability to mitigate this traffic through land use planning is limited.” The General Plan Update EIR concluded that “it is likely that some roadways will continue to operate at less than acceptable levels due to physical constraints, funding limitations, and regional growth patterns. Therefore, the overall traffic impact is expected to be significant and unavoidable.”

Benefits of Project

Adoption and implementation of the South Hayward BART/Mission Boulevard Concept Design Plan and related amendments to the General Plan and Zoning Ordinance (the “Project”) will provide substantial benefits to the City of Hayward by:

1. Providing for additional much-needed housing in the City, some of which would be affordable in accordance with the City’s Inclusionary Housing Plan and Redevelopment Area provisions, and assisting the City in meeting quantified housing objectives contained in the Housing Element of the Hayward General Plan, without substantially increasing local traffic impacts compared with traditional development trends;
2. Promoting the conversion of older commercial uses and areas that are no longer economically feasible to a state-of-the-art, urban-scale mixed use neighborhood;
3. Helping to create a vibrant, livable neighborhood with high-quality, safe, well-used public spaces;
4. Providing opportunities for intensified land uses to encourage the development of a transit-friendly, smart-growth area near an existing BART station, consistent with regional planning objectives;
5. Encouraging the highest-intensity residential uses and essential community services within a short walking distance to the South Hayward BART Station, thereby reducing reliance on the automobile, which will lessen traffic congestion and air pollution;
6. Increasing local jobs and economic return to the City of Hayward and Hayward Redevelopment Agency;
7. Providing incentives for landowners to remediate identified soil and groundwater contamination conditions;
8. Providing economic incentives to provide missing public infrastructure improvements or upgrade older such facilities;
9. Providing opportunities for development of new public facilities, including a community center and the expansion of Bowman School;
10. Encouraging coordinated development that enhances the existing neighborhood fabric;
11. Managing public and private parking resources to enhance the livability of the neighborhood;
12. Encouraging development that is oriented towards the street and is scaled to the pedestrian;
and
13. Promoting design that relates to the existing neighborhoods through building height, setbacks and massing that steps down to transition to existing buildings.

Therefore, the City of Hayward finds that the significant and unavoidable impacts associated with adoption of the South Hayward BART/Mission Boulevard Concept Design Plan Project are acceptable in light of the above benefits.

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>Mitigation Aes-1: (Visual Character) Development projects submitted to the City of Hayward within the project area shall be subject to design review to ensure that privacy impacts on surrounding properties and effects of shade and shadow are reduced to a less-than-significant impact. Design of future buildings shall include “stepping down” of taller buildings, appropriate siting of windows and balconies to maximize privacy and establishment of view corridors to nearby hills.</p> <p>(Mitigation Measure 4.1-1 in Concept Design Plan EIR).</p>	<p>During Site Plan Review, prior to building permit issuance</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Aes-2: (Views, Scenic Resources, Landforms and Visual Character) Development projects submitted to the City of Hayward within the Project area shall be subject to design review to ensure:</p> <p>a) Adherence to General Plan policies, Design Guidelines, Hillside Design Guidelines and applicable Neighborhood Plans to minimize the grading, appropriate siting of new roads and structures and planting of replacement vegetation to ensure that hillside development integrates into the existing appearance of hillside properties.</p> <p>b) Appropriate use of building material and colors to minimize reflection of windows and roofs to the community to the west.</p> <p>c) Design of future buildings within flatter portions of the</p>	<p>Prior to approval of development project in Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>Project area to include “stepping down” of taller buildings, appropriate siting of windows and balconies to maximize privacy and establishment of view corridors to nearby hills.</p> <p>(Mitigation Measure 4.1-1 in 238 Land Use Study EIR).</p>					
<p>Mitigation Aes-3: (Light and Glare Impacts) Lighting Plans shall be submitted as part of all future development projects. Lighting Plans shall include lighting fixtures to be employed and specific measures to be taken to ensure that lighting is directed downward so that light and glare will be minimized.</p> <p>(Mitigation Measure 4.1-3 in Concept Design Plan EIR).</p>	<p>During Site Plan Review, prior to building permit issuance</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Aes-4 (Light and Glare Impacts) Lighting Plans shall be submitted to the City of Hayward Development Services Department as part of all future development projects. Lighting Plans shall include specific measures to reduce future lighting to a less-than-significant level, including but not limited to limiting the number of intensity of lighting fixtures to the minimum required for safety and security purposes, directing lighting fixtures downward so that light and glare will be minimized, turning off unneeded lights and similar features</p> <p>(Mitigation Measure 4.1-2 in 238 Land Use Study EIR).</p>	<p>Prior to issuance of building permits for development project in Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division and Public Works Department</p>	

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>Mitigation Air-1: (Inconsistency with Air Quality Plan) Mitigation Measure 4.6.1 contained in Section 4.6, Population and Housing, directs the City of Hayward to consult with the Association of Bay Area Governments to include the build-out population for the approved concept plan alternative for this project. However, even with current General Plan goals and strategies and adherence to Mitigation Measure 4.6.1, the project would be inconsistent with the Clean Air Plan and would be a significant and unavoidable impact.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.2-1)</p>	<p>As part of next regional population update round</p>	<p>Hayward Planning Division</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Air-2: Highway Overlay Zone. The Project shall include an overlay zone extending 500 feet from Mission Boulevard or a reduced distance if coordinated with BAAQMD. This overlay zone shall include the following considerations and mitigation:</p> <p>Indoor Air Quality:</p> <p>In accordance with the recommendations of the California Air Resources Board (CARB) and the Bay Area Air Quality Management District, appropriate measures shall be incorporated into the project design in order to reduce the potential health risk due to exposure to diesel particulate matter to achieve an acceptable interior air quality level for sensitive receptors. The appropriate measures shall include one of the following methods:</p>	<p>On-going; throughout life of Project</p>	<p>Hayward Planning Division for overlay zone application; individual project developers for indoor/external or air quality measures</p>		<p>Hayward Planning Division</p>	

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>(a). Development project applicants shall implement all of the following features that have been found to reduce the air quality risk to sensitive receptors and shall be included in the project construction plans. These features shall be submitted to the Development Services Department for review and approval prior to the issuance of a demolition, grading, or building permit and shall be maintained on an ongoing basis during operation of the project.</p> <p>i. For sensitive uses (residences, schools, day care centers, playgrounds, and medical facilities) sited within the overlay zone from Mission Boulevard, the applicant shall install, operate and maintain in good working order a central heating and ventilation (HV) system or other air take system in the building, or in each individual unit, that meets or exceeds an efficiency standard of MERV 13. The HV system shall include the following features: Installation of a high efficiency filter and/or carbon filter to filter particulates and other chemical matter from entering the building. Either HEPA filters or ASHRAE 85% supply filters shall be used.</p> <p>Project applicants shall maintain, repair and/or replace HV system on an ongoing and as needed basis or shall prepare an operation and maintenance manual for the HV system and the filter. The manual shall include the operating instructions and the maintenance and replacement schedule. This manual shall be included in the CC&Rs for residential projects and/or distributed to the building maintenance staff. In addition, the applicant shall prepare a separate homeowners manual. The manual shall contain the operating instructions and the maintenance and replacement schedule for the</p>					

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>HV system and the filters.</p> <p>(b) Alternative to (a) above, a project applicant proposing siting of sensitive uses (residences, schools, day care centers, playgrounds, and medical facilities) within the overlay zone around Mission Boulevard shall retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the CARB and the Office of Environmental Health and Hazard Assessment requirements to determine the exposure of project residents/occupants/users to air pollutants prior to issuance of a demolition, grading, or building permit. The HRA shall be submitted to the Development Services Department for review and approval. The applicant shall implement the approved HRA recommendations, if any. If the HRA concludes that the air quality risks from nearby sources are at or below acceptable levels, then additional measures are not required.</p> <p>Exterior Air Quality:</p> <p>(c) To the maximum extent practicable, individual and common exterior open space proposed as a part of developments in the Project area, including playgrounds, patios, and decks, shall either be shielded from the source of air pollution by buildings or otherwise buffered to further reduce air pollution for project occupants.</p> <p>(d) Alternative to (c) above, an HRA could be prepared and implemented to take into account the risk specifics of the site, as</p>					

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
more fully described in item (b) above.					
<p>Mitigation Bio-1. The following steps shall be taken to protect special-status plant species within the Project area. These steps shall be added as conditions of approval for individual development proposals for vacant or substantially vacant properties within the Project area and for any development proposal adjacent to any wetland area, creek or other body of water:</p> <p>a) Rare plant surveys shall be undertaken by a qualified biologist (as approved by the City of Hayward) for all areas that are not mapped as developed or disturbed/ruderal, including riparian forest, oak woodland, non-native annual grassland, coastal scrub, and wetland areas. Surveys should focus on those species with a moderate potential to occur in the Project area, and should include protocol-level surveys in February and May of riparian areas and other suitable habitats for western leatherwood and Diablo helianthella. General protocol-level rare plant surveys are necessary in early spring (February-April), late spring (May- June), and late summer (July-September) to determine the presence or absence of any other plant species with potential to occur in undeveloped habitats of the Project area.</p> <p>b) If species are identified, development activities shall avoid these areas and appropriate buffer areas established around such species. The size and location of any buffer shall be determined by a qualified biologist.</p>	Prior to issuance of grading or building permits	Individual Project Developers		Hayward Planning Division	

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>c) If avoidance is not feasible, as determined by the City of Hayward, rare plants or their seeds, shall be transplanted to a suitable alternative protected habitat. Such transplantation shall occur pursuant to permits and approvals from appropriate biologic regulatory agencies. A monitoring program shall be established to ensure that transplanted species will thrive.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.3-1)</p>					
<p>Mitigation Bio-2. The following steps shall be taken to protect California redlegged frog species within the Project area:</p> <p>a) Protocol-level surveys shall be performed in all perennial creeks, reservoirs, and deep pools of water before development occurs in or near these areas within the Project area.</p> <p>b) If red-legged frogs are found, development activities shall avoid these areas and appropriate buffer areas established around such species. The size and location of any buffer shall be determined by a qualified biologist.</p> <p>c) If avoidance is not feasible, as determined by the City of Hayward, red-legged frogs shall be relocated to a suitable alternative protected habitat. Such relocation shall occur pursuant to permits and approvals from appropriate biological regulatory agencies. A monitoring program shall be established to ensure that relocated</p>	<p>Prior to issuance of grading or building permits</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
species will thrive. (238 Land Use Study EIR Mitigation Measure 4.3-2a)					
Mitigation Bio-3. Clearing of vegetation and the initiation of construction shall be restricted to the non-breeding season between September and January of each year. If these activities cannot be done in the non-breeding season, a qualified biologist (as approved by the City of Hayward) shall perform pre-construction bird surveys within 30 days of the onset of construction or clearing of vegetation. If nesting birds are discovered in the vicinity of a development site, a buffer area shall be established around the nest(s) until the nest is vacated. The size of the buffer would be dependent on the particular species of nesting bird and shall be determined by a qualified biologist. (238 Land Use Study EIR Mitigation Measure 4.3-2b)	Prior to issuance of grading or building permits; and is stipulated by the measure.	Individual Project Developers		Hayward Planning Division	
Mitigation Bio-4. Preconstruction bat surveys shall be undertaken prior to grading, tree removal or other construction occurring between November 1 and August 31 of the year. Pre-construction bat surveys shall be undertaken by a qualified biologist (as approved by the City of Hayward) involve surveying trees, rock outcrops, bridges, and buildings subject to removal or demolition for evidence of bat use (guano accumulation, or acoustic or visual detections). If evidence of bat use is found, the biologists shall conduct a minimum	Prior to issuance of grading or building permits	Individual Project Developers		Hayward Planning Division	

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Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
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<p>of three acoustic surveys between April and September under appropriate conditions using an acoustic detector, to determine whether a site is occupied. If bats are found, they should be excluded from occupied roosts in the presence of a qualified biologist during the fall prior to construction.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.3-2c)</p>					
<p>Mitigation Bio-1: (Biological Resources/Impacts to Wetlands and Other Waters) The following steps shall be taken to protect wetlands and other waters of the U.S.</p> <p>a) The amendment to the Hayward General Plan shall include a policy or policies requiring retention of appropriate riparian and wildlife corridors adjacent to major creeks that flow through the Project area. The width of corridors shall be based on site-specific biological assessments of each creek.)</p> <p>b) In order to ensure that all jurisdictional wetlands and other waters are identified, formal jurisdictional delineations of wetlands and other waters shall be conducted on a project specific basis as part of the normal environmental review process for specific development projects. Jurisdictional delineations should follow the methodology set forth in the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and should be submitted to the Corps for verification prior to project development.</p>	<p>Prior to issuance of grading permits for development projects in Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
<p>c) Future development proposals within the Project area should avoid development on and impacts on identified wetlands and other waters.</p> <p>d) If avoidance of wetlands or other waters is not possible, then impacts should be minimized to the maximum extent that is practicable. If impacts to wetlands or other waters cannot be minimized and are unavoidable, these impacts should be compensated for by developing and implementing a comprehensive mitigation plan, acceptable to the Corps, CDFG, and RWQCB to offset these losses. It is recommended that mitigation be conducted within the Project area. If this is not possible, then an off-site mitigation area should be selected that is as close to the Project area as possible and acceptable to the resource agencies. Necessary state and federal permits shall be obtained prior to any work within or in close proximity to wetlands or other waters of the U.S.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.3-3)</p>					
<p>Mitigation Bio-2: (Biological Resources/Impacts to Tree Resources) Tree surveys shall be conducted by a certified arborist on all properties proposed for development and under the jurisdiction of the tree ordinances. Impacts to trees will require removal permits pursuant to the Hayward Tree Preservation Ordinance or the Alameda County Tree Ordinance in County rights-of-way. Replacement trees shall be provided based on the</p>	<p>Prior to issuance of grading permits for development projects, or removal of</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
replacement value of protected trees that are removed. (238 Land Use Study EIR Mitigation Measure 4.3-4)	major trees				
Mitigation Cult-1: (Cultural Resources/Impacts to Historic Resources) a) Specific development proposals that involve any structure older than 45 years shall be reviewed by the Hayward Planning Division to ensure consistency with the City’s Historic Preservation Program and applicable CEQA Guideline provisions. If substantial changes to a historic resource is proposed, modifications may be required in the design of such project to ensure consistency with the Historic Preservation Program. b) Future construction adjacent to any identified historic structure shall be complementary to the historic structure in terms of providing appropriate setbacks, consistent design and use of colors, as determined by the Hayward Planning Division. (238 Land Use Study EIR Mitigation Measure 4.4-1)	Prior to issuance of demolition permits for any structure 45 years of age or older within Project area	Individual Project Developers		Hayward Planning Division	
Mitigation Geo-1: (Geology & Soils/Seismic Fault Rupture and Fault Creep) Site-specific geologic fault investigations shall be undertaken for all new individual development projects within the State-defined Earthquake Fault Zone. Each investigation shall include a confirmation that new habitable structures would not be placed on or within 50 feet of an active fault trace, as defined by state and local regulations. Additionally, all new dwellings, roads	Prior to issuance of grading permits for development projects within an	Individual Project Developers		Hayward Planning Division	

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<p>and utility lines shall be subject to site-specific geotechnical evaluations with a requirement that all future utility lines that cross faults be fitted with shut-off valves. Implementation of these evaluations shall be required to ensure consistency with the California Building Code and all other applicable seismic safety requirements.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.5-1)</p>	<p>identified Earthquake Fault Zone within Project area</p>				
<p>Mitigation Geo-2: (Geology & Soils/Seismic Ground Shaking) Site-specific geotechnical investigations shall be required for each building or group of buildings (such as in a subdivision), roads and utility lines constructed in the Project area. Investigations shall be completed by a geotechnical engineer registered in California or equivalent as approved by the City. Design and construction of structures shall be in accordance with the recommendations contained in the reports. Generally, such recommendations will address compaction of foundation soils, construction types of foundations and similar items. Implementation of these evaluations shall be required to ensure consistency with the California Building Code and all other applicable seismic safety requirements.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.5-2)</p>	<p>Prior to issuance of grading permits for development projects within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Geo-3: (Geology & Soils/Ground Failure and Landslides) Site-specific geotechnical investigations required as</p>	<p>Prior to issuance of</p>	<p>Individual Project</p>		<p>Hayward Planning</p>	

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<p>part of Mitigation Measure 4.5-2 shall also address the potential for landslides, including seismically induced landslides and include specific design and construction recommendations to reduce landslides and other seismic ground failure hazards to less-than-significant levels. Recommendations included within site-specific geotechnical investigations shall be incorporated into individual grading and building plans for future development.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.5-3)</p>	<p>grading permits for development projects within Project area</p>	<p>Developers</p>		<p>Division</p>	
<p>Mitigation Haz-1: (Demolition and Hazardous Air Emissions) Prior to commencement of demolition or deconstruction activities within the project area, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department for required site clearances, necessary permits and facility closure with regard to demolition and deconstruction and removal of hazardous material from the site. All work shall be performed by licensed contractors in accord with State and Federal OSHA standards. Worker safety plans shall be included for all demolition or deconstruction plans.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.3-1a)</p>	<p>Prior to issuance of demolition permits</p>	<p>Individual Project Developers</p>		<p>Alameda County Environmental Health Department, Bay Area Air Quality Management District, Hazardous Materials Division of the Hayward Fire Department, and Hayward Planning Division</p>	

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<p>Mitigation Haz-2: (Demolition and Hazardous Air Emissions) Prior to commencement of grading activities within the project area, project developers shall conduct investigations by qualified hazardous material consultants to determine the presence or absence of asbestos containing material in the soil. If such material is identified that meets actionable levels from applicable regulatory agencies, remediation plans shall be prepared and implemented to remediate any hazards to acceptable levels and shall identify methods for removal and disposal of hazardous materials. Worker safety plans shall also be prepared and implemented. All required approvals and clearances shall be obtained from appropriate regulatory agencies, including but not limited to the Hayward Fire Department, California Department of Toxic and Substances Control and Bay Area Air Quality Management District.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.3-1b)</p>	<p>Prior to issuance of grading or demolition permits</p>	<p>Individual Project Developers</p>		<p>Hayward Fire Department, Department of Toxic Substances Control, Bay Area Air Quality Management District, Hayward Planning Division</p>	
<p>Mitigation Haz-3: (Potential Soil and Groundwater Contamination) Prior to approval of building or demolition permits, project developer(s) shall prepare a Phase I environmental site analysis and, if warranted by such analysis as determined by the Hazardous Materials Office of the Hayward Fire Department or other regulatory agency, a Phase II environmental site analysis shall also be conducted. Recommendations included in the Phase II analysis for remediation of hazardous conditions shall be followed, including contact with appropriate regulatory agencies to obtain necessary permits and clearances. No construction (including</p>	<p>Prior to issuance of grading permits</p>	<p>Individual Project Developers</p>		<p>Hayward Public Works Department and Alameda County Flood Control and Water Conservation District</p>	

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grading) shall be allowed on a contaminated site until written clearances are obtained from appropriate regulatory agencies. (Concept Design Plan EIR Mitigation Measure 4.3-2)					
Mitigation Haz-4: (Hazards/Demolition and Hazardous Air Emissions) Prior to commencement of demolition or deconstruction activities within the project area, project developers shall contact the Alameda County Environmental Health Department, Bay Area Air Quality Management District, Department of Toxic Substances Control and the Hazardous Materials Division of the Hayward Fire Department, for required site clearances, necessary permits and facility closure with regard to demolition and deconstruction and removal of hazardous material from the site. All work shall be performed by licensed contractors in accord with State and Federal OSHA standards. Worker safety plans shall be included for all demolition or deconstruction plans. (238 Land Use Study EIR Mitigation Measure 4.6-1a)	Prior to issuance of demolition permits within Project area	Individual Project Developers		Hayward Planning Division	
Mitigation Haz-5: (Hazards/Demolition and Hazardous Air Emissions) Prior to commencement of grading activities within the project area, project developers shall conduct investigations by qualified hazardous material consultants to determine the presence or absence of asbestos containing material in the soil. If such material is identified that meets actionable levels from applicable	Prior to issuance of demolition permits within Project area	Individual Project Developers		Hayward Planning Division	

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<p>regulatory agencies, a remediation plan shall be prepared to remediate any hazards to acceptable levels, including methods of removal and disposal of hazardous material, worker safety plans and obtaining necessary approvals and clearances from appropriate regulatory agencies, including but not limited to the Hayward Fire Department, Department of Toxic and Substances Control and Bay Area Air Quality Management District.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.6-1b)</p>					
<p>Mitigation Haz-6: (Hazards/Potential Soil and Groundwater Contamination) Prior to approval of building or demolition permits, project developer(s) shall prepare a Phase I environmental site analysis and, if warranted by such analysis as determined by the Hazardous Materials section of the Hayward Fire Department or other regulatory agency, a Phase II environmental site analysis shall also be conducted. Recommendations included in the Phase II analysis for remediation of hazardous conditions shall be followed, including contact with appropriate regulatory agencies to obtain necessary permits and clearances. No construction (including grading) shall be allowed on a contaminated site until written clearances are obtained from appropriate regulatory agencies.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.6-2)</p>	<p>Prior to issuance of demolition or building permits, as applicable within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Hyd-1: (Drainage Impacts) Site-specific drainage</p>	<p>Prior to</p>	<p>Individual</p>		<p>Hayward Public</p>	

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<p>plans shall be prepared for all future construction within the project area prior to project approval. Each report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. Each drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the proposed development project.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.4-1)</p>	<p>issuance of grading permits</p>	<p>Project Developers</p>		<p>Works Department and Alameda County Flood Control and Water Conservation District</p>	
<p>Mitigation Hyd-2: (Hydrology/Drainage Impacts) Site-specific drainage plans shall be prepared for all future construction within the Project area prior to approval of a grading permit, or a building permit in the event a grading permit is not required. Each report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. Each drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda County Flood Control and Water Conservation District staff prior to approval of a grading</p>	<p>Prior to issuance of grading or building permits, as applicable, within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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<p>or building permit.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.7-1)</p>					
<p>Mitigation Hyd-3: (Flooding Impacts) Prior to construction within a 100-year flood plain area, project developers shall either:</p> <p>a) Submit a hydrology and hydraulic study prepared by a California-registered civil engineer proposing to remove the site from the 100-year flood hazard area through increasing the topographic elevation of the site or similar steps to minimize flood hazards. The study shall demonstrate that flood waters would not be increased on any surrounding sites, to the satisfaction of City staff.</p> <p>b) Comply with Section 9-4.110, General Construction Standards, of the Hayward Municipal Code, which establishes minimum health and safety standards for construction in a flood hazard area.</p> <p>c) Apply to the City for a Conditional Letter of Map Revision (CLOMR) to remove the site from the FEMA Flood Insurance Rate Map 100-year flood hazard area.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.4-2)</p>	<p>Prior to issuance of grading or building permits for any property within a 100-year flood plain</p>	<p>Individual Project Developers</p>		<p>Hayward Public Works Department and Hayward Planning Division</p>	

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<p>Mitigation Hyd-4: (Hydrology/Flooding Impacts) Prior to construction within a 100-year flood hazard area, developers of site-specific projects shall either:</p> <p>a) Submit a hydrology and hydraulic study prepared by a California-registered civil engineer proposing to remove the site from the 100-year flood hazard area through increasing the topographic elevation of the site or similar steps to minimize flood hazards. The study shall demonstrate that flood waters would not be increased on any surrounding sites, to the satisfaction of City staff.</p> <p>b) Comply with Section 9-4.110, General Construction Standards, of the Hayward Municipal Code, which establishes minimum health and safety standards for construction in a flood hazard area.</p> <p>c) Apply to the City for a Conditional Letter of Map Revision (CLOMR) to remove the site from the FEMA Flood Insurance Rate Map 100-year flood hazard area.</p> <p>(238 Land Use Study EIR Mitigation Measure (4.7-2))</p>	<p>Prior to issuance of grading permits within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Noise-1: (Permanent Noise Impacts) Site-specific acoustic reports shall be prepared for future residential projects within the project area. Each report shall include a summary of existing noise levels, an analysis of potential noise exposure levels, consistency with City of Hayward noise exposure levels and specific measures to reduce exposure levels to City of Hayward noise</p>	<p>Prior to discretionary project approvals</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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standards. (Concept Design Plan EIR Mitigation Measure 4.5-2)					
<p>Mitigation Noise-2: (Noise/Land Use Noise Compatibility) A site-specific noise study shall be performed for future individual development proposals within the Project area adjacent to major roadways or other noise sources, as determined by the Development Services Director to determine compatibility with the existing and future noise environment and applicable noise regulations. If noise levels exceed applicable standards, then noise reduction measures shall be incorporated into the project design to ensure consistency with local and state noise standards. Noise reduction measures could include, but would not be limited to, noise barriers and site orientation for outdoor spaces and sound rated building constructions for indoor spaces. The analysis must consider the following criteria and guidelines:</p> <p>a) General Plan Policies for Noise including Appendix N of the General Plan which contains Noise Guidelines for Review of New Development)</p> <p>b) General Plan EIR Mitigation Measure 7.3: Project-Specific Noise Analysis/Abatement State Building Code, Chapter 1207 (insulation from exterior noise in new residential construction).</p> <p>(238 Land Use Study EIR Mitigation Measure 4.9-1)</p>	<p>Prior to issuance of grading or building permits, as applicable, within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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<p>Mitigation Noise-3: (Noise/Traffic Noise Impacts) Consistent with Mitigation Measure 7.4 of the City of Hayward General Plan Update EIR, an acoustical study shall be performed for each development proposal within the Project area that has potential to significantly increase existing noise levels. If it is determined that a proposed development would result in a substantial increase in ambient noise levels along nearby roadways, the study shall identify and implement noise abatement measures which will reduce project-related noise effects to a level consistent with City and State standards. Such measures could include the installation of noise barriers such as berms or sound walls).</p> <p>(238 Land Use Study EIR Mitigation Measure 4.9-2)</p>	<p>Prior to issuance of building permits within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	
<p>Mitigation Noise-4: (Noise/Operational Noise Impacts) Consistent with Mitigation Measure 7.2 of the City of Hayward General Plan Update EIR, the City of Hayward shall review individual projects using the City’s General Plan as guidance to determine whether or not an operational noise source would generate significant noise impacts. Noise reduction measures including but not limited to setbacks, site plan revisions, operational constraints, buffering, and sound insulation shall be incorporated into final development plans to reduce operational noise to a less than significant level.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.9-3)</p>	<p>Prior to issuance of building permits within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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<p>Mitigation Noise-5: (Construction Noise Impacts) Construction Noise Management Plans shall be prepared for all development projects within the project area, including public and private projects. Each plan shall specify measures to be taken to minimize construction noise on surrounding developed properties. Noise Management Plans shall be approved by City staff prior to issuance of grading or building permits and shall contain, at minimum, a listing of hours of construction operations, a requirement for the use of mufflers on construction equipment, limitation on on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor plans and specifications.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.5-1)</p>	<p>Prior to issuance of grading or building permits</p>	<p>Individual Project Developers</p>		<p>Hayward Public Works Department and Hayward Planning Division</p>	
<p>Mitigation Noise-6: (Noise/Construction Noise Impacts) The City shall require reasonable construction practices for individual development projects within the Project area, consistent with Mitigation Measure 7.1 of the City of Hayward General Plan Update EIR. Measures should include but are not limited to the following:</p> <p>a) Requiring all equipment to have mufflers and be properly maintained;</p> <p>b) Limiting the amount of time that equipment is allowed to</p>	<p>Prior to issuance of building permits within Project area</p>	<p>Individual Project Developers</p>		<p>Hayward Planning Division</p>	

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<p>stand idle with a running engine;</p> <p>c) Shielding construction activity and equipment from nearby noise sensitive uses by appropriate construction phasing, using existing buildings and structures as noise shields, construction of temporary noise barriers and similar techniques; and</p> <p>d) Providing advance notice to nearby residents of major noise activities.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.9-4)</p>					
<p>Mitigation Pop-1. (Population & Housing/Population Increase) The City of Hayward shall consult with ABAG to ensure buildout populations for the project area are included in future regional projections.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.6-1)</p>	During next regional population update	City of Hayward and ABAG		Hayward Planning Division	
<p>Mitigation Pop-2: (Population & Housing/Population Increase) The City of Hayward shall consult with ABAG to ensure that final build-out populations for the project area are included in future regional projections.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.10-1)</p>	During next regional population update	City of Hayward and Association of Bay Area Governments		Hayward Planning Division	

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<p>Mitigation PS-1: (Fire Services) If the City determines new or replacement equipment is needed, future developers shall:</p> <p>a) Pay a fair share contribution to the City of Hayward to finance the acquisition of equipment to serve proposed developments, including those associated with mid to high rise structures (3 to 7 stories); and</p> <p>b) Pay a fair share contribution to the City of Hayward to finance the acquisition of traffic pre-emption devices along Mission Boulevard, as determined by the Hayward Fire Chief, to ensure emergency equipment can access new construction in the project area.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.8-1)</p>	<p>Prior to finalization of development projects.</p>	<p>Individual Project Developers</p>		<p>Hayward Fire Department</p>	
<p>Mitigation PS-2: (Police Services) If the City determines new or replacement equipment is needed, future developers shall pay a fair share contribution to the City of Hayward to finance the acquisition of such equipment, including, but not limited to vehicles.</p> <p>(Concept Design Plan EIR Mitigation Measure 4.8-2)</p>	<p>Prior to finalization of development projects</p>	<p>Individual Project Developers</p>		<p>Hayward Police Department</p>	
<p>Mitigation PS-3: (Public Services/Fire Services) The City of Hayward shall prepare and adopt a mechanism to finance public safety staffing and improvements within the Project area prior to the</p>	<p>Prior to issuance of building</p>	<p>City of Hayward</p>		<p>Hayward Planning</p>	

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<p>construction of the first dwelling unit within the Project area. Such a mechanism may include a Community Facilities District or equivalent mechanism that will provide for adequate funding to meet City and County staffing, facility and equipment standards, as determined by each respective jurisdiction.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.12-1)</p>	<p>permits within Project area</p>			<p>Division</p>	
<p>Mitigation PS-4: (Public Services/Police Services) Approval of the proposed Project with any of the proposed Alternatives could represent a significant impact to the Hayward Police Department and Alameda County Sheriff Department, since the amount of future development and resulting calls for service may not be adequately served by existing department resources.</p> <p>(238 Land Use Study EIR Mitigation Measure 4.12-2)</p>	<p>Prior to issuance of building permits within Project area</p>	<p>City of Hayward</p>		<p>Hayward Planning Division</p>	
<p>Traf-1: (LOS at Dixon Street/Tennyson Road) Create an exclusive right turn pocket and a shared through-left turn lane in the southbound direction (on the East 12th Street approach).</p> <p>Lane geometries in the northbound direction would include an exclusive left-turn pocket and a shared through-right turn lane.</p> <p>Signal phasing would be changed to split phasing in the northbound and southbound directions, with a southbound right-turn overlap</p>	<p>As dictated by traffic analyses of future development projects, as determined by the Hayward</p>	<p>Hayward Public Works Department</p>		<p>Hayward Public Works Department</p>	

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<p>during eastbound and westbound protected left turn phases.</p> <p>U-turns in the eastbound direction would be prohibited to minimize conflicts with southbound right-turning vehicles.</p>	Public Works Director				
<p>Traf-2: (LOS at Mission Boulevard/Industrial Parkway) For the westbound right turn lane, provide an overlapping signal with the southbound left protected phase.</p>	As dictated by traffic analyses of future development projects, as determined by the Hayward Public Works Director	Hayward Public Works Department		Hayward Public Works Department	
<p>Traf-3: (LOS at Mission Boulevard/Tennyson Road) Split phasing signal timing in the eastbound and westbound directions is already being constructed as part of the Route 238 Corridor Improvement Project. However, in addition to the split phasing, the following would need to be accomplished: (a) convert the eastbound through lane to an eastbound shared through-left lane, and (b) stripe the westbound approach to a shared left-through lane and an exclusive right turn lane, and (c) provide overlap phasing for westbound and eastbound right turns; and (d) prohibit northbound</p>	As dictated by traffic analyses of future development projects, as determined by the Hayward	Hayward Public Works Department		Hayward Public Works Department	

South Hayward BART/Mission Boulevard Form-Based Code Project: Mitigation Monitoring and Reporting Program					
Mitigation Measure	Timing/ Schedule	Implementation Responsibility	Verification		
			Monitoring Action	Monitoring Responsibility	Date Completed
and southbound U-turns to avoid conflicts with the right turn overlap phasing .	Public Works Director				
Traf-4: (LOS at Mission Boulevard/Harder Road) Convert the signal phasing of this intersection to right-turn overlap phasing in the eastbound direction during the northbound and southbound protected left-turn phase. In conjunction with the signal phasing prohibit northbound U-turns to avoid conflicts with the right turn overlap phasing	As dictated by traffic analyses of future development projects, as determined by the Hayward Public Works Director	Hayward Public Works Department		Hayward Public Works Department	

ORDINANCE NO. 11-_____

AN ORDINANCE RECLASSIFYING THE ZONING DESIGNATION FOR PROPERTIES IN THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE AREA

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

Section 1. Reclassification - Description. Zone Change Application No. PL-2011-0197 concerns the reclassification of multiple properties affected by the adoption of the South Hayward BART/Mission Boulevard Form-Based Code (the "Properties"), by rezoning such Properties to Civic Space Zone (CS), General Urban Zone (T4), Urban Center Zone (T5), TOD Density Overlay 1, and TOD Density Overlay 2, as more particularly set forth in Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2. Reclassification - Findings of Approval. The City Council has previously adopted Resolution No. 11-____ approving the text changes requested in Text Amendment Application No. PL-2011-0196, related to the adoption of the South Hayward BART/Mission Boulevard Form-Based Code. Based on the findings and determinations in Resolution No. 11-____, the City Council hereby approves the rezoning of Properties, as set forth in Exhibits "A and "B," attached hereto and made a part hereof.

Section 3. Zoning District Index Map. The City Council directs the Development Services Director to amend the Zoning District Index Map on file with the Clerk and the Development Services Department in accordance with the reclassification approved by this Ordinance.

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

Section 5. 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.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held
the _____ day of _____, 2011, 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

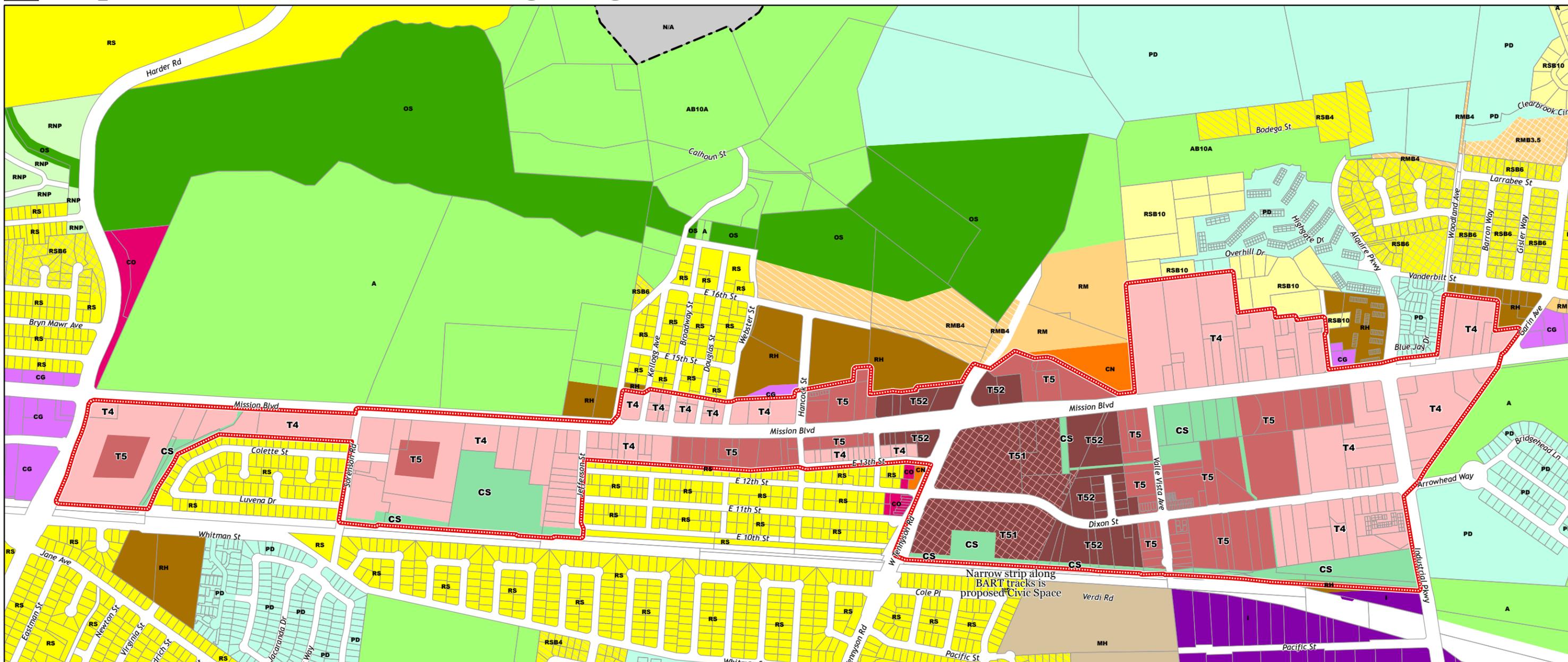
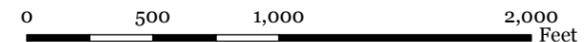
DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Proposed Form-Based Code Zoning Designations



Zoning Designations

Residential	Commercial	Industrial	Air Terminal	South Hayward BART Form-Based Code Area	Other
RSB40 Single Family Residential, Minimum Lot Size 40,000sqft	RO Residential Office	I Industrial	AT-IP Air Terminal-Industrial Park	T4 Urban General Zone, 17.5 to 35 units/net acre	PF Public Facilities
RSB20 Single Family Residential, Minimum Lot Size 20,000sqft	CN Neighborhood Commercial	LM Light Manufacturing	AT-C Air Terminal-Commercial	T5 Urban Center Zone, 35 to 55 units/net acre	PD Planned Development
RSB10 Single Family Residential, Minimum Lot Size 10,000sqft	CN-R Neighborhood Commercial/Residential	BP Business Park	AT-RM Air Terminal-Medium Density Residential	T5₂ TOD Density Overlay 2, 40 to 65 units/net acre	RNP Residential Natural Preserve
RSB8 Single Family Residential, Minimum Lot Size 8,000sqft	CR Regional Commercial		AT-AC Air Terminal-Airport Commercial	T5₁ TOD Density Overlay 1, 75 to 100 units/net acre	
RSB6 Single Family Residential, Minimum Lot Size 6,000sqft	CO Commercial Office		AT-O Air Terminal-Operations	CS Civic Space Zone	
RS Single Family Residential, Minimum Lot Size 5,000sqft	CB Central Business		AT-R Air Terminal-Recreation		
RSB4 Single Family Residential, Minimum Lot Size 4,000sqft	CBB20 Central Business, Minimum Lot Size 20,000sqft				
RMB4 Medium Density Residential, Minimum LoArea 4,000sqft	CG General Commercial				
RMB3.5 Medium Density Residential, Minimum LoArea 3,500sqft	CL Limited Access Commercial				
RM Medium Density Residential, Minimum LoArea 2,500sqft					
RH High Density Residential, Minimum LoArea 1,250sqft	Central City				
RHB7 High Density Residential, Minimum LoArea 750sqft	CC-C Central City Commercial				
MH Mobile Home Park	CC-R Central City Residential				
MBR Mission Boulevard Residential, 34.8 to 55.0 units/net acre	CC-P Center City Plaza				
SAR Station Area Residential, 75.0 to 100.0 units/net acre					
SMU Sustainable Mixed Use					
		Open Space includes combining districts			
		A Agriculture			
		FP Flood Plain			
		OS Open Space			

South Hayward BART Study Area

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0435-001-03	VALLE VISTA AVE	RH	CS	0.002
078C-0432-002-07	29017 DIXON ST	RH	T52, CS	0.003
078C-0432-005-08	29039 DIXON ST	RH	T52, CS	0.004
078C-0432-006-06	29061 DIXON ST	RH	T52, CS	0.004
078C-0432-013-01	29009 DIXON ST	RH	T52, CS	0.004
078C-0433-001-06	29125 DIXON ST	RH	T52, CS	0.004
078C-0433-002-08	29175 DIXON ST	RH	T52	0.004
078C-0433-002-10	29163 DIXON ST	RH	T52, CS	0.004
078C-0433-003-06	DIXON ST	RH	T52, CS	0.004
078C-0433-004-07	29185 DIXON ST	RH	T5	0.004
078C-0433-004-09	292 VALLE VISTA AVE	RH	T5	0.004
078C-0433-004-11	29183 DIXON ST	RH	T5	0.004
078C-0433-004-13	29187 DIXON ST	RH	T5	0.004
078C-0433-005-02	240 VALLE VISTA AVE	RH	T5	0.004
078C-0433-006-02	232 VALLE VISTA AVE	RH	T5	0.004
078C-0433-007-04	224 VALLE VISTA AVE	RH	T5	0.005
078C-0433-008-03	218 VALLE VISTA AVE	RH	T5, CS	0.005
078C-0433-009-01	216 VALLE VISTA AVE	RH	CS	0.005
078C-0433-012-00	VALLE VISTA AVE	RH	T52, CS	0.005
078C-0434-002-01	VALLE VISTA AVE	RH	T5	0.005
078C-0434-002-02	VALLE VISTA AVE	RH	T5	0.005
078C-0434-003-02	227 VALLE VISTA AVE	RH	T5	0.005
078C-0434-004-02	231 VALLE VISTA AVE	RH	T5	0.005
078C-0434-005-02	241 VALLE VISTA AVE	RH	T5	0.005
078C-0434-006-04	249 VALLE VISTA AVE	RH	T5	0.005
078C-0434-006-06	29213 DIXON ST	RH	T5	0.006
078C-0434-009-08	29289 DIXON ST	RH	T5	0.006
078C-0434-011-11	29359 DIXON ST	RH	T5	0.006
078C-0434-012-06	29367 DIXON ST	RH	T5	0.007
078C-0434-015-05	29371 DIXON ST	RH	T5	0.007
078C-0434-016-02	VALLE VISTA AVE	RH	CS	0.007
078C-0434-017-02	VALLE VISTA AVE	RH	CS	0.007
078C-0434-017-03	VALLE VISTA AVE	RH	CS	0.007
078C-0434-018-00	29239 DIXON ST	RH	T5	0.007
078C-0434-019-00	29241 DIXON ST	RH	T5	0.008
078C-0434-020-00	29243 DIXON ST	RH	T5	0.008
078C-0434-021-00	29245 DIXON ST	RH	T5	0.009
078C-0434-022-00	DIXON ST	RH	T5	0.009
078C-0435-001-04	29397 DIXON ST	RH	T5	0.009
078C-0435-002-01	DIXON ST	RH	T4, CS	0.009
078C-0435-002-04	29405 DIXON ST	RH	T5	0.009

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0435-003-02	29495 DIXON ST	RH	T4	0.009
078C-0435-004-02	29529 DIXON ST	RH	T4	0.009
078C-0435-005-02	29571 DIXON ST	RH	T4	0.009
078C-0435-006-00	29599 DIXON ST	RH	T4	0.009
078C-0436-001-06	29633 DIXON ST	RH	T4	0.009
078C-0436-001-07	29629 DIXON ST	RH	T4	0.009
078C-0436-001-15	29615 DIXON ST	RH	T4	0.010
078C-0436-002-02	29659 DIXON ST	RH	T4	0.010
078C-0436-003-02	29667 DIXON ST	RH	T4	0.010
078C-0436-004-02	29683 DIXON ST	RH	T4	0.010
078C-0436-005-02	29689 DIXON ST	RH	T4	0.010
078C-0436-006-02	29695 DIXON ST	RH	T4	0.010
078C-0436-008-03	29697 DIXON ST	RH	T4	0.010
078C-0436-010-03	INDUSTRIAL PKWY	RH	T4	0.010
078C-0436-010-04	INDUSTRIAL PKWY	RH	T4	0.010
078C-0436-110-00	260 INDUSTRIAL PKWY 1	RH	T4	0.010
078C-0436-111-00	260 INDUSTRIAL PKWY 2	RH	T4	0.010
078C-0436-112-00	260 INDUSTRIAL PKWY 3	RH	T4	0.010
078C-0436-113-00	260 INDUSTRIAL PKWY 4	RH	T4	0.010
078C-0436-114-00	260 INDUSTRIAL PKWY 5	RH	T4	0.010
078C-0436-115-00	260 INDUSTRIAL PKWY 6	RH	T4	0.010
078C-0436-116-00	260 INDUSTRIAL PKWY 7	RH	T4	0.010
078C-0436-117-00	260 INDUSTRIAL PKWY 8	RH	T4	0.010
078C-0436-118-00	260 INDUSTRIAL PKWY 9	RH	T4	0.010
078C-0436-119-00	260 INDUSTRIAL PKWY 10	RH	T4	0.010
078C-0436-120-00	260 INDUSTRIAL PKWY 11	RH	T4	0.010
078C-0436-121-00	260 INDUSTRIAL PKWY 12	RH	T4	0.011
078C-0436-122-00	260 INDUSTRIAL PKWY 13	RH	T4	0.011
078C-0436-123-00	260 INDUSTRIAL PKWY 14	RH	T4	0.011
078C-0436-124-00	260 INDUSTRIAL PKWY 15	RH	T4	0.011
078C-0436-125-00	260 INDUSTRIAL PKWY 16	RH	T4	0.011
078C-0436-126-00	260 INDUSTRIAL PKWY 17	RH	T4	0.011
078C-0436-127-00	260 INDUSTRIAL PKWY 18	RH	T4	0.011
078C-0436-128-00	260 INDUSTRIAL PKWY 19	RH	T4	0.011
078C-0436-129-00	260 INDUSTRIAL PKWY 20	RH	T4	0.011
078C-0436-130-00	260 INDUSTRIAL PKWY 21	RH	T4	0.011
078C-0436-131-00	260 INDUSTRIAL PKWY 22	RH	T4	0.011
078C-0436-132-00	260 INDUSTRIAL PKWY 23	RH	T4	0.012
078C-0436-133-00	260 INDUSTRIAL PKWY 24	RH	T4	0.012
078C-0436-134-00	260 INDUSTRIAL PKWY 25	RH	T4	0.012
078C-0436-135-00	260 INDUSTRIAL PKWY 26	RH	T4	0.012

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0436-136-00	260 INDUSTRIAL PKWY 27	RH	T4	0.012
078C-0436-137-00	260 INDUSTRIAL PKWY 28	RH	T4	0.012
078C-0436-138-00	260 INDUSTRIAL PKWY 29	RH	T4	0.012
078C-0436-139-00	260 INDUSTRIAL PKWY 30	RH	T4	0.012
078C-0436-140-00	260 INDUSTRIAL PKWY 31	RH	T4	0.013
078C-0436-141-00	260 INDUSTRIAL PKWY 32	RH	T4	0.013
078C-0436-142-00	260 INDUSTRIAL PKWY 33	RH	T4	0.013
078C-0436-143-00	260 INDUSTRIAL PKWY 34	RH	T4	0.013
078C-0436-144-00	260 INDUSTRIAL PKWY 35	RH	T4	0.013
078C-0436-145-00	260 INDUSTRIAL PKWY 36	RH	T4	0.013
078C-0436-146-00	260 INDUSTRIAL PKWY 37	RH	T4	0.013
078C-0436-147-00	260 INDUSTRIAL PKWY 38	RH	T4	0.013
078C-0436-148-00	260 INDUSTRIAL PKWY 39	RH	T4	0.013
078C-0436-149-00	260 INDUSTRIAL PKWY 40	RH	T4	0.013
078C-0436-150-00	260 INDUSTRIAL PKWY 41	RH	T4	0.013
078C-0436-151-00	260 INDUSTRIAL PKWY 42	RH	T4	0.013
078C-0436-152-00	260 INDUSTRIAL PKWY 43	RH	T4	0.014
078C-0436-153-00	260 INDUSTRIAL PKWY 44	RH	T4	0.014
078C-0436-154-00	260 INDUSTRIAL PKWY 45	RH	T4	0.014
078C-0436-155-00	260 INDUSTRIAL PKWY 46	RH	T4	0.014
078C-0436-156-00	260 INDUSTRIAL PKWY 47	RH	T4	0.015
078C-0436-157-00	260 INDUSTRIAL PKWY 48	RH	T4	0.015
078C-0436-158-00	260 INDUSTRIAL PKWY	RH	T4	0.015
078C-0437-001-02	29642 DIXON ST	RH	T4	0.015
078C-0437-002-02	29660 DIXON ST	RH	T4	0.016
078C-0437-003-05	328 INDUSTRIAL PKWY	RH	T4	0.016
078C-0437-003-07	29686 DIXON ST	RH	T4	0.017
078C-0437-003-09	29668 DIXON ST	RH	T4	0.018
078C-0437-007-03	338 INDUSTRIAL PKWY	RH	T4	0.020
078C-0437-008-02	390 INDUSTRIAL PKWY	RH	T4	0.022
078C-0438-001-09	29314 DIXON ST	RH	T5	0.022
078C-0438-003-02	349 VALLE VISTA AVE	RH	T5	0.026
078C-0438-004-02	363 VALLE VISTA AVE	RH	T5	0.028
078C-0438-005-00	381 VALLE VISTA AVE	OS	CS	0.028
078C-0438-006-00	29213 MISSION BLVD	OS	CS	0.028
078C-0438-007-00	29263 MISSION BLVD	OS	CS	0.028
078C-0438-008-00	MISSION BLVD	OS	CS	0.028
078C-0438-009-00	29335 MISSION BLVD	OS	CS	0.028
078C-0438-010-00	29339 MISSION BLVD	OS	CS	0.029
078C-0438-011-01	MISSION BLVD	MBR, OS	T5, CS	0.030
078C-0438-011-02	29459 MISSION BLVD	MBR	T5	0.037

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0438-012-00	29479 MISSION BLVD	MBR	T5	0.056
078C-0438-013-06	29497 MISSION BLVD	MBR	T5	0.060
078C-0438-014-00	29547 MISSION BLVD	MBR	T5	0.068
078C-0438-015-01	29553 MISSION BLVD	MBR	T5	0.069
078C-0438-015-02	29553 MISSION BLVD	MBR	T5	0.072
078C-0438-016-05	29596 DIXON ST	RH	T4	0.074
078C-0438-018-02	29536 DIXON ST	RH	T4	0.075
078C-0438-019-01	DIXON ST	MBR, OS	T5, CS	0.078
078C-0438-019-04	29360 DIXON ST	RH	T5	0.079
078C-0438-020-00	29324 DIXON ST	RH	T5	0.080
078C-0438-022-00	29300 DIXON ST 101	RH	T5	0.083
078C-0438-023-00	29300 DIXON ST 201	RH	T5	0.083
078C-0438-024-00	29300 DIXON ST 301	RH	T5	0.084
078C-0438-025-00	325 VALLE VISTA AVE 102	RH	T5	0.084
078C-0438-026-00	325 VALLE VISTA AVE	RH	T5	0.084
078C-0438-027-00	29300 DIXON ST 302	RH	T5	0.086
078C-0438-028-00	325 VALLE VISTA AVE	RH	T5	0.087
078C-0438-029-00	29300 DIXON ST	RH	T5	0.087
078C-0438-030-00	325 VALLE VISTA AVE	RH	T5	0.088
078C-0438-031-00	325 VALLE VISTA AVE 104	RH	T5	0.088
078C-0438-032-00	325 VALLE VISTA AVE 204	RH	T5	0.089
078C-0438-033-00	29300 DIXON ST 304	RH	T5	0.092
078C-0438-034-00	29300 DIXON ST 105	RH	T5	0.093
078C-0438-035-00	29300 DIXON ST 205	RH	T5	0.093
078C-0438-036-00	325 VALLE VISTA AVE 305	RH	T5	0.093
078C-0438-037-00	29300 DIXON ST 106	RH	T5	0.095
078C-0438-038-00	29300 DIXON ST 206	RH	T5	0.101
078C-0438-039-00	325 VALLE VISTA AVE	RH	T5	0.102
078C-0438-040-00	325 VALLE VISTA AVE	RH	T5	0.115
078C-0438-041-00	325 VALLE VISTA AVE 207	RH	T5	0.115
078C-0438-042-00	29300 DIXON ST 307	RH	T5	0.119
078C-0438-043-00	29300 DIXON ST 108	RH	T5	0.121
078C-0438-044-00	325 VALLE VISTA AVE	RH	T5	0.121
078C-0438-045-00	29300 DIXON ST 308	RH	T5	0.122
078C-0438-046-00	325 VALLE VISTA AVE 109	RH	T5	0.125
078C-0438-047-00	325 VALLE VISTA AVE	RH	T5	0.125
078C-0438-048-00	29300 DIXON ST 309	RH	T5	0.133
078C-0438-049-00	325 VALLE VISTA AVE	RH	T5	0.135
078C-0438-050-00	325 VALLE VISTA AVE 210	RH	T5	0.137
078C-0438-051-00	325 VALLE VISTA AVE	RH	T5	0.139
078C-0438-052-00	325 VALLE VISTA AVE	RH	T5	0.141

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0438-053-00	325 VALLE VISTA AVE 211	RH	T5	0.142
078C-0438-054-00	29300 DIXON ST 311	RH	T5	0.143
078C-0438-055-00	29300 DIXON ST 112	RH	T5	0.144
078C-0438-056-00	29300 DIXON ST 212	RH	T5	0.145
078C-0438-057-00	29300 DIXON ST 312	RH	T5	0.146
078C-0438-058-00	29300 DIXON ST 113	RH	T5	0.147
078C-0438-059-00	325 VALLE VISTA AVE	RH	T5	0.147
078C-0438-060-00	325 VALLE VISTA AVE	RH	T5	0.147
078C-0438-061-00	325 VALLE VISTA AVE 114	RH	T5	0.148
078C-0438-062-00	29300 DIXON ST 214	RH	T5	0.148
078C-0438-063-00	325 VALLE VISTA AVE	RH	T5	0.149
078C-0438-064-00	29300 DIXON ST 115	RH	T5	0.149
078C-0438-065-00	29300 DIXON ST 215	RH	T5	0.149
078C-0438-066-00	325 VALLE VISTA AVE	RH	T5	0.149
078C-0438-067-00	29300 DIXON ST 116	RH	T5	0.150
078C-0438-068-00	29300 DIXON ST 216	RH	T5	0.153
078C-0438-069-00	325 VALLE VISTA AVE	RH	T5	0.154
078C-0438-070-00	325 VALLE VISTA AVE	RH	T5	0.159
078C-0438-071-00	325 VALLE VISTA AVE 217	RH	T5	0.162
078C-0438-072-00	29300 DIXON ST 317	RH	T5	0.164
078C-0438-073-00	325 VALLE VISTA AVE	RH	T5	0.165
078C-0440-001-02	29018 DIXON ST	RH	T52	0.165
078C-0440-002-06	29034 DIXON ST	RH	T52	0.167
078C-0440-003-06	308 COPPERFIELD AVE	RH	T52	0.169
078C-0440-004-02	29182 DIXON ST	RH	T52	0.169
078C-0440-006-02	350 VALLE VISTA AVE	RH	T5	0.170
078C-0440-007-00	316 COPPERFIELD AVE	RH	T52	0.172
078C-0440-008-00	324 COPPERFIELD AVE	RH	T52	0.173
078C-0440-009-00	332 COPPERFIELD AVE	RH	T52	0.174
078C-0440-010-00	338 COPPERFIELD AVE	RH	T52	0.175
078C-0440-012-00	339 COPPERFIELD AVE	RH	T52	0.176
078C-0440-013-00	331 COPPERFIELD AVE	RH	T52	0.177
078C-0440-014-00	323 COPPERFIELD AVE	RH	T52	0.177
078C-0440-015-00	315 COPPERFIELD AVE	RH	T52	0.178
078C-0440-016-02	29170 DIXON ST	RH	T52	0.178
078C-0440-017-00	29188 DIXON ST	PD	T5	0.181
078C-0440-018-00	29190 DIXON ST	PD	T5	0.181
078C-0440-019-00	29192 DIXON ST	PD	T5	0.183
078C-0440-020-00	29194 DIXON ST	PD	T5	0.183
078C-0440-021-00	29196 DIXON ST	PD	T5	0.183
078C-0440-022-00	29198 DIXON ST	PD	T5	0.184

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0440-023-00	VALLE VISTA AVE	PD	T5	0.184
078C-0441-001-16	28901 MISSION BLVD	PD	T51	0.186
078C-0441-001-17	28937 MISSION BLVD	PD	T51	0.187
078C-0441-001-20	655 W TENNYSON RD	PD	T51	0.188
078C-0441-001-23	MISSION BLVD	OS	CS	0.189
078C-0441-001-24	MISSION BLVD	OS	T51	0.190
078C-0441-001-25	28955 MISSION BLVD	RH	T51, T52, CS	0.195
078C-0441-001-28	TENNYSON RD	PD	T51	0.202
078C-0441-001-29	DIXON ST	PD	T51, CS	0.215
078C-0447-002-01	29097 MISSION BLVD	CN	T52	0.215
078C-0447-002-02	29083 MISSION BLVD	CN	T52, CS	0.221
078C-0447-003-01	29115 MISSION BLVD	CN	T5	0.223
078C-0447-003-02	29131 MISSION BLVD	CN	T5	0.224
078C-0447-004-00	29159 MISSION BLVD	CN	T5	0.227
078C-0447-005-00	398 VALLE VISTA AVE	CN	T5	0.227
078C-0447-006-02	380 VALLE VISTA AVE	CN	T5	0.229
078C-0447-007-06	378 VALLE VISTA AVE	CN	T5, CS	0.230
078C-0450-001-02	29583 MISSION BLVD	MBR	T5	0.232
078C-0450-003-08	29671 MISSION BLVD	CN	T4	0.234
078C-0450-006-10	418 INDUSTRIAL PKWY	RH	T4	0.235
078C-0450-008-03	422 INDUSTRIAL PKWY	CN	T4	0.235
078C-0455-001-03	29272 MISSION BLVD	RH	T4	0.240
078C-0455-001-04	29212 MISSION BLVD	RH	T4	0.244
078C-0455-001-05	648 OVERHILL DR	RH	T4	0.246
078C-0455-001-07	29290 MISSION BLVD	RH	T4	0.249
078C-0455-001-08	29312 MISSION BLVD	RH	T4	0.249
078C-0455-002-00	29338 MISSION BLVD	RH	T4	0.251
078C-0455-003-00	29350 MISSION BLVD	RH	T4	0.257
078C-0455-004-00	29362 MISSION BLVD	RH	T4	0.265
078C-0455-005-01	29390 MISSION BLVD	RH	T4	0.266
078C-0455-005-02	29380 MISSION BLVD	RH	T4	0.271
078C-0455-006-01	29414 MISSION BLVD	CN	T4	0.273
078C-0455-006-03	29404 MISSION BLVD	CN	T4	0.273
078C-0455-006-07	29438 MISSION BLVD	CN, RS	T4	0.277
078C-0455-006-08	29426 MISSION BLVD	RS	T4	0.283
078C-0455-007-04	29444 MISSION BLVD	RH	T4	0.285
078C-0455-007-06	627 GREELEY CT	RH	T4	0.290
078C-0455-007-13	643 GREELEY CT	RH	T4	0.292
078C-0455-007-14	635 GREELEY CT	RH	T4	0.300
078C-0455-007-15	619 GREELEY CT	RH	T4	0.312
078C-0455-007-16	GREELEY CT	RH	T4	0.318

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0455-008-06	657 OVERHILL DR	RH	T4	0.320
078C-0455-008-11	29498 MISSION BLVD	RH	T4	0.333
078C-0455-008-12	MISSION BLVD	RH	T4	0.337
078C-0455-008-13	29490 MISSION BLVD	RH	T4	0.344
078C-0461-004-00	28700 MISSION BLVD	CG	T52	0.351
078C-0461-005-00	28722 MISSION BLVD	CG	T52	0.352
078C-0461-006-04	28824 MISSION BLVD	CG	T5	0.356
078C-0461-007-00	28870 MISSION BLVD	RH	T5	0.368
078C-0461-009-01	28900 MISSION BLVD	RH	T5	0.376
078C-0626-001-13	MISSION BLVD	CG	T5	0.379
078C-0626-001-15	28150 MISSION BLVD	CG	T5	0.381
078C-0626-001-20	28168 MISSION BLVD	RH	T5	0.384
078C-0626-002-03	MISSION BLVD	RH	T5	0.385
078C-0626-002-04	28244 MISSION BLVD	RH	T5	0.394
078C-0626-003-12	28534 MISSION BLVD	CG	T52	0.396
078C-0626-003-23	28546 MISSION BLVD	CG	T52	0.404
078C-0626-003-24	28472 MISSION BLVD	RH	T5, RH	0.412
078C-0626-003-25	28590 MISSION BLVD	CG	T52	0.414
078C-0626-003-26	28564 MISSION BLVD	CG	T52	0.428
078C-0626-006-01	28000 MISSION BLVD	CN	T4	0.436
078C-0626-007-03	28030 MISSION BLVD	CN	T4	0.436
078C-0626-009-01	28090 MISSION BLVD	CN	T4	0.436
078C-0626-010-00	805 HANCOCK ST	RH	T5	0.438
078C-0626-011-00	807 HANCOCK ST	RH	T5	0.439
078C-0626-012-00	809 HANCOCK ST 3	RH	T5	0.441
078C-0626-013-00	811 HANCOCK ST	RH	T5	0.446
078C-0626-014-00	813 HANCOCK ST 5	RH	T5	0.447
078C-0626-015-00	815 HANCOCK ST	RH	T5	0.458
078C-0626-016-00	813 HANCOCK ST	RH	T5	0.459
078C-0637-011-02	27826 MISSION BLVD	RH	T4	0.463
078C-0637-013-01	27820 MISSION BLVD	RH	T4	0.467
078C-0637-014-00	737 DOUGLAS ST	RH	T4	0.469
078C-0637-015-00	DOUGLAS ST	RH	T4	0.469
078C-0638-004-00	744 DOUGLAS ST	RS	T5, RS	0.487
078C-0638-005-01	DOUGLAS ST	RH	T4	0.507
078C-0638-007-01	27702 MISSION BLVD	RH	T4	0.515
078C-0638-009-00	727 BROADWAY ST	RH	T4	0.517
078C-0638-010-00	743 BROADWAY ST	RS	T5, RS	0.521
078C-0644-005-00	744 BROADWAY ST	RH	T4	0.526
078C-0644-006-00	720 BROADWAY ST	RH	T4	0.527
078C-0644-007-00	27690 MISSION BLVD	RH	T4	0.536

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
078C-0644-008-00	27654 MISSION BLVD	RH	T4	0.557
078C-0644-009-00	27630 MISSION BLVD	RH	T4	0.565
078C-0644-010-00	KELLOGG AVE	RH	T4	0.573
078C-0644-011-00	KELLOGG AVE	RH	T4	0.573
078C-0645-013-03	27572 MISSION BLVD	RH	T4	0.584
078G-2651-008-00	29875 MISSION BLVD	CG	T4	0.587
078G-2651-009-02	29705 MISSION BLVD	CG	T4	0.605
078G-2651-010-03	29851 MISSION BLVD	CG	T4	0.613
078G-2651-011-02	411 INDUSTRIAL PKWY	CG	T4	0.623
078G-2651-012-08	INDUSTRIAL PKWY	CG	T4	0.625
078G-2651-013-00	339 INDUSTRIAL PKWY	CG	T4	0.626
078G-2651-014-00	375 INDUSTRIAL PKWY	CG	T4	0.645
083-0251-084-00	29874 MISSION BLVD	CN	T4	0.653
083-0251-085-02	29862 MISSION BLVD	CN	T4	0.676
083-0251-085-04	29824 MISSION BLVD	CN	T4	0.677
083-0251-086-04	29800 WOODLAND AVE	CN	T4	0.677
083-0251-086-06	29824 MISSION BLVD	CN	T4	0.682
083-0455-009-00	PACIFIC ST	RH	CS	0.691
083-0455-010-01	PACIFIC ST	RH	CS	0.696
083-0455-010-02	PACIFIC ST	RH	CS, RH	0.696
083-0460-006-03	INDUSTRIAL PKWY	RH	CS	0.701
083-0460-011-00	INDUSTRIAL PKWY	RH	CS	0.718
452-0020-004-03	26135 MISSION BLVD	CG	T4	0.719
452-0020-006-10	MISSION BLVD	RH	CS	0.729
452-0020-006-11	26253 MISSION BLVD	RH	T4, CS	0.740
452-0020-007-06	26295 MISSION BLVD	RH	T4, CS	0.757
452-0020-008-00	26359 MISSION BLVD	RH	T4	0.762
452-0020-009-01	26231 MISSION BLVD	CG	T5, T4	0.763
452-0020-010-02	MISSION BLVD	RH	CS	0.771
452-0020-011-00	WHITMAN ST	RH	CS	0.785
452-0036-030-05	26601 MISSION BLVD	RH, CN	T4	0.786
452-0056-001-15	26781 MISSION BLVD	CG	T4	0.799
452-0056-002-01	677 SORENSON RD	RH	T4	0.802
452-0056-003-00	26801 MISSION BLVD	CN	T5, T4	0.806
452-0056-005-00	27143 MISSION BLVD	CG	T4	0.810
452-0056-006-00	27151 MISSION BLVD	CG	T4	0.811
452-0056-007-00	27177 MISSION BLVD	CG	T4	0.812
452-0056-008-00	27283 MISSION BLVD	CG	T4	0.833
452-0056-009-02	MISSION BLVD	PF	T4, CS	0.835
452-0056-013-00	26869 MISSION BLVD	CN	T4, CS	0.837
452-0056-014-00	605 SORENSON RD	RH	T4, CS	0.842

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
452-0056-015-00	26825 COLETTE ST	RH	T4	0.846
452-0056-016-00	26953 MISSION BLVD	CN	T5, T4	0.852
452-0056-017-00	SORENSEN RD	RH	T4	0.869
452-0068-002-01	532 JEFFERSON ST	RM	T4	0.894
452-0068-004-02	542 JEFFERSON ST	RM	T4	0.901
452-0068-005-02	556 JEFFERSON ST	RM	T4	0.911
452-0068-007-01	574 JEFFERSON ST	RM	T4	0.922
452-0068-008-00	586 JEFFERSON ST	RM	T4	0.923
452-0068-009-00	592 JEFFERSON ST	RM	T4	0.926
452-0068-010-00	604 JEFFERSON ST	RM	T4	0.936
452-0068-011-02	620 JEFFERSON ST	RM	T4	0.937
452-0068-013-00	629 JEFFERSON ST	CN	T4	0.942
452-0068-014-02	27451 MISSION BLVD	CN	T4	0.981
452-0068-016-01	27467 MISSION BLVD	CN	T4	0.987
452-0068-017-00	27511 MISSION BLVD	RH	T4	0.987
452-0068-018-00	27541 MISSION BLVD	RH	T4	0.992
452-0068-019-00	27575 MISSION BLVD	RH	T4	1.002
452-0068-020-03	27651 MISSION BLVD	RH	T4	1.005
452-0068-020-04	27641 MISSION BLVD	RH	T4	1.014
452-0068-022-00	27703 MISSION BLVD	RH	T5	1.015
452-0068-023-00	27787 MISSION BLVD	RH	T5	1.043
452-0068-024-03	27795 MISSION BLVD	RH	T5	1.045
452-0068-024-05	27915 MISSION BLVD	RH	T5	1.059
452-0068-024-06	27823 MISSION BLVD	RH	T5	1.112
452-0068-030-01	27695 MISSION BLVD	RH, RS	T4, RS	1.126
452-0068-031-01	27580 E 12TH ST	RH, RS	T4, RS	1.132
452-0068-034-02	27550 E 12TH ST	RH, RS	T4, RS	1.177
452-0068-095-03	520 JEFFERSON ST	PF	T4, CS	1.212
452-0068-111-00	27423 MISSION BLVD	CN	T4	1.223
452-0068-112-00	27369 MISSION BLVD	CN	T4	1.230
452-0080-037-00	27931 MISSION BLVD	RH	T5	1.262
452-0080-038-03	27955 MISSION BLVD	RH, RS	T5, RS	1.331
452-0080-039-02	28001 MISSION BLVD	RH	T5	1.339
452-0080-042-00	28049 MISSION BLVD	RH	T5	1.357
452-0080-043-02	28075 MISSION BLVD	RH	T5	1.359
452-0080-045-01	650 HANCOCK ST	RH, RS	T5, RS	1.383
452-0084-069-02	28105 MISSION BLVD	MBR	T5	1.442
452-0084-070-01	28149 MISSION BLVD	MBR	T5	1.457
452-0084-072-00	28257 MISSION BLVD	MBR	T5	1.500
452-0084-073-00	MISSION BLVD	MBR	T5	1.576
452-0084-074-00	28285 MISSION BLVD	MBR	T5	1.592

RECOMMENDED ZONING DESIGNATIONS
SOUTH HAYWARD BART FORM-BASED CODE

Exhibit B

APN	Parcel Address	Existing Zoning Designation	Proposed Zoning (Form-Based Code) Designation	Acres
452-0084-075-02	28293 MISSION BLVD	MBR	T5	1.594
452-0084-076-02	28390 E 13TH ST	MBR	T4	1.751
452-0084-077-00	28368 E 13TH ST	MBR	T4	1.795
452-0084-078-00	28348 E 13TH ST	MBR	T4	1.917
452-0084-079-00	28320 E 13TH ST	MBR	T4	2.102
452-0084-080-00	28298 E 13TH ST	MBR	T4	2.201
452-0084-081-00	28276 E 13TH ST	MBR	T4	2.268
452-0084-082-00	28240 E 13TH ST	MBR	T4	2.451
452-0084-083-00	28202 E 13TH ST	MBR	T4	2.697
452-0084-084-00	28200 E 13TH ST	MBR	T4	3.090
452-0084-085-02	28200 E 13TH ST	MBR	T4	3.373
452-0084-086-02	28475 MISSION BLVD	CN	T52	3.424
452-0084-087-00	28485 MISSION BLVD	CN	T52	4.154
452-0084-088-00	28495 MISSION BLVD	CN	T52	4.656
452-0084-089-00	28521 MISSION BLVD	CN	T52	5.854
452-0084-090-00	28529 MISSION BLVD	CN	T52	6.230
452-0084-095-05	650 TENNYSON RD	CN	T52	6.273
452-0084-096-00	28538 E 13TH ST	CN	T4	6.459
452-0084-097-00	28470 E 13TH ST	CN	T4	7.808
452-0084-098-00	28458 E 13TH ST	CN	T4	9.805
452-0084-099-02	28406 E 13TH ST	CN	T4	10.477

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE, CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE, AND OFF-STREET PARKING REGULATIONS, CHAPTER 10, ARTICLE 2 OF THE HAYWARD MUNICIPAL CODE, AND ADDING A NEW ARTICLE 24 "SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE" TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE, ALL RELATING TO THE ADOPTION OF THE SOUTH HAYWARD BART/MISSION BOULEVARD FORM-BASED CODE

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

Section 1. Planning, Zoning and Subdivision Regulations Amendments - Description.

The Planning, Zoning and Subdivision Regulations amendments associated with Text Amendment Application PL-2011-0196 and Zone Change Application No. PL-2011-0197 concern changes related to the adoption of the South Hayward BART/Mission Boulevard Form-Based Code (the "Form-Based Code") and remove existing Zoning Ordinance and Off-Street Parking Regulation provisions that are in conflict with and contrary to the purposes of the Form-Based Code, as described and set forth below.

Section 2. Planning, Zoning and Subdivision Regulations Amendments - Findings of Approval. This City Council incorporates by reference the findings contained in Resolution No. 11-_____, approving the text changes requested in Text Amendment Application PL-2011-0196 and the zoning reclassifications requested in Zone Change Application PL-2011-0197, as related to the adoption of the Form-Based Code. The City Council hereby approves the following amendments to the Planning, Zoning and Subdivision Regulations, Chapter 10 of the Hayward Municipal Code:

- A. Sections 10-1.550 through 10-1.595 of the City's Zoning Ordinance, relating to the Mission Boulevard Residential (MBR) Zoning District, are hereby repealed in their entirety.
- B. Sections 10-1.650 through 10-1.695 of the City's Zoning Ordinance, relating to the Station Area Residential District (SAR) Zoning District, are hereby repealed in their entirety.
- C. Section 10-1.2635 of the City's Zoning Ordinance, relating to the South Hayward BART/Mission Boulevard Special Design District (SD-6), is hereby repealed in its entirety.
- D. That portions of Section 10-1.3510, Definitions, Uses and Activities Defined, of the City's Zoning Ordinance, relating to the definitions of the Mission Boulevard Residential (MBR) and Station Area Residential (SAR) Zoning Districts, are hereby repealed in their entirety.
- E. Section 10-2.100(f) of the City's Off-Street Parking Regulations, relating to the definition of the South Hayward BART/Mission Boulevard Parking Area, is hereby repealed in

its entirety and Section 10-2.100(g), relating to the definition of the term “use,” is hereby re-numbered as Section 10-2.100(f).

F. Section 10-2.204 of the City's Off-Street Parking Regulations, relating to Mixed Uses, is hereby amended to read as follows: "The total requirement for off-street parking spaces shall be the sum of the requirements of the various uses on the site except as provided in Section 10-2.401, Shared Parking, and Section 10-2.402, Off-site Parking."

G. Section 10-2.404(a) of the City's Off-Street Parking Regulations, relating to Credit for Proximity to Public Transportation Facilities, is hereby amended to delete the following phrase: "and the South Hayward BART/Mission Boulevard Parking Area."

H. Section 10-2.404(b) of the City's Off-Street Parking Regulations, relating to Credit for Proximity to Public Transportation Facilities, is hereby amended to delete the following phrase: "Except for uses in the South Hayward BART/Mission Boulevard Parking Area."

I. Section 10-2.404(c) of the City's Off-Street Parking Regulations, relating to Credit for Proximity to Public Transportation Facilities, is hereby amended to delete the following phrase: "and the South Hayward BART/Mission Boulevard Parking Area."

J. Section 10-2.407(b) of the City's Off-Street Parking Regulations, relating to Tandem Parking Standards, is hereby amended to delete the following phrase: "and the South Hayward BART/Mission Boulevard Parking Area."

K. Section 10-2.407(c) of the City's Off-Street Parking Regulations, relating to Tandem Parking Standards, is hereby amended to delete the following phrase from the first sentence: "and the South Hayward BART/Mission Boulevard Parking Area."

L. Section 10-2.417 of the City's Off-Street Parking Regulations, relating to South Hayward BART/Mission Boulevard Parking Standards, is hereby repealed in its entirety.

M. Section 10-2.418 of the City's Off-Street Parking Regulations, relating to the South Hayward BART/Mission Boulevard Parking Area Non-Residential Parking Requirements, is hereby repealed in its entirety.

N. Section 10-2.419 of the City's Off-Street Parking Regulations, relating to South Hayward BART/Mission Boulevard Parking Area Residential Parking Requirements, is hereby repealed in its entirety.

O. Chapter 10 of the Hayward Municipal Code is hereby amended to add a new Article 24 titled, "South Hayward BART/Mission Boulevard Form-Based Code," as set forth in Exhibit "A" attached hereto and incorporated herein by reference, with the following modifications to that Exhibit:

- a. Section 10-24.135(b) is deleted in its entirety.

- b. The following language is added to Section 10-24.230(a): “Require rooftop improvements to reduce visual impacts on future buildings that could impact views from existing buildings at higher elevations on the east side of Mission Boulevard, as determined by the Planning Director. Architectural features integral to the building design and solar energy systems should not be screened from view.”
- c. Figure 1-1 (Regulating Plan) is to be replaced with the attached revised Figure 1-1 (Exhibit “B”).
- d. **Table 9 (Specific Function and Use) is to be replaced with attached revised Table 9 (Exhibit “C”).**
- e. **The following definitions are to be added to Section 10-24.505 (Definition of Terms):**
 - a. **Liquor Store: Any business of less than 10,000 square feet (gross) where more than 5 percent of such floor area is for the sale, display, and storage of distilled spirits. See Table 9.**
 - b. **Tobacco Specialty Store: a tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods. See Table 9.**
- f. **The definition of ‘Retail Sales’ in Section 10-24.505 (Definition of Terms) is to be modified to read as follows:**
Retail Sales: a Function characterizing establishments primarily engaged in the sale of goods and merchandise, and specifically including retail sales establishments that have less than 10,000 square feet of floor area and engage in the sale of alcohol for off-sale consumption, provided the sale, storage, or display related to alcohol sales does not exceed 5 percent of the gross floor area of the establishment. See Table 9.
- g. Section 10-24.296 is added as follows:
 “At properties located within 500 feet of the curb line of Mission Boulevard, the following air quality mitigation measures shall apply to address health risks associated with traffic-related emissions:
 - a. **Indoor Air Quality.**
 All new development, or existing development involving a use change to one that would be occupied by sensitive receptors, shall implement all of the features below, except as may be modified by Section 10-24.296 (c).
 - i. Existing or new buildings to be occupied by sensitive receptors, shall include and maintain in good working order a central heating and ventilation (HVAC) system or other air intake system in the building, or in each individual unit, that meets or exceeds an efficiency standard of MERV 13 or equivalent. The HVAC system shall include installation of a high efficiency filter and/or carbon filter to filter particulates and other chemical matter from entering the building.
 - ii. Project applicants shall maintain, repair and/or replace HV system on an ongoing and as needed basis according to manufacturer specifications. For developments which are leased, sold or otherwise

not maintained by the initial project developer, an operation and maintenance manual for the HVAC system shall be prepared. The manual shall include the operating instructions and the maintenance and replacement schedule. The Planning Director shall identify an appropriate filing location for the manual, which may include, but is not limited to, the project conditions, covenants and restrictions (CC&Rs), County recorder, or City development permit file.

- iii. The HVAC system or other air intake system required above, shall be submitted to the Planning Director for review and action prior to the issuance of a demolition, grading, or building permit.
- b. **Outdoor Air Quality.**
To the maximum extent practicable, individual and common exterior open space (e.g., playgrounds, patios, and decks) proposed as a part of developments within 500 feet of the curb line of Mission Boulevard and associated with sensitive receptors, shall either be shielded from air pollution originating at Mission Boulevard by buildings or otherwise buffered to further reduce air pollution for project occupants.
- c. Compliance with Sections 10-24.296(a) and (b) above shall not be required or may be modified when all the following occur:
 - i. A development project applicant submits to the Planning Director a Health Risk Assessment (HRA) prepared by a qualified air quality consultant in accordance with California Air Resources Board (CARB) and Office of Environmental Health and Hazard Assessment requirements.
 - ii. The HRA demonstrates that indoor and outdoor air quality can be maintained within currently applicable health risk standards of the Bay Area Air Quality Management District.
- d. An HRA submitted in accordance with Section 10-24.296(c), must be approved by the Planning Director prior to issuance of a demolition, grading, or building permit.
- e. The Planning Director may require review and approval of the HRA prior to scheduling discretionary permits (e.g., Site Plan Review, Conditional Use Permit) for public hearing.
- f. The Development Services Department may require, at the applicant's sole expense, an independent review of the HRA by a qualified consultant.
- g. An HRA submitted in accordance with Section 10-24.296(c), shall be subject to Planning Director review and action.
- h. Sensitive receptors include, but are not limited to, residences, schools and school yards, parks and play grounds, daycare centers, nursing homes, and medical facilities. Residences can include, but are not limited to, houses, apartments, and senior living complexes. Medical facilities can include, but are not limited to, hospitals, convalescent homes, and health clinics. Playgrounds can be, but are not limited to, play areas associated with parks or community centers.”

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

Section 4. Severance. Should any portion of this ordinance be declared by 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 the ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance absent the excised portion, can be reasonably interpreted to give effect to the intentions of the City Council

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the day of _____, 2011, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the__ day of _____, 2011, 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



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 13, 2011, 7:00 p.m.**

ATTACHMENT IV

8. Certification of a Supplemental Environmental Impact Report, Adoption of Amendments to the General Plan, and Introduction of Ordinances involving Zoning Reclassifications and Text Changes to the Zoning Ordinance and Related Municipal Code Sections, to Enact and Implement the South Hayward BART/Mission Boulevard Form-Based Code – *Continued from July 26, 2011*

Staff report submitted by Development Services Director Rizk, dated September 13, 2011, was filed.

Development Services Director Rizk provided a synopsis of the report.

Council Member Henson noted that the South Hayward BART/Mission Form-Based Code is going to change the surrounding neighborhood through the development process and asked staff to address how those changes would lead to substantive improvements to Dixon Street and the surrounding areas. Development Services Director Rizk responded that there will be improvements to the north portion of Dixon Street, south of Tennyson Road associated with the Transportation for Livable Communities grant, which will improve sidewalks and landscaping along the northern portion of Dixon Street. He added that the South Hayward BART Station Transit-Oriented Development Project is going to incentivize new high quality development in that area.

Council Member Henson stated that there are some existing uses in the Mission Boulevard area that were not consistent with improvements envisioned for this area and would be better suited for industrial areas.

Council Member Halliday asked about the status of the Mission Paradise Project between Hancock and Webster Streets. Development Services Director Rizk noted that the project developers requested and received a couple of extensions, the latest of which would allow the project entitlement to be valid until June of 2013. Mr. Rizk clarified for Council Member Halliday that if a different builder wants to continue with the construction plan, they would be subject to a site plan review. Ms. Halliday noted that better treatment of the roof tops would create a better view from the hill.

Council Member Halliday stated that the proposed project would encourage the type of development that is envisioned along Mission Boulevard and the new improvements would maintain property values in the area and allow community groups and schools to purchase property in this area.

In response to Council Member Halliday's question about the impact that the loss of redevelopment funding would have on the development plan for this project, City Manager David responded that without redevelopment funds, the City does not have the financial resources to incentivize

developers nor the ability to move forward.

Council Member Salinas referred to a letter submitted by Mr. Ersted in which he expressed concerns with the allowed uses in the T4 Zone and requested that Council prohibit alcohol sales, check cashing and loans, dance/nightclub, massage parlor, pawnshop, and tattoo parlor, and modify Table 9 of the Form-Based Code. Mr. Salinas suggested that the Council consider eliminating the uses suggested by Mr. Ersted, which appear in Table 9. Council Member Salinas stated that the vision for the Mission Boulevard corridor is to develop an area which is in line with the City's priorities, an area that would be healthy, clean, and green.

Council Member Zermeño expressed that in the future, the City would have to consider permitting the construction of buildings that have more floors than what is currently permitted. Mr. Zermeño thanked staff for changing the zoning to allow the four auto-related businesses.

Council Member Zermeño requested that one of the new streets in the proposed development area be called Cesar Chavez Way. In reference to the Bicycle Standards, Council Member Zermeño suggested that bicycle lanes be painted green, as a safety measure.

Council Member Peixoto agreed with Council Member Salinas that the City does not need the uses that were highlighted in Table 9 along the Mission Boulevard corridor. Director Rizk clarified for Council Member Peixoto that the Planning Commission will be able to evaluate uses in the development area on an individual basis, issuing conditional use permits as needed.

In response to Mr. Peixoto's question related to homeless shelters and transitional housing included in at least one zoning district, per Program 20, Mr. Rizk indicated that Program 20 will be included so that it is compatible with other residential neighborhoods in the Mission Boulevard area.

Mayor Sweeney opened the public hearing at 9:06 p.m.

Mr. Joseph Oberman, Jefferson Street resident, stated that since the stoplight at Jefferson Street was removed the residents are unable to enter Mission Boulevard due to the traffic on Mission Boulevard and asked if the new roadway will go behind Bowman School and all the way down to Sorensen Road. Director Rizk stated that the new roadway would not continue all the way to Sorensen Road, but noted that the redevelopment of the Mission Plaza shopping center would create an avenue of public streets leading to Sorensen Road. Mr. Oberman emphasized the need for a stoplight at Jefferson Street/Mission Boulevard.

Mr. Jim Pestana, Jim's Automotive owner on Mission Boulevard, appreciated the response he received from Council and staff regarding the T4 Zoning. He concurred with the T4 Zoning changes because they are consistent and fair with the surrounding area.

Mr. Kenneth Little, Dixon Street resident, asked how the zoning changes would affect him if he sells his home. Director Rizk stated that if the new Code is adopted, then Mr. Little's property will only be impacted if either he or a future owner expands the single-family home, adding that Mr. Little's property is classified as a legal non-conforming use.

Mayor Sweeney closed the public hearing at 9:14 p.m.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 13, 2011, 7:00 p.m.**

ATTACHMENT IV

Council Member Henson noted that Alameda County will allocate \$43 million to Priority Development Areas such as the South Hayward BART Station and emphasized that this is a great opportunity to receive additional funding for the development project.

Council Member Henson concurred with Council Member Salinas' suggestion to reconsider some of the uses listed on Table 9 - Standard Function and Use. He stated that the City already has many of the uses which were highlighted in Mr. Ersted's letter and that there was not a need to add those types of uses to the Mission Boulevard corridor. Mr. Rizk clarified for Mr. Henson that alcohol sales can be permitted for restaurants that meet the criteria of a full-service restaurant.

Council Member Zermeño offered a motion to move the staff recommendation and encouraged staff to explore naming one of the newly created streets in the area Cesar Chavez Way and painting the bicycle lanes green as a safety measure. He added that Council Member Salinas' suggestion to eliminate certain uses depicted in Table 9 need to be considered.

Discussion ensued related to painting the bicycle lanes green and Council Member Zermeño modified his motion and asked staff to explore the idea of adding green bicycle lanes and also naming one of the new streets in the Mission Boulevard corridor Cesar Chavez Way.

Council Members Halliday and Henson seconded the item.

Council Member Salinas stated that the reconsideration of the highlighted uses on Table 9 should not preclude restaurants from serving alcohol as long as the restaurants meet the criteria of a full-service restaurant and that the highlighted uses would apply to the entire development in the South Hayward/Mission Boulevard area. Discussion ensued about alcohol sales and what would be permitted.

Development Services Director Rizk suggested that this item be continued so that staff can reexamine the definition of alcohol sales in the Form-Based Code and amend it to meet Council's direction. Assistant City Attorney Conneely concurred with Director's Rizk recommendation and stated that making changes to the uses may impact property owners and they must be notified. Ms. Conneely added that it is within the Council's authority to eliminate those uses and to give direction to staff to develop some changes to the Ordinance and to bring these changes back to Council at a future time for further consideration.

Mayor Sweeney expressed that the Council was amenable for staff to bring back those changes.

Council Member Halliday agreed that staff revise the language and bring it back to Council in the future.

Council Member Henson added that staff also review the other highlighted uses presented in Table

9 of the Form-Based Code.

Mayor Sweeney restated the motion to approve the staff recommendation with two amendments: to consider naming one of the new streets in the development area after Cesar Chaves and revise the uses highlighted in yellow in Table 9 and come back to Council with a revised Ordinance stating the uses that are not permitted in the project area. He noted that full-service restaurants would be able to serve alcohol, but there was concern about stand-alone alcohol uses such as bars and liquor stores.

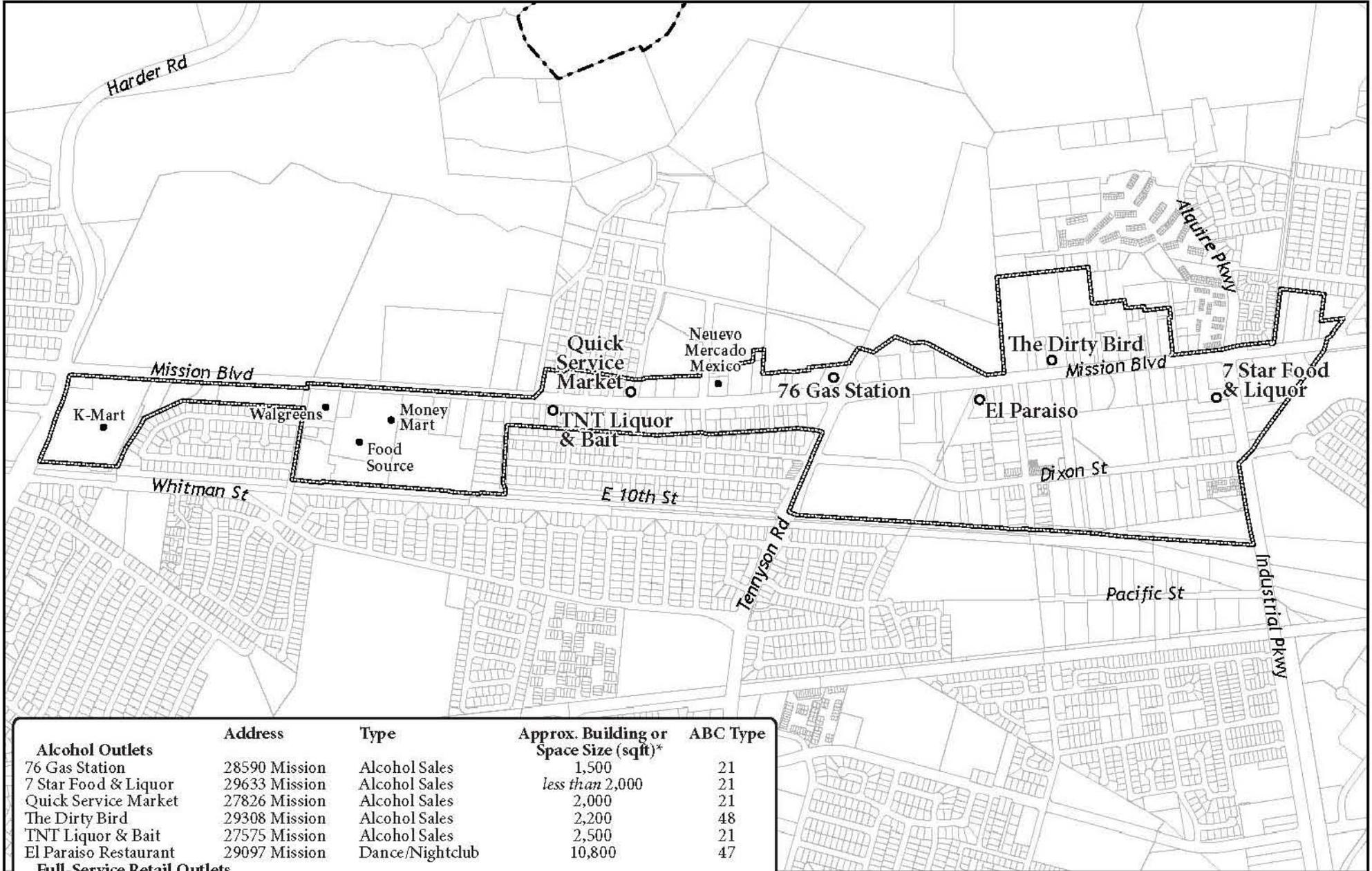
Assistant City Attorney Conneely suggested that the entire matter be continued because the proposed ordinances were inconsistent with the motion on the floor. Ms. Conneely advised Council that it would not be necessary to have an entire hearing on the Form-Based Code, but a hearing limited to the consideration of the elimination of those uses from either the T4 or T5, or from both.

Council Member Zermeño withdrew his motion on the floor and offered a motion to continue the item to September 27, 2011.

It was moved by Council Member Zermeño, seconded by Council Member Halliday and Council Member Henson, and carried with Council Member Quirk absent, to continue the item to September 27, 2011.

Select Uses in South Hayward BART FBC Area

0 500 1,000 2,000 Feet



	Address	Type	Approx. Building or Space Size (sqft)*	ABC Type
Alcohol Outlets				
76 Gas Station	28590 Mission	Alcohol Sales	1,500	21
7 Star Food & Liquor	29633 Mission	Alcohol Sales	less than 2,000	21
Quick Service Market	27826 Mission	Alcohol Sales	2,000	21
The Dirty Bird	29308 Mission	Alcohol Sales	2,200	48
TNT Liquor & Bait	27575 Mission	Alcohol Sales	2,500	21
El Paraiso Restaurant	29097 Mission	Dance/Nightclub	10,800	47
Full-Service Retail Outlets				
Neuevo Mercado Mexico	28150 Mission	Alcohol Sales	8,000	21
Walgreens	26781 Mission	Alcohol Sales	14,400	20
Food Source	26905 Mission	Alcohol Sales	66,000	21
K-Mart	26231 Mission	Alcohol Sales	94,000	21
Other Uses				
Money Mart	26953 Mission	Check Cashing & Loans	less than 2,000	129

September, 2011

* Based on measurement of structure from areal imagery.

- (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. Alcoholic Beverage Outlet Regulations.

- (1) Purpose.
In addition to the general purposes listed in Section 10-1.110: General Provisions, the specific purpose of the Alcoholic Beverage Outlet Regulations is to provide for the orderly integration of alcohol-related uses, including the sale of wine and beer.
- (a) In adopting these regulations, it is recognized that the proliferation of establishments selling alcoholic beverages within the City of Hayward presents problems that affect residents, businesses, property owners, visitors, and workers of Hayward.
- (b) Problems which can result include, but are not limited to, crime, littering, loitering, public intoxication, disturbance of the peace, discouragement of more desirable and needed commercial uses, and other similar problems connected primarily with the regular congregation of persons around establishments engaged in the sale of alcoholic beverages for consumption on or off the premises.
- (c) It is also recognized that existence of such problems creates a serious impact on the peace, health, safety and welfare of residents of nearby areas including fear for the safety of children and visitors to the area, as well as contributing to the deterioration of neighborhoods and concomitant devaluation of property and destruction of community values and quality of life.
- (d) These regulations are intended to ameliorate the types of problems identified above by restricting the location of establishments selling alcoholic beverages in relation to one another and their proximity to facilities primarily devoted to use by children and families with children.
- (e) The use permit process is a means to review the effects of establishments selling alcoholic beverages on neighboring uses on a case by case basis, and to prevent the undue concentration of and undesirable impacts on the community stemming

from such uses by the imposition of reasonable conditions upon the operation of such uses.

(2) Definitions.

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

- (a) Alcoholic Beverage Sales Commercial Activity. “Alcoholic Beverage Sales Commercial Activity” means the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, excluding full-service restaurants that comply with the below-listed definition of full-service restaurant.
 - (i) “On-sale Alcohol-related Commercial Activity” shall mean any business wherein alcoholic beverages are sold on the premises and are to be consumed on the premises including all related buildings, structures, open spaces and parking areas. This shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises. This section shall be interpreted to include bars, exclusive of night clubs.
 - (ii) “Off-sale Alcohol-related Commercial Activity” shall mean any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold.
 - (iii) “Liquor store” shall mean any business of less than 10,000 square feet (gross) where beer, wine or distilled spirits are sold for off-sale consumption.
- (b) Downtown Entertainment Area. The “Downtown Entertainment Area” shall mean that area generally between A and D Streets and between Second Street and Grand Street.
- (c) Restaurant – Full Service. A “full service restaurant” shall mean a sit-down commercial activity which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals, and which may include an incidental bar, cocktail lounge, or other area designated primarily for the service of alcohol on the premises, which operates as part of the restaurant and is subservient to the primary function of the establishment, and which maintains a minimum of 60 percent of its gross receipts from the sale of meals. For purposes of these regulations, a full-service restaurant does not include fast food restaurants or delicatessens. For the purpose of verifying compliance with the foregoing sales requirement, the sales receipts, accounting ledgers, and any other business records pertaining to the sales of food and alcohol shall be open for inspection by the Chief of Police or his or her designee during regular business hours of the restaurant upon 72 hours’ prior written notice. To be considered a full service restaurant, the commercial activity must meet the criteria listed below. Restaurants that fail to meet these criteria must apply for a conditional use permit. In the event that the establishment fails to obtain a conditional use permit, the establishment shall be in violation of these regulations and subject to the penalties and enforcement provisions set forth in Section 10-1.2850 of the Zoning Ordinance.

- (i) A full service restaurant shall serve meals to guests at all times the commercial activity is open for business. An establishment shall not be considered a full-service restaurant if it serves alcohol without meal service being provided.
- (ii) Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
- (iii) A full service restaurant shall not offer or permit any form of live or recorded entertainment; including by way of example and not limited to, the playing of recorded music by a disc jockey, karaoke, dancing, video or mechanical games. Background music complementary to a dining experience may be provided as determined by the Chief of Police.
- (iv) A full service restaurant shall not offer any type of reduced price promotion for alcoholic beverages served on the premises.
- (v) A full service restaurant is one that abides by all of the following performance standards:
 - (a) That it does not result in jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area; and
 - (b) That it does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests; and
 - (c) That it does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute; and
 - (d) That its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and
 - (e) That all its employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within 90 days of being employed; and
 - (f) That it complies with all of the Retail Operating Standards of the California Department of Alcoholic Beverage Control; and
 - (g) That it does not sell alcoholic beverages to minors.
- (d) Night Club. "Night club" shall mean any alcoholic beverage sales commercial activity which engages in the sale of alcoholic beverages in conjunction with providing live entertainment (including the playing of recorded music by a disc jockey) or dancing between the hours of 6:00 p.m. to 2:00 a.m. regardless of whether such establishment is simultaneously offering full restaurant meal service or charges an entry fee or increases the sale price of beverages.

(3) Conditional Use Permit for New Establishments.

Except as otherwise provided herein, no new alcoholic beverage sales commercial activity may sell alcoholic beverages for either on-site or off-site consumption unless a conditional use permit has been approved for such establishment. A conditional use permit shall not be required if the establishment is one of the following:

- (a) Retail stores having 10,000 square feet or more of floor area and which devote not more than 5 percent of such floor area to the sale, display, and storage of alcoholic beverages;
- (b) Full-service restaurants; or
- (c) Special event functions such as neighborhood or community festivals, provided all of the following criteria are met:
 - (i) The person, group, business, or organization sponsoring the event secures all applicable permits from the City of Hayward;
 - (ii) The person, group, business, or organization sponsoring the event obtains a temporary on-sale license from the State of California Department of Alcohol Beverage Control for each of the dates the event will be held; and
 - (iii) The duration of the event does not exceed three consecutive days or five days in any single calendar year.

(4) Posting of Conditions of Approval.

A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public.

(5) Findings.

- (a) In making the findings required by Section 10-1.3225 governing conditional use permits, the Planning Director, or the Planning Commission on referral or appeal, shall consider whether the proposed use will result in an undue concentration in the area of establishments dispensing alcoholic beverages.
- (b) The Planning Commission, or City Council on referral or appeal, shall also consider whether the proposed use will detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses.

(6) Application For Conditional Use Permit.

In addition to the requirements set forth in Section 10-1.2815 and any other applicable City regulation, an application for a conditional use permit shall set forth and include the following:

- (a) The type of Alcoholic Beverage Control license the applicant is seeking for the establishment; and
- (b) The true and complete name and address of each lender or share holder with a 5 percent or more financial interest in the proposed business or any other person to whom a share or percentage of the income of the establishment is to be paid; and
- (c) A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crime other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction.

(7) Requirements For New On-Sale Alcohol-Related Commercial Activities.

- (a) With the exception of the downtown entertainment area, no new on-sale alcohol-related commercial activity shall be permitted within a radius of 500 feet of any other on-sale or off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreational center, day care center, or other similar use.
- (b) Notwithstanding the above:
- (i) Outside the downtown entertainment area, the Planning Commission may recommend to the City Council a lesser alternative distance requirement in a particular instance, if it is found that the public convenience and necessity will be served by an alternate space requirement and that alternative measures to assure public health and safety are provided with respect to sale and use of alcoholic beverages.
- (ii) Within the downtown entertainment area, no on-sale alcohol-related commercial activity shall be established or maintained within a radius of 100 feet of any off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreational center, day care center, or other similar use. However, on-sale alcohol related commercial activities which front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, shall not be restricted with respect to proximity to any school, public park, library, playground, recreational center, day care center, or other similar use.
- (iii) Within the downtown entertainment area, no more than two on-sale alcohol-related commercial activities shall be permitted per block side or face, with the exception of new or existing establishments that are exempted by subsection (3) above. Determination of location on a block side or block face shall be made by referring to the street address of the on-sale alcohol-related commercial activity on a block between the two immediate cross streets.

(8) Requirements For New Off-Sale Alcohol-Related Commercial Activities.

With the exception of the downtown entertainment area, no new off-sale alcohol-related commercial activity will be permitted within a radius of 500 feet of any other on-sale or off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreation center, day care center, or other similar use.

(9) Conditions.

To implement official City policy and to attain the purpose for requiring use permit approval, as stated in Section 10-1.3205 and in subsection (1) above, as well as the findings listed in Section 10-1.3225, the Planning Commission, or the City Council on referral or appeal, may attach to approvals such conditions as it deems necessary. Violations of any of these conditions unless explicitly stated otherwise shall be independent grounds for permit revocation. These conditions may include, but are not limited to:

- (a) Commission by the permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and 2) Such criminal offense is found to be detrimental to the public health, safety, or general welfare.
 - (b) Alcoholic beverage sales commercial activities shall provide exterior lighting that is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties.
 - (c) Alcoholic beverage sales commercial activities with off-sale privileges shall prominently post a sign on the exterior of the premises stating that consumption of alcoholic beverages in public is prohibited by law pursuant Chapter 4 of the Hayward Municipal Code.
 - (d) Alcoholic beverage sales commercial activities shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.
 - (e) No beer or malt liquor shall be sold in bottles or containers larger than 12 ounces for off-site consumption;
 - (f) Beer and malt liquor in containers of 12 ounces or less shall not be sold in units of less than one six-pack for off-site consumption;
 - (g) Wine shall not be sold in bottles or containers smaller than 750 ml and wine coolers shall not be sold in containers smaller than 12 ounces and in units of less than one four-pack for off-site consumption;
 - (h) Distilled spirits shall not be sold in bottles or containers smaller than 750 ml for off-site consumption; and
 - (i) Consumption of alcoholic beverages shall not be permitted on any property adjacent to the licensed premises which is also under the control of the owner of the liquor establishment;
 - (j) Alcoholic beverage sales commercial activities shall maintain trash and garbage storage areas that are enclosed by a solid fence or wall and screened from the view of abutting properties or the public right-of-way.
- (10) Existing Establishments Selling Alcoholic Beverages.

Any alcoholic beverage sales commercial activity lawfully operating prior to the effective date of these regulations and licensed by the State of California for the retail sale of alcoholic beverages for on-site or off-site consumption may continue such operations after the effective date of these regulations. Upon the occurrence of either of the following, however, operation of the establishment shall require approval of a conditional use permit:

- (a) The alcoholic beverage sales commercial activity changes its type of liquor license within a license classification; or
- (b) There is a substantial change in the mode or character of operation. As used herein, the phrase "substantial change of mode or character of operation" shall include, but not be limited to, expansion in the amount of area devoted to the sales or consumption of alcoholic beverages, a pattern of conduct in violation of other laws or regulations, or a cessation of use for a period of six months or more.

(11) Modifications in Permitted Alcoholic Beverage Sales Commercial Activities.

Any permitted alcoholic beverage sales commercial activity operating under either a conditional or an administrative use permit after the effective date of these regulations shall apply for a modification of its use permit pursuant to Section 10-1.3260 of the Hayward Municipal Code when either of the following occurs:

- (a) The alcoholic beverage sales commercial activity changes its type of liquor license within a classification; or
- (b) There is a substantial change in the mode or character of operations of the alcoholic beverage sales commercial activity as defined in subsection (11) above.

(12) Notice.

In addition to the notice required by Section 10-1.2820, in the case of applications for conditional use permits or appeals of administrative use permits pursuant to these regulations, notice shall also be provided to occupants of buildings located on parcels within 300 feet of the perimeter of the subject property for which use permit approval is sought.

(13) Letter of Public Convenience or Necessity.

The Planning Director is authorized to issue letters of public convenience or necessity to the State Department of Alcoholic Beverage Control for alcoholic beverage sales commercial activities that have approved conditional or administrative use permits or where the establishment engaged in the sale of alcoholic beverages is exempt from a conditional use permit.

c. 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.

d. 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 .

FORM-BASED CODE

TABLE 9. SPECIFIC FUNCTION & USE

South Hayward BART / Mission Boulevard

TABLE 9: Allowed Functions. This table allocates Functions and permit requirements to Zones within the Code area. See Definitions for descriptions of functions/uses and for special requirements.

	T4	T5	CS
a. RESIDENTIAL			
Multiple Family	P	P	-
Second Dwelling Unit	P	P	-
Live-Work	P	P	-
Small Group Transitional Housing	P	P	-
Large Group Transitional Housing	CU	CU	-
Small Group Supportive Housing	P	P	-
Large Group Supportive Housing	CU	CU	-
Emergency Homeless Shelter	P	-	-
b. LODGING			
Bed & Breakfast	AU	AU	-
Hotel	CU	CU	-
c. OFFICE			
Office	P	P	-
d. RETAIL			
Alcohol Sales*	CU	CU	-
Artisan/Craft Production	P	P	-
Appliance Repair Shop	P	P	-
Check Cashing & Loans	-	-	-
Dance/Nightclub	-	-	-
Equipment Rentals	AU	AU	-
Home Occupation	P	P	-
Indoor Recreation	AU	AU	CU
Kennel	AU	AU	-
Massage Parlor	CU	CU	-
Media Production	AU	P	-
Pawn Shop	-	-	-
Personal Services	P	P	-
Printing and Publishing	AU	P	-
Recycling Collection Area	AU	AU	-
Restaurant	P	P	-
Retail Sales	P	P	CU
Tattoo Parlor	-	-	-
Small Motion Picture Theater	P	P	CU
Large Motion Picture Theater ⁽¹⁾	CU	CU	CU
Live Performance Theater	P	P	CU
Liquor Store	-	-	-
Tobacco Specialty Store	-	-	-

	T4	T5	CS
e. CIVIC			
Assembly	AU	AU	CU
Conference Center	-	CU	CU
Cultural Facility	P	P	CU
Park & Recreation	P	P	P
Parking Facility	AU	AU	CU
Public Agency Facility	P	P	P
Religious Facility*	AU	AU	CU
Wind Energy	P	P	P
f. OTHER: AGRICULTURE			
Vegetable Garden	P	-	P
Urban Farm	P	P	P
Community Garden	P	P	P
Green Roof			
Extensive	P	P	P
Semi Intensive	P	P	P
Intensive	P	P	P
Vertical Farm	-	P	P
g. OTHER: AUTOMOTIVE			
Automobile Repair (Minor)	AU	AU	-
Automobile Repair (Major)	CU	CU	-
Drive -Through Facility	CU	CU	-
Gas Station	CU	CU	-
Taxi Company	AU	AU	-
h. OTHER: CIVIL SUPPORT			
Fire Station	P	P	P
Hospital	CU	CU	CU
Medical/Dental Clinic	AU	AU	CU
Mortuary	AU	AU	CU
Police Station	P	P	P
i. OTHER: EDUCATION			
Day Care Center	P	P	CU
Day Care Home	AU	AU	-
Educational Facility	AU	AU	CU
Vocational School	AU	AU	CU

(-) = NOT PERMITTED
 (P) = BY RIGHT
 (AU) = ADMINISTRATIVE USE PERMIT
 (CU) = CONDITIONAL USE PERMIT

* Religious Facility: for properties fronting Mission Blvd., such use is not allowed within one half mile of an existing similar use that fronts Mission Blvd.

⁽¹⁾ An application for conditional use Permit for a Large Motion Picture Theater shall be accompanied by a study acceptable to the Planning Director documenting the absence of negative impact upon the downtown of the opening of another Large Motion Picture Theater.

**Unless exempted by the Alcohol Beverage Outlet Regulations contained in Section 10-1.2735(b) of the Hayward Municipal Code or specifically exempted by this Code.

DATE: September 27, 2011

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Appointment of City Council Members to the Board of the Joint Powers Authority with the Bay Area Rapid Transit District (BART) for South Hayward BART Station Access

RECOMMENDATION

That the Council selects two of its members to serve as members of the Board of the Joint Powers Authority (JPA) with the Bay Area Rapid Transit District (BART) for South Hayward BART Station Access and adopts the attached resolution (Attachment I) designating the two Board Members.

BACKGROUND

On July 26, 2011, the Council approved a Joint Exercise of Powers Agreement with BART in conjunction with numerous other project approvals related to the South Hayward BART TOD project¹. In January 2011, the Developers of the TOD project (Wittek/Montana and Eden Housing) re-phased the Project and advised that the new "Phase 1" would include 151 affordable units – 64 senior units and 87 family units (the "Phase 1 Affordable Housing Development") – and 203 market-rate rental units (the "Phase 1 Market Rate Housing Development"). In connection with the re-phasing, the Development Services Director approved a minor modification to the approved Preliminary Development Plan on June 8, 2011. The TOD project was originally awarded \$47 million of Proposition 1-C Bond "Round II" Infill Infrastructure Grant and Transit Oriented Development Housing Program Funds (the "HCD Funds") in 2009. Because of the re-phasing, HCD recalculated the amount of the HCD Funds award. HCD is now willing to provide \$31.3 million for the TOD Project, consisting of \$16.2 million in Infill Infrastructure Grant Funds ("HCD IIG Funds") and \$15.1 million of Transit Oriented Development Housing Funds ("HCD TOD Funds").

In connection with the TOD Project, BART intends to convey its East Overflow Lot at the South Hayward BART Station to Wittek/Montana (the "East Lot"). Wittek/Montana intends to construct the Phase 1 Market Rate Development on the East Lot (and a portion of the Perry and Key Site located along Mission Boulevard, currently owned by Wittek/Montana). Due to

¹ See Attachments IV and V of the July 26, 2011 Council report for the resolution approving the JPA and the full text of the JPA Agreement: <http://www.hayward-ca.gov/citygov/meetings/cca/2011/CCA11PDF/cca072611full.pdf#page=320>

concerns related to the loss of parking at the East Lot site, BART has advised that the formation of the JPA must occur before BART will enter into a purchase contract with Wittek/Montana for the BART East Lot. BART has further advised that the City and BART must come to an agreement regarding the activities of the JPA before BART will convey the BART East Lot to Wittek/Montana. The JPA will provide certain protections for the City related to the conveyance of the East Lot and will allow the City to maintain a voice in parking issues at the South Hayward BART station as those issues impact surrounding City streets and neighborhoods. The JPA will help to protect the neighborhoods surrounding the South Hayward BART Station from excess overflow parking and potentially provide a funding source for neighborhood improvements such as sidewalks and walkways.

DISCUSSION

The JPA the Council approved on July 26, 2011 (Agreement is Attachment II) has been formed based on negotiations between the City and BART. The JPA Agreement sets forth the purpose and powers of the JPA, as well as the limitations imposed on the JPA by its members including the following provisions that balance the City's interest in furthering the TOD Project and controlling future parking and access activities:

1. Purpose: The JPA is intended, ultimately, to manage and administer parking and access at and near the South Hayward BART Station in an equitable and orderly fashion in order to promote transit-oriented development, support access to the stations by BART patrons, maximize BART ridership, and protect surrounding neighborhoods. For example, the JPA might capture BART lot and on-street parking fees, if and when such are needed. Those fees could then be used to provide for access and other improvements in the neighborhood. The JPA could also market alternative transportation and access strategies. Such alternative transportation and access strategies would further the goals of the JPA and also support the City's independent Climate Action Plan goals.
2. Initial Activities. Despite the broader purpose set forth above, the initial activities of the JPA would be quite limited. The JPA would initially serve to commission a study regarding parking and access at the South Hayward BART Station (the "Parking and Access Study"). This study would focus on the potential impacts of the Phase I development and the specific role the JPA would play in implementing parking and access strategies. The Parking and Access Study will permit the JPA to identify its future activities. The Study will also build upon the previous study completed by Nelson/Nygaard Consultants by identifying specific locations and amount of parking spaces that could be available to BART commuters along neighborhood streets in close proximity to the BART station, and will identify potential BART patron parking and access issues at the South Hayward Station. It will also identify potential effects on the neighborhood (and on the Downtown BART Station) due to the TOD Project and any parking modifications that may result from the JPA activities. BART staff and City staff will be jointly managing the completion of the Parking and Access Study, allowing for both BART and City interests to be incorporated into any final recommendations from the Study. Staff anticipates that the study will help to:

- Identify location of parking spaces (outside of the main South Hayward BART lots) that could be available for use by BART patrons following the sale of the BART East Lot.
- Identify what type of parking might be provided within which areas. (For example, street parking, lot parking, fee parking, hourly parking etc.)
- Identify when the parking will be needed. (For example, is full replacement of the BART East Lot parking required now, or can it be phased?)
- Identify parameters for any charges to be imposed on BART patron parking.
- Identify any parking payment and accounting mechanisms.
- Identify enforcement activity and responsibilities.
- Identify capital needs and sources of funding for JPA activities.
- Identify JPA operating and maintenance needs.
- Identify other access features that may be necessary or desired.

3. City Approval of Action Plan: Following the study, the JPA would present a proposed set of activities, essentially an “Action Plan,” to the City and BART for approval. The JPA will not implement any activities identified in the Action Plan (or any activities beyond the commissioning of the Access and Parking Study, the creation of the Action Plan, and general administrative and formation activities) until the City and BART each approve the Action Plan. The JPA will also not implement any activities outside of the Action Plan without City approval. If necessary, the JPA agreement may be amended to accommodate the proposed Action Plan. As part of its Action Plan approval process, the City would be able to institute those controls it deems necessary to appropriately monitor the JPA's activities.

4. JPA Board and Voting Process: The JPA Board will consist of four members: two BART Board Members and two City Council Members. Decisions of the JPA would be made by the consent of all four JPA Board Members. If an agreement among the JPA Board Members could not be reached, the City and BART would meet to resolve the dispute. If the dispute continued, the City or BART could require mediation of the issue (and the expense of mediation would be shared).

5. Staffing: The JPA would be staffed by two Co-Executive Directors: the City Manager and a BART Executive. The City Finance Director would act as the Treasurer and BART's internal auditor would be the Auditor of the JPA. (An outside accountant will be used to prepare annual audits, however.)

As approved by Council, BART and City staff have executed the JPA documents and are working to schedule an initial meeting of the JPA Board in October or November. The BART Board will consider appointment of its two JPA Board members in October or early November. As such, the Council should appoint its two members to the JPA Board so staff can begin planning for the first Board meeting.

ECONOMIC IMPACT

The successful development of the South Hayward TOD Project will have an immense positive economic impact on south Hayward. The commencement of the housing construction in this area should spur the development of the area. Proposed nearby projects would likely re-

commence their planning, leading to construction. The development of housing in the area should lead to stronger interest from retailers, and thereby, planning and construction of retail centers. Initial development under Phase 1 of the Project would also have a positive economic impact by creating approximately 500 immediate high-quality construction, design and engineering services jobs through the three-year development cycle and new housing in the area. The TOD Project will increase BART ridership and decrease vehicle miles traveled and thus will help reduce greenhouse gas emissions associated with vehicles, which is in line with the goals in the City's Climate Action Plan. Total Phase I Project costs are estimated to be more than \$100 million, exclusive of land costs. The JPA is a critical element to moving the TOD project forward.

FISCAL IMPACT

The future activities of the JPA would not impact the General Fund because the Action Plan would identify an independent financing strategy for the JPA programs and operations. The JPA is intended to be self-funded and to save the City and BART money by paying for parking and access costs that the City and BART might otherwise face independently. As the JPA Action Plan is not known at this time, it is difficult to estimate future costs of its program but revenue to the JPA can be roughly estimated. For example, if fees are charged at the South Hayward main parking lot and paid to the JPA, approximately \$20,000 could be collected per month or \$240,000 annually. The JPA could use these funds for its programs and operations. The City and BART will need to identify a source of funding to pay for the Access and Parking Study, the initial formation and administration costs of the JPA, and any costs associated with developing the JPA Action Plan. These initial costs will be limited and will likely be in the range of \$50,000-\$75,000. The City and BART may choose to share in these costs or may look to other sources of funding, which would be eligible for reimbursement from future JPA revenues.

NEXT STEPS

Following appointment of the two Council and the two BART JPA members, staff will work to schedule the first JPA Board meeting in October or November.

Prepared and Recommended by: Kelly McAdoo Morariu, Assistant City Manager/Interim
Redevelopment Agency Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution Appointing Two Members of the City Council to the JPA Board
Attachment II: Joint Exercise of Powers Agreement for the South Hayward BART Station
Access Authority

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced By Council Member _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
APPOINTING TWO MEMBERS TO THE BOARD OF THE SOUTH
HAYWARD BART STATION ACCESS AUTHORITY WITH SAN
FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ("BART")

WHEREAS, the City of Hayward ("City") recognizes the benefits associated with managing parking and BART patron access issues at the South Hayward BART Station; and

WHEREAS, in order to facilitate the management of parking and access issues at the South Hayward BART Station, the City Council authorized the City Manager to execute a Joint Exercise of Powers Agreement with BART to form the South Hayward BART Station Access Authority ("JPA") pursuant to the Joint Exercise of Powers Act (California Government Code Section 65000 et seq.) which will operate within the jurisdiction of the City; and

WHEREAS, the JPA has been executed by both the City and BART.

NOW, THEREFORE, BE IT RESOLVED that the City Council, finds the above recitals true and correct and by this reference makes them a part hereof.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that Council Members _____ and _____ are hereby designated as the City's two voting representatives on the JPA Board.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA, September 27, 2011

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 for the City of Hayward

JOINT EXERCISE OF POWERS AGREEMENT
FOR THE
SOUTH HAYWARD BART STATION ACCESS AUTHORITY

by and between

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
AND
THE CITY OF HAYWARD

JOINT EXERCISE OF POWERS AGREEMENT
FOR THE SOUTH HAYWARD BART STATION ACCESS AUTHORITY

This Joint Exercise of Powers Agreement (the "Agreement") is entered into as of _____, 2011, by and between San Francisco Bay Area Rapid Transit District ("BART"), a rapid transit district established under Public Utilities Code Sections 28500 *et seq.*, and the City of Hayward ("City"), a municipal corporation, with reference to the following:

A. BART is the owner of that certain real property in the City of Hayward, Alameda County, California, which property is delineated on the map attached hereto as Exhibit A (the "BART South Hayward Property"). The BART South Hayward Property includes the South Hayward BART Station (the "South Hayward Station" or "Station") and the parking and access facilities that serve the South Hayward Station.

B. In June of 2006, the City adopted a South Hayward BART/Mission Boulevard Concept Design Plan, which seeks to encourage and provide the framework for redevelopment that will result in a transit village around the South Hayward Station and an enhanced Mission Boulevard corridor.

C. In 2006, BART completed a "South Hayward BART Development, Design and Access Plan" for the South Hayward Station, which plan was created to complement the City's planning efforts and to analyze access improvements and transit-oriented development opportunities in the area of the approximately 12-acre BART South Hayward Property and the approximately one-half mile surrounding the Station. The approximately 12 acres comprising the BART South Hayward Property includes 2 surface parking lots with 1252 parking spaces: the main lot west of Dixon Avenue with 1,079 parking spaces (the "Main Lot"); and the overflow lot east of Dixon Avenue (the "BART East Lot") having 173 spaces.

D. Wittek Development and BART entered into an Exclusive Negotiating Agreement effective February 5, 2009, providing for the assessment and potential development of a transit-oriented development in the BART South Hayward Property. Wittek Development, LLC, the Montana Property Group, LLC, Eden Housing, Inc. ("Eden"), the City and the Redevelopment Agency of the City of Hayward (the "Agency") also jointly applied for and were awarded Proposition 1C funding from the California Department of Housing and Community Development to develop a transit-oriented development at South Hayward Station.

E. Big Sky Holdings, LLC, an entity related to the Montana Property Group, LLC, currently owns an approximately 2.9-acre site adjacent to the BART East Lot having primary frontage on Mission Boulevard (the "Perry and Key Property"). The BART East Lot and the Perry and Key Property are identified in the map attached to this Agreement as Exhibit B. Wittek Development, LLC and the Montana Property Group, LLC intend to create a new corporate entity, referred to herein as "Wittek & Montana."

F. Wittek & Montana intends to purchase the BART East Lot from BART and develop the BART East Lot and a portion of the Perry and Key Property with approximately two hundred three (203) units of housing and related infrastructure and improvements using HCD's

Proposition 1C funds and other financing (the "Market Rate Development"). Wittek & Montana further intends to convey a portion of the Perry and Key Property to Eden for the development of approximately one hundred fifty-one (151) units of affordable housing (the "Affordable Housing Development"). The Market Rate Development and the Affordable Housing Development are collectively referred to as "Phase 1" of the transit-oriented development at the South Hayward Station. Phase 2 of development at the BART South Hayward Property ("Phase 2") is contemplated to include the construction of a BART parking structure and additional residential and retail space on the BART South Hayward Property, excluding the Station.

G. Phase 1 will eliminate the BART patron parking that is currently provided at the BART East Lot. Phase 2 is anticipated to further modify BART's existing parking program. BART expects that, similar to other BART stations in the East Bay, parking charges will eventually be required to access BART. The City and BART believe that patrons will continue to access BART by means other than automobile and will increase their use of alternative transportation and access to BART (including shuttles, bicycles and walking). In addition, both the City and BART understand that parking and access modifications and policies at the South Hayward Station may influence and affect parking and access issues at the Downtown Hayward BART Station.

H. The City and BART desire to form a Joint Powers Authority that will address parking and access issues, further transit-oriented development, support equitable access to the Station by BART patrons, maximize BART ridership, and protect the City's neighborhoods from the effects of overflow parking traffic.

I. Articles 1 through 4 of Chapter 5 of Title 1 of the Government Code (Government Code Sections 6500 *et seq.*) and Government Code Section 11256 (collectively the "JPA Law") authorize BART and the City to create a joint exercise of powers entity to jointly exercise any powers common to BART and the City and to exercise the powers granted under the JPA Law. The parties are empowered by law to undertake certain projects and programs and possess certain common powers. The parties desire to enter into this Agreement and create the South Hayward BART Station Access Authority.

ARTICLE 1. DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. For the purpose of this Agreement, the meaning of the capitalized terms used in the Agreement shall be the following:

- (a) "Action Plan" shall have the meaning set forth in Section 5.3.
- (b) "Affordable Housing Development" shall have the meaning set forth in
- (c) "Agreement" means this Joint Exercise of Powers Agreement.

Recital F.

(d) "Authority" means the South Hayward BART Station Access Authority created under this Agreement.

(e) "BART" means the San Francisco Bay Area Rapid Transit District, a rapid transit district established under Public Utilities Code Sections 28500 et seq.

(f) "BART East Lot" shall have the meaning set forth in Recital C.

(g) "BART South Hayward Property" shall have the meaning set forth in Recital A.

(h) "Board" means the governing body of the Authority.

(i) "Budget" means the approved budget applicable to the expenses of the Authority.

(j) "City" means the City of Hayward, a municipal corporation.

(k) "County" means the County of Alameda, a subdivision of the State of California.

(l) "Directors" mean the members of the governing Board of the Authority.

(m) "Eden" shall have the meaning set forth in Recital D.

(n) "Fiscal Year" means the period from July 1 in any calendar year to and including June 30 in the succeeding calendar year.

(o) "Initial Members" means BART and the City.

(p) "JPA BART Directors" shall have the meaning set forth in Section 3.2.

(q) "JPA City Directors" shall have the meaning set forth in Section 3.2.

(r) "JPA Law" shall have the meaning set forth in Recital I.

(s) "Main Lot" shall have the meaning set forth in Recital C.

(t) "Market Rate Development" shall have the meaning set forth in Recital F.

(u) "Member" means an entity that is a party to this Agreement and a member of the Authority.

(v) "Parking and Access Study" shall have the meaning set forth in Section 5.2.

(w) "Perry and Key Property" shall have the meaning set forth in Recital E.

- (x) "Phase 1" shall have the meaning set forth in Recital F.
- (y) "Phase 2" shall have the meaning set forth in Recital F.
- (z) "South Hayward Station" shall have the meaning set forth in Recital A.
- (aa) "Station" shall have the meaning set forth in Recital A.
- (bb) "Wittek & Montana" shall have the meaning set forth in Recital E.

Section 1.2 Exhibits. The following Exhibits are attached hereto and incorporated herein:

Exhibit A: BART South Hayward Property
 Exhibit B: Map of BART East Lot and Perry and Key Property
 Exhibit C: Boundary of Authority

ARTICLE 2. PURPOSE AND POWERS

Section 2.1 Purpose of the Authority. The purpose of the Authority is to manage and administer parking and access within the boundaries of the Authority in an equitable and orderly fashion in order to promote transit-oriented development, support access to the Station by BART patrons, maximize BART ridership, and protect the neighborhoods surrounding the Station.

Section 2.2 Purpose of the Agreement. Each of the parties has in common the authority to study, plan for, acquire, maintain, operate, lease, sell, finance or construct parking and other facilities. The purpose of this Agreement is to jointly exercise the foregoing common powers in the manner set forth in this Agreement.

Section 2.3 Authority Created. There is hereby created a public entity known as the "South Hayward BART Station Access Authority". The Authority is formed pursuant to the JPA Law and shall be a public entity separate from any Member.

Section 2.4 Effective Date. The effective date of this Agreement and the date on which the Authority shall be deemed formed and existing shall be the first date on which BART and the City have both executed this Agreement.

Section 2.5 Boundaries of the Authority. The geographic boundaries of the Authority are more particularly set forth on the map attached to this Agreement as Exhibit C.

Section 2.6 Powers. Subject to Article 5, the Authority shall have the power in its own name to do any of the following:

(a) To study, plan and implement ways and means to effectively manage and administer parking at or near the BART South Hayward Property.

(b) To study, plan and implement ways and means to effectively manage BART patron access to the South Hayward Station.

(c) To exercise the powers conferred upon it by the JPA Law and this Agreement necessary for the accomplishment of the purposes of this Agreement and the Authority.

(d) To participate in financing or refinancing of parking for and access to the Station in accordance with any terms and conditions imposed by the JPA Law and applicable law.

(e) To make and enter into contracts necessary for the full exercise of its powers.

(f) To contract for the services of engineers, attorneys, architects, planners, financial and other consultants, parking operators, maintenance and security entities and to employ and contract with such other persons as it deems necessary.

(g) To acquire, construct, manage, maintain, operate and replace the parking for and access to the Station.

(h) To incur debts, liabilities and/or obligations subject to limitations herein set forth, provided, however, that the debts, liabilities and obligations of the Authority shall not constitute any debt, liability or obligation of any of the Members.

(i) To sue and be sued in its own name.

(j) To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any public agency necessary for the Authority's full exercise of its powers.

(k) To perform all acts necessary or proper to carry out fully the purpose of this Agreement and not inconsistent with the JPA Law.

(l) To collect fees related to the administration and operation of the parking serving the Station and access to the Station.

(m) To invest any money in the treasury pursuant to Sections 6509.5 and 6505.5 of the JPA Law which is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to Section 53601 of the Government Code of the State of California.

(n) To apply for letters of credit or other form of financial guarantees in order to secure the repayment of its obligation and enter into agreements in connection therewith.

(o) To accept security, collateral or other property interests to secure payment of loans or other obligations to the Authority.

(p) To carry out and enforce all the provisions of this Agreement.

(q) To finance or refinance indebtedness incurred by the Authority or third parties in connection with any of the purposes hereof.

(r) To the extent not herein specifically provided for, to exercise any powers in the manner and according to methods provided under the laws applicable to the Authority.

Section 2.7 Additional Powers. In addition to those powers common to each of the parties, and subject to those limitations set forth in this Agreement including Article 5, the Authority shall have those powers conferred upon it by JPA Law.

Section 2.8 Restrictions on Exercise of Powers. The Act and the powers of the Authority shall be exercised in the manner provided in the JPA Law, and, except for those powers set forth in Article 4 of the JPA Law, shall be subject (in accordance with Section 6509 of the JPA Law) to the restrictions upon the manner of exercising such powers that are imposed upon the City in the exercise of similar powers.

Section 2.9 Obligations of Authority. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the parties to this Agreement. The parties to this Agreement shall not be liable for the debts, liabilities or obligations of the Authority.

Section 2.10 Authority Facilities. Public facilities constructed or acquired by the Authority, if any, may be held in the name of the Authority for the benefit of the Authority in accordance with the terms of this Agreement unless conveyed to and accepted by the City, BART or other public entity.

Section 2.11 Non-Liability for Obligations of Authority. No party, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal or of premium or interest on any obligations of the Authority or be subject to any personal liability or accountability by reason of any obligations of the Authority; but nothing herein contained shall relieve any such party, officer, agent or employee from the performance of any official duty provided by law or by the instruments authorizing the issuance of any obligations of the Authority.

ARTICLE 3. ORGANIZATION

Section 3.1 Membership. The Members of the Authority shall be BART and the City (the "Initial Members"). The Initial Members may agree to have additional members, in which case the Initial Members and the additional members shall execute an amendment or supplement to this Agreement providing and setting forth the terms of the additional membership.

Section 3.2 Governing Body of the Authority.

(a) The business of the Authority shall be conducted by a Board of Directors consisting of four (4) persons. All voting power of the Authority shall reside in the Board of Directors.

(b) The City and BART shall each appoint two Directors to the Board of Directors. Initially, those Directors shall be, for BART, members of the governing board of BART appointed by the governing board of BART (the "JPA BART Directors"), and for the City, members of the governing board of the City appointed by the City Council (the "JPA City Directors"). Any Director may designate a substitute representative to serve as a Director on the Board of Directors. Any such substitute shall be an employee of BART, if appointed by a JPA BART Director, or another City Council member who has been previously designated as an alternate director by the City Council, if appointed by a JPA City Director. BART and the City may, at any time, vote to remove and replace the JPA BART Directors and the JPA City Directors, respectively.

(c) Members of the Board of Directors shall not receive any compensation for serving as such but a Director may be reimbursed for expenses incurred by such Director in the conduct of the Authority's business subject to any applicable policy of the Authority.

Section 3.3 Principal Office. The principal office of the Authority shall be established by the Board. The Board is hereby granted full power and authority to change said principal office from one location to another. Any change shall be noted by the secretary under this section, but shall not be considered an amendment to this Agreement.

Section 3.4 Meetings. The Board shall meet at the Authority's principal office or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution adopted by the Board; a copy of such resolution shall be furnished to each party hereto. Regular, adjourned and special meetings shall be called, noticed, held, and conducted in the manner as provided in the Ralph M. Brown Act (Chapter 9, Division 2, Title 5, of the Government Code of the State of California (commencing at Section 54950)) or any successor legislation hereinafter enacted. The Board shall appoint a secretary who may be one of the Directors or an employee of one of the Initial Members.

Section 3.5 Quorum. A simple majority of the Directors shall constitute a quorum for the purpose of transacting the Authority's general business. Except as otherwise provided by law, the vote of all the Directors shall be required for the Authority to take action. Each Director shall have one vote.

Section 3.6 Resolution of Disputes. If action of the Authority cannot be taken because the vote of all the Directors cannot be obtained, then any Member, by written notice to the other Members, may require that the Members meet in an effort to reach a resolution of the matter at issue that may obtain the vote of all Directors. If that meeting does not result in resolution of the matter at issue, then any Member, by written notice to the other members, may require that the parties engage in a mediation process with regard to the matter at issue. The initial notice of mediation shall contain a detailed explanation of the matter at issue and the position of the initiating Member concerning the matter at issue. If such mediation notice is given, the Members shall promptly consult with each other to select an independent mediator who shall be knowledgeable regarding the matter at issue and who has no financial interest in the matter at issue or in any contract with any of the Members. For example, if the matter at issue involves engineering or architectural issues, the mediator may be an engineer or architect with knowledge of the kinds of issues that are in dispute. If the Members cannot agree to a mediator within forty-five (45) days following the date the mediation notice is given, any Member or the Members jointly may apply to the presiding judge of the Alameda County Superior Court for appointment of a mediator meeting the qualifications of this Section 3.6. Once the mediator is selected, the parties shall meet with the mediator and make good faith efforts to reach agreement on the matter at issue. The Members shall provide the mediator with written information regarding the matter at issue and an explanation of the positions of the various Members on the issues. The cost of the mediator shall be paid fifty percent (50%) by the City and fifty percent (50%) by BART.

Section 3.7 Powers and Limitations. All the power and authority of the Authority shall be exercised by the Board, subject, however, to the provisions of this Agreement, the JPA Law, and the rights reserved by the parties as herein set forth.

Section 3.8 Minutes. The secretary of the Authority shall cause to be kept minutes of regular, adjourned and special meetings of the Board, and shall cause a copy of the minutes to be forwarded to each Director and to each of the parties hereto.

Section 3.9 Bylaws; Rules. The Board may adopt from time to time such bylaws and rules and regulations for the conduct of its affairs as may be necessary or advisable for the purposes of this Agreement.

Section 3.10 Vote or Assent of Parties. The vote, assent, or approval of the parties in any matter requiring such vote, assent or approval hereunder, shall be evidenced by a certified copy of the resolution of the governing board of such party filed with the Authority.

Section 3.11 Officers. The chair shall be rotated from time to time among the Directors in accordance with procedures established by the Board. The Board shall have the power to appoint such additional officers as it deems necessary and appropriate.

Section 3.12 Treasurer and Auditor.

(a) The City of Hayward Finance Director shall be the initial Treasurer of the Authority. The Treasurer shall be the depository, shall have the custody of all the money of the

Authority from whatever source, and shall have the duties and obligations of the Treasurer as set forth in Sections 6505 and 6505.5 of the Act. The Treasurer shall be responsible for receiving quarterly reports and verifying the balance of this report with respect to the balance as maintained by the records of the Auditor.

(b) The auditor of the Authority shall be the City of Hayward Finance Director. The Auditor shall have the duties and obligations of the Auditor as set forth in Section 6505 and 6505.5 of the Act. The Auditor shall assure strict accountability of all receipts and disbursements of the Authority and shall make arrangements with a certified public accountant or firm of certified public accountants for the annual audit of accounts and records of the Authority.

(c) The Treasurer and Auditor of the Authority are designated as the public officers or persons who have charge of, handle, or have access to any property or funds of the Authority, and each such officer shall be bonded as required by Government Code Section 6505.1, and the amount of their bond shall be fixed by resolution. From time to time the Board may designate other persons in addition to the Treasurer and Auditor who have charge of, handle, or have access to any property or funds of the Authority.

(d) The Auditor and Treasurer of the Authority shall not be compensated for their work for the Authority but the Authority shall reimburse the Auditor and Treasurer for out-of-pocket expenses including those for outside accountants undertaking the annual audit of accounts and records of the Authority.

Section 3.13 Executive Directors. The Authority shall initially have Co-Executive Directors who shall be the City Manager of the City and the Manager of Real Estate and Property Development of BART. The Co-executive Directors shall serve at the pleasure of the Board of Directors, and shall be responsible to the Board for the proper and efficient administration of the Authority as is or hereafter may be placed in their charge, or under their jurisdiction or control pursuant to the provisions of this Agreement, or of any ordinance, resolution or order of the Board. In addition to other powers and duties herein provided, the Co-Executive Directors shall have the power:

- (a) Under direction of the Board, to plan, organize and direct all Authority activities.
- (b) To authorize expenditures within the designations and limitations of the approved Budget.
- (c) To make recommendations to and requests of the Board concerning all of the matters and things which are to be performed, done or carried out by said Board.
- (d) To call special meetings of the Board.
- (e) At the direction of the Board, to execute on behalf of the Authority, contracts and other instruments approved by the Board.

Section 3.14 Liability of Board. The Authority shall defend, indemnify and hold harmless any Member, Director, officer or employee for their actions taken within the scope of the authority of the Authority. Except as otherwise provided in this Agreement, the funds of the Authority shall be used to defend, indemnify and hold harmless the Authority and any Member, Director, officer or employee for their actions taken within the scope of the authority of the Authority. Nothing herein shall limit the right of the Authority to purchase insurance to provide such coverage as is set forth below. The Authority's duty to indemnify each Member (and its Directors, officers, employees and agents) shall survive the Member's withdrawal from the Authority.

Section 3.15 Privileges and Immunities. Pursuant to Government Code Section 6513, all of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation and other benefits which apply to the activity of officers, agents, or employees of any of the parties when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties under this Agreement. None of the officers, agents, or employees appointed by the Board shall be deemed by reason of their employment by the Board to be employed by any of the parties or by reason of their employment by the Board to be subject to any of the requirements of such parties.

ARTICLE 4. FINANCING

Section 4.1 Budget. Within ninety (90) days after the first meeting of the Board, and thereafter at least ninety (90) days prior to the commencement of each Fiscal Year for which a budget has not yet been adopted, the Board shall adopt a Budget for the Authority for the ensuing Fiscal Year or two Fiscal Years.

Section 4.2 Contributions for Operating Expenses.

(a) Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by BART and the City for any of the purposes of this Agreement. Any such advance shall be made subject to repayment, and shall be repaid in the manner agreed upon by BART or the City, as the case may be, and the Authority at the time of making such advance. It is mutually understood and agreed that, except as specifically provided in this Agreement, neither BART nor the City has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though any of them may do so. BART or the City may allow the use of personnel, equipment or property in lieu of other contributions or advances to the Authority.

(b) It is understood that the Board may arrange for the payment of the expenses of the Authority through some other source, including but not limited to local, state or federal grants or loans.

(c) In accordance with Government Code Section 6512.1, repayment or return to the parties of all or part of any contributions made by the parties may be directed by the Board at such time, and upon such terms, as may be consistent with the JPA Law. The Authority shall hold title to all funds and property acquired by it during the term of this Agreement.

Section 4.3 Grants and Loans. It is understood and acknowledged that some activities may qualify for grant or loan funding from the State of California, local governments, or the federal government. The Board shall have the power, in its discretion, to contract for such funding of eligible activities. Funds received by the Authority from such sources may be used to pay for, reimburse or otherwise finance such eligible activities.

Section 4.4 Reimbursement of Funds. Funds received by the Authority from any federal, state or local agency to pay for budgeted expenditures for which the Authority has received all or a portion of said funds from its parties shall be proportionately paid to said parties to reimburse the parties for the funds advanced.

ARTICLE 5.

PARKING AND ACCESS STUDY AND ACTION PLAN

Section 5.1 Initial Activities. Notwithstanding anything to the contrary in this Agreement, including those provisions related to the Authority's purpose and power set forth in Article 2, the Authority's activities shall be limited to routine and administrative activities and those set forth in the Article 5 until such time as the Members approve an Action Plan as more particularly set forth in Section 5.3. Following the Approval of an Action Plan as more particularly set forth in Section 5.3, the Authority may implement the Action Plan in a manner that is consistent with the Authority's purpose as set forth in Article 2 and using the powers set forth in Article 2.

Section 5.2 Parking and Access Study. The Authority shall commission a study regarding parking and access at the South Hayward Station (the "Parking and Access Study"). The Parking and Access Study is intended to enable the Authority to identify actions the Authority should take in the future to fulfill its purpose. The Parking and Access Study will identify potential BART patron parking and access issues at the South Hayward Station. It will also identify potential effects on the neighborhood (and on the Downtown Hayward BART Station and its surrounding neighborhoods) due to Phase 1 and any parking modifications that may result from the Authority's activities. The Parking and Access Study is intended to help:

- Identify location of parking spaces that would be available for use by BART patrons following the sale of the BART East Lot.
- Identify what type of parking is to be provided within which areas.
- Identify when the parking will be needed.
- Identify parameters for any charges to be imposed on BART patron parking.
- Identify any parking payment and accounting mechanisms.
- Identify enforcement activity and responsibilities.

- Identify capital needs and sources of funding for JPA activities.
- Identify JPA operating and maintenance needs.
- Identify other access features that may be necessary or desired.
- Identify insurance that may be required.

Section 5.3 City and BART Approval of Action Plan. Following the Parking and Access Study, the JPA City Directors and the JPA BART Directors will present a proposed set of Authority activities (the "Action Plan"), to the City Council and BART Board of Directors, respectively, for approval. Notwithstanding anything to the contrary in this Agreement, including Article 2, the Authority shall not implement any activities identified in the Action Plan (or any activities beyond the commissioning of the Access and Parking Study, the creation of the Action Plan, and general administrative and formation activities) until the City and BART approve in writing the Action Plan. The Authority also shall not implement any activities that are not identified in the Action Plan without the City's and BART's written approval. In approving the Action Plan, the City and BART may require the Authority to institute certain controls to assist the City and BART in monitoring the activities of the Authority and to structure Authority activities in a manner that will reduce any risk to the Authority and its members.

Section 5.4 Amendment to Action Plan. The Action Plan may be amended by the Authority to address future Authority activities and needs. Any amendment to the Action Plan shall be subject to the prior written approval of the City and BART.

Section 5.5 Amendment to Reflect Action Plan. This Agreement shall be amended to accommodate the provisions of any approved Action Plan or amendment thereto before any components of the Action Plan are implemented.

ARTICLE 6. ACCOUNTING AND AUDITS

Section 6.1 Accounts and Reports.

(a) The Auditor shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority in the hands of the Treasurer shall be open to inspection at all reasonable times by representatives of the Members. The Treasurer, within one hundred twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to the Members.

(b) The Treasurer of the Authority shall receive, have the custody of, and disburse Authority funds on warrants drawn by the Auditor as nearly as possible in accordance with generally accepted accounting practices, shall make the disbursements required by this Agreement, and shall take such other actions as are necessary to implement or to carry out any of the provisions or purposes of this Agreement.

Section 6.2 Audit. The records and the accounts of the Authority shall be audited annually by a certified public accountant designated by the Auditor, and copies of such audit reports shall be filed as public records with the county auditor of Alameda County and with each party within six (6) months of the end of the Fiscal Year under examination, and shall be sent to any public agency or person in California that submits a written request to the Authority.

ARTICLE 7.

RESCISSION, TERMINATION, WITHDRAWAL, ASSIGNMENT.

Section 7.1 Term. The Authority shall continue to exercise the powers conferred upon it by this Agreement until this Agreement is rescinded or terminated as herein provided. If not earlier terminated or rescinded the term of this Agreement shall terminate on the date that is sixty-five (65) years following the date of this Agreement.

Section 7.2 Rescission or Termination. This Agreement may be rescinded and the Authority terminated by unanimous written consent of the Board; provided that no such termination or rescission shall occur so long as the Authority has any outstanding obligations.

Section 7.3 Disposition of Property Upon Termination. Pursuant to Government Code Section 6512, upon termination of this Agreement, any surplus funds on hand shall be paid out to BART and the City in proportion to the contributions made by such parties. The Board shall first offer any property, rights and interests of the Authority for sale to the Members for good and adequate consideration. If no such sale is consummated, the Board shall consider offering such property, rights and interests of the Authority for sale to any governmental agency, or other entity for good and adequate consideration. The net proceeds from any sale shall be paid out to BART and the City in proportion to the contributions made by such parties. If no such sale is consummated, then the property, rights and interests of the Authority shall be allocated to the parties in the same manner as the allocation of the net proceeds from a sale, unless otherwise agreed to by the parties.

Section 7.4 Withdrawal. No party may withdraw from the Authority without the unanimous written consent of the other parties.

ARTICLE 8.

GENERAL PROVISIONS.

Section 8.1 Amendments. This Agreement may be amended only by the unanimous vote of all Members. To be effective, all amendments and modifications must be in writing and signed by all Members.

Section 8.2 Assignment. The rights and duties of the parties may not be assigned or delegated without the written consent of all other parties. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any approved

assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Authority then in effect.

Section 8.3 Breach. If a party breaches any covenant contained in this Agreement, such default shall not excuse any other party from fulfilling its obligations under this Agreement and all parties shall continue to be liable for the payment of contributions and the performance of all conditions herein contained. The parties hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the parties hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of each of the parties hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

Section 8.4 Notice. Any notice or instrument required to be given shall be delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, by hand delivery or by overnight delivery service and shall be addressed to the addressee of the parties as follows:

BART:	San Francisco Bay Area Rapid Transit District 300 Lakeside Drive Oakland, CA 94612
	one copy to: Manager of Real Estate and Property Development, 16 th Floor
	one copy to: Office of the General Counsel, 23 rd Floor
City:	City of Hayward 777 "B" Street Hayward, CA 94541
	Attn: City Attorney

Such notice shall be effective upon receipt or refusal to accept receipt.

Section 8.5 Severability. Should any part, term or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

Section 8.6 Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto, respectively.

Section 8.7 Regulatory Authority Over BART. Nothing in this Agreement is intended to subject BART to the regulatory authority of the City, except when BART is acting in a private

development capacity, or to limit or modify the rights and powers of BART. BART is not delegating any of its independent powers and authorities to the Authority.

Section 8.8 City Limitations of Authority Powers. Notwithstanding anything to the contrary in this Agreement, the powers and activities of the Authority are not intended in any way to limit or modify the rights and powers of the City. The City is not delegating any of its independent powers and authorities to the Authority.

Section 8.9 Liability of Authority, Members, Officers and Employees. The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of any of the Members or any of their respective officers, directors, employees or agents. No Member or its directors, officers, employees or agents shall be responsible for any action taken or omitted by any other Member or its directors, officers, employees or agents.

Section 8.10 Conflicts of Interest Code. To the extent required pursuant to Government Code Section 87300 or other provision of law, the Authority by resolution shall adopt a conflicts of interest code as required by law.

Section 8.11 Amended Purpose of Authority. In the event that Phase 2 is implemented, the parties may amend this Agreement to provide for the selection of the Phase 2 developer and to address the construction, financing and operation of the Phase 2 improvements.

APPROVED AS TO FORM:

Wm Michael S. Lawson
General Counsel

SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT

By: Jeffrey P. Ordway

Name: JEFFREY P. ORDWAY

Title: MANAGER OF Real Estate and
Property Development

CITY OF HAYWARD

By: Frances David
Frances David, City Manager

APPROVED AS TO FORM:

Michael S. Lawson, City Attorney

By: Maureen Conneely
Maureen Conneely, Assistant
City Attorney

ATTEST: Miriam Lens
Miriam Lens, City Clerk

EXHIBIT A
BART South Hayward Property

A-1



Exhibit A: BART Station Property



Note: BART also owns the BART East Lot property shown in Exhibit B.

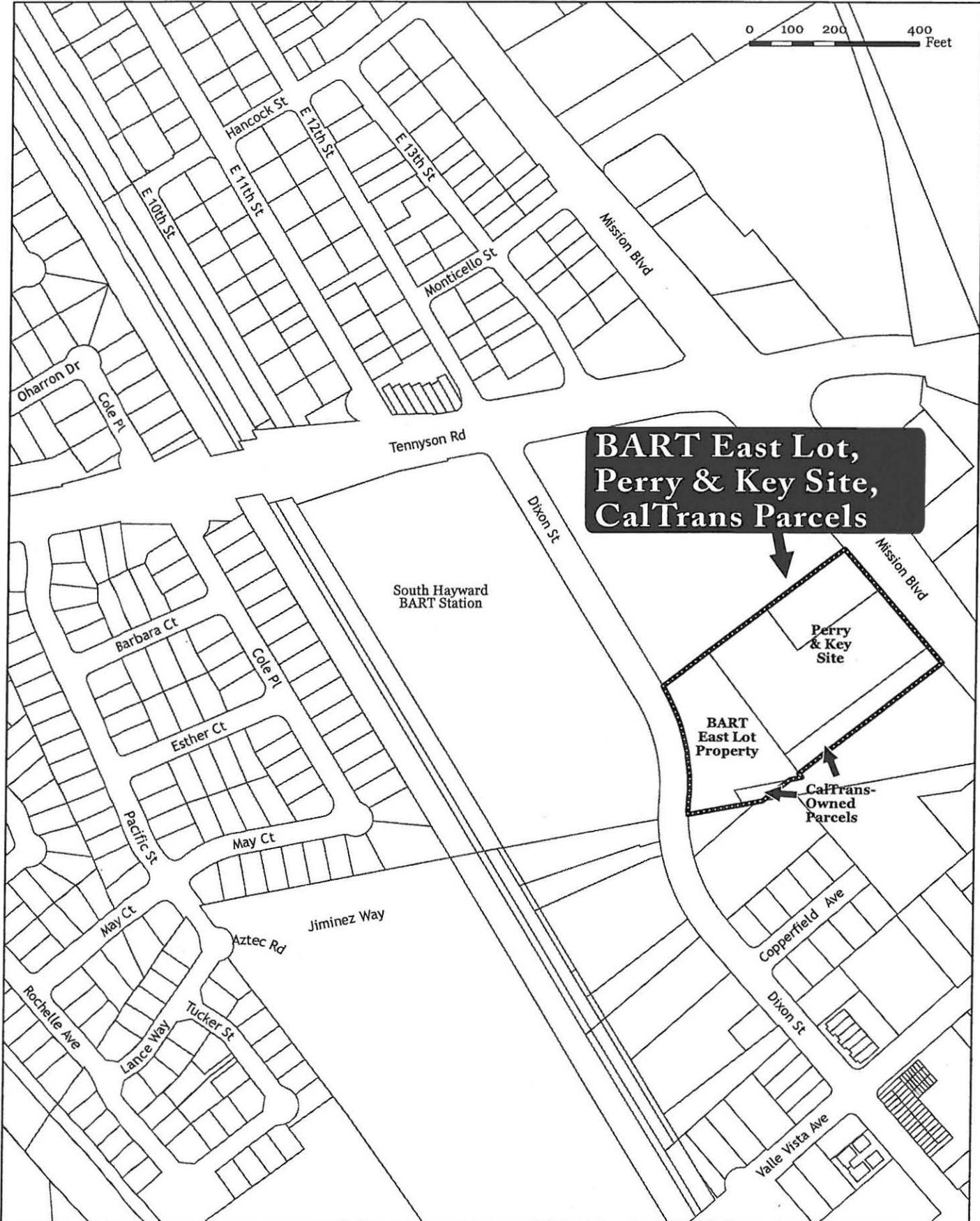
September 6, 2011

EXHIBIT B
Map of BART East Lot and Perry and Key Property

B-1



Exhibit B: BART East Lot and Perry & Key Site



September 6, 2011

EXHIBIT C

Boundary of Authority



Exhibit C: JPA Boundary of Authority



Note: Boundary area is based on a quarter-mile walking distance from BART station and is subject to change based on final transportation study by Nelson/Nygaard.

September 6, 2011



Exhibit C: JPA Boundary of Authority



JPA Authority Boundary

Note: Boundary area is based on a quarter-mile walking distance from BART station and is subject to change based on final transportation study by Nelson/Nygaard.

September 6, 2011

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Exhibit A: BART South Hayward Property
Exhibit B: Map of BART East Lot and Perry and Key Property
Exhibit C: Boundary of Authority

