



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
MAY 8, 2012

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

Table of Contents

Agenda	3
Approval of Minutes of the City Council Meeting on April 17, 2012	
Draft Minutes	7
Approval of Minutes of the City Council Meeting on April 24, 2012	
Draft Minutes	16
Adoption of Resolutions Approving Agreements Authorizing Participation in the Voluntary Employee Beneficiary Association (VEBA) Program between the City of Hayward and the Following Employee Groups: Service Employees International Unit Local 1021; Hayward Association of Management Employees; Unrepresented Management, Human Resources and City Attorney Employees; International Federation of Professional and Technical Engineers Local 21; and Police Management	
Staff Report	28
Attachment I	31
Attachment II	33
Attachment III	35
Attachment IV	37
Attachment V	39
Attachment VI	41
Approval of: 1) Modified Recognized Obligation Payment Schedule and Administrative Budget for the Period January 1 – June 30, 2012; 2) Re-entry by City and Successor Agency into Repayment Agreement; and 3) the Recognized Obligation Payment Schedule and Successor Agency Administrative Budget for the Period July 1 – December 31, 2012	
Staff Report	43
Attachment I SA Resolution	50
Attachment II SA Resolution	64
Attachment III SA Resolution	68
Attachment IV City Resolution	71
Attachment V DOF Letter	75
Attachment VI Modified First ROPS	76
Attachment VII Revised Administrative Budget	80
Attachment VIII Second ROPS	81
Attachment IX Second Administrative Budget	82
Support for Extended Producer Responsibility and the Alameda County Safe Medication Disposal Ordinance	
Staff Report	83
Attachment I	86
Enterprise Resource Planning (ERP) Hardware Acquisition	
Staff Report	89
Attachment I Resolution	91

Adoption of a Resolution Authorizing Amendment of the Salary and Benefits Resolution for the Unrepresented Management, Human Resources and City Attorney Employees	
Staff Report	92
Attachment I	94
Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and Adoption of Resolution Authorizing the Issuance of Bonds and the Submission of an Application to the California Debt Limit Allocation Committee, All in Connection with Financing the Construction of the South Hayward BART Affordable Housing Project (Report from Assistant City Manager Morariu)	
Staff Report	96
Attachment I Resolution.	99
Presentation of the FY 2013 & FY 2014 Recommended Biennial Operating Budget (Report from Finance Director Vesely)	
Staff Report	103



CITY COUNCIL MEETING FOR MAY 8, 2012
777 B STREET, HAYWARD CA 94541
WWW.HAYWARD-CA.GOV

SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT SUCCESSOR AGENCY MEETING
Council Chambers - 7:00 PM

CALL TO ORDER Pledge of Allegiance Council Member Quirk

ROLL CALL

PRESENTATIONS

Business Recognition Award - Neopost USA, Northern California District
Recognition of First Route 238 Corridor Tenant Homeowners

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.)*

PROCLAMATIONS

National Police Week - May 13 - May 19, 2012
Public Service Recognition Week - May 6 - May 12, 2012

ACTION ITEMS: *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

1. Approval of Minutes of the City Council Meeting on April 17, 2012
[Draft Minutes](#)
2. Approval of Minutes of the City Council Meeting on April 24, 2012
[Draft Minutes](#)

3. Adoption of Resolutions Approving Agreements Authorizing Participation in the Voluntary Employee Beneficiary Association (VEBA) Program between the City of Hayward and the Following Employee Groups: Service Employees International Unit Local 1021; Hayward Association of Management Employees; Unrepresented Management, Human Resources and City Attorney Employees; International Federation of Professional and Technical Engineers Local 21; and Police Management

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)

[Attachment III](#)

[Attachment IV](#)

[Attachment V](#)

[Attachment VI](#)

4. Approval of: 1) Modified Recognized Obligation Payment Schedule and Administrative Budget for the Period January 1 – June 30, 2012; 2) Re-entry by City and Successor Agency into Repayment Agreement; and 3) the Recognized Obligation Payment Schedule and Successor Agency Administrative Budget for the Period July 1 – December 31, 2012

[Staff Report](#)

[Attachment I SA Resolution](#)

[Attachment II SA Resolution](#)

[Attachment III SA Resolution](#)

[Attachment IV City Resolution](#)

[Attachment V DOF Letter](#)

[Attachment VI Modified First ROPS](#)

[Attachment VII Revised Administrative Budget](#)

[Attachment VIII Second ROPS](#)

[Attachment IX Second Administrative Budget](#)

5. Support for Extended Producer Responsibility and the Alameda County Safe Medication Disposal Ordinance

[Staff Report](#)

[Attachment I](#)

6. Enterprise Resource Planning (ERP) Hardware Acquisition

[Staff Report](#)

[Attachment I Resolution](#)

7. Adoption of a Resolution Authorizing Amendment of the Salary and Benefits Resolution for the Unrepresented Management, Human Resources and City Attorney Employees

[Staff Report](#)

[Attachment I](#)

MAY 8, 2012



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

8. Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and Adoption of Resolution Authorizing the Issuance of Bonds and the Submission of an Application to the California Debt Limit Allocation Committee, All in Connection with Financing the Construction of the South Hayward BART Affordable Housing Project (Report from Assistant City Manager Morariu)

[Staff Report](#)

[Attachment I Resolution](#)

LEGISLATIVE BUSINESS

9. Presentation of the FY 2013 & FY 2014 Recommended Biennial Operating Budget (Report from Finance Director Vesely)

[Staff Report](#)

Please Note: Budget document will be available on the City's website on Monday, May 7, 2012.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT

NEXT MEETING – 7:00 PM, TUESDAY, MAY 15, 2012

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.

***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 CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 17, 2012, 7:00 p.m.**

The City Council Meeting was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Quirk, Halliday, Peixoto, Salinas,
Henson
MAYOR Sweeney
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported that Council met with Labor Negotiators regarding SEIU Maintenance, SEIU Clerical and Confidential, IFPTE Local 21, and HPOA; with Legal Counsel regarding City of Hayward, et al. v. California State University Trustees, et al., Court of Appeal No. A132423; and with Legal Counsel regarding pending litigation. Mr. Lawson noted there was no reportable action.

PRESENTATION

2012 Hayward Volunteer Recognition Award Ceremony

Mayor Sweeney proclaimed April 17-24, 2012, National Volunteer Week, and urged residents to volunteer in their neighborhoods, and with local organizations, schools, and government programs and services. Mayor Sweeney presented Zachary Ebadi, Hayward Volunteer Coordinator, with a proclamation for his work recruiting and placing volunteers at City Hall, Hayward Area Recreation and Park District, and Hayward Unified School District. It was noted that Mr. Ebadi was recently selected to fill the vacancy left by Donna Fitzwater who passed away in 2011. Mr. Ebadi accepted the award, thanked the City for such recognition, noted there were over 450 nominees, acknowledged the diversity of the volunteers, and invited Mayor Sweeney and Neighborhood Services Manager Korth to introduce and recognize the various 2012 Hayward volunteers. Volunteers from the following groups were recognized for their participation: City Hall Information Desk, Neighborhood Services, Economic Development, Housing Development, Fire Department and RACES, Friends of the Library, After School Program Center, Adult Literacy Plus, Adult Services Library Volunteers, Hayward Police Explorer Post #275, Hayward Police Reserve Officers, Hayward Ambassador Program, Hayward Neighborhood Alert-Block Captain, Animal Services, and Volunteer Services. At the conclusion of the ceremony, the volunteers attended a reception.

PUBLIC COMMENTS

Ms. Wynn Greich, Industrial Parkway SW resident, referred to an article from PRNewswire entitled, “Fluoride Can Cause Cancer, Studies Show,” and a book by Randall Fitzgerald entitled, “The Hundred-Year Lie,” and spoke about cancer related to fluoride and chlorine. Ms. Greich also referred to the movie, “GASLAND - Can You Light Your Water on Fire,” which provides information about hydraulic fracking.

Ms. Ginger Johnson, Highland Boulevard resident, thanked the City for the opportunity to participate in the City’s Residential Energy Efficiency Incentive Program and noted that she greatly benefited from the program. Development Services Director Rizk announced that homeowners could obtain rebates through the program until April 30, 2012. He noted that the City was working in collaboration with Energy Upgrade California and added that Sustainability Coordinator Mark McDonald could answer questions.

Mr. Ed Bogue, Poinciana Street resident, announced that the South Gate Area Homeowners Association would be hosting a Candidates Night for Hayward City Council Forum at Christ’s Community Church on Wednesday, May 2, 2012, from 7:00 p.m. to 9:00 p.m.

Mr. Doug Ligibel, Grand Terrace resident, thanked the Southern Alameda County Major Crimes Task Force and the Hayward Police Department for two arrests in the murders of Sammy Nava and a fourteen-year old girl. Mr. Ligibel spoke about downtown problems that included nuisance, vandalism, aggressive panhandling, and drug use and noted that more volunteers are needed to deter the negative activity in downtown.

Mr. Jim Drake, Franklin Drive resident, mentioned the mini-loop and reiterated his concerns related to a concrete bullnose near Harder Road at the left hand turn into McDonalds north bound on Mission Boulevard. Mr. Drake noted that autos have collided with the concrete bullnose. He also pointed out that faded striping on the street cause safety hazard.

Ms. Marlene Winer, Ponderosa Court resident and English as a Second Language (ESL) tutor at the Hayward Day Labor Center, introduced one of her students, Pompilio Umaña. Mr. Umaña addressed the Council noting he was an Industrial Boulevard resident and a student at the Center and requested that Council continue to fund the Labor Center.

Ms. Claudia Arreaga, ESL tutor at the Hayward Day Labor Center, asked that Council continue funding the Center so they could continue to provide ESL classes.

Ms. Robin John, Patrick Avenue resident, submitted a letter for the record, in which she expressed concern regarding Patrick Avenue and issues related to speeding and poor street lighting. Ms. John also noted there was a muddy trail at Weekes Park that was not handicap accessible. Mayor Sweeney asked staff to look into the issues raised.



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 17, 2012, 7:00 p.m.**

CONSENT

Consent Item Nos. 6 and 7 were removed to allow for public comments.

1. Approval of Minutes of the City Council Meeting on March 27, 2012

It was moved by Council Member Henson, seconded by Council Members Peixoto and Zermeño and carried unanimously, to approve the minutes of the City Council Meeting of March 27, 2012.

2. Approval of Minutes of the City Council Meeting on April 3, 2012

It was moved by Council Member Henson, seconded by Council Members Peixoto and Zermeño and carried unanimously, to approve the minutes of the City Council Meeting of April 3, 2012.

3. Pavement Reconstruction FY12 -Taxiway Delta at Hayward Executive Airport: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 17, 2012, was filed.

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

Resolution 12-045, “Resolution Approving Plans and Specifications for the Pavement Reconstruction FY12: Taxiway Delta at the Hayward Executive Airport Project, Project No. 6813, and Call for Bids”

4. Pavement Rehabilitation, Measure B FY13: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 17, 2012, was filed.

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

Resolution 12-046, “Resolution Approving Plans and Specifications for the Pavement Rehabilitation, Measure B FY 13 Project, Project No. 5174, and Call for Bids”

5. Sidewalk Rehabilitation and Wheelchair Ramps FY 2012 - Districts 6 and 9: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 17, 2012, was filed.

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

Resolution 12-047, “Resolution Approving Plans and Specifications for the Sidewalk Rehabilitation and Wheelchair Ramps FY 2012 Project, Project Nos. 5179 and 5168, and Call for Bids”

6. Authorize the City Manager to Negotiate and Execute a Contract Amendment with Quantum Energy Services & Technologies, Inc. to Provide Sustainability Coordinator Services for the Remainder of Calendar Year 2012

Staff report submitted by Senior Planner Pearson, dated April 17, 2012, was filed.

Mayor Sweeney opened the public comments on this item at 7:56 p.m.

Mr. Jim Drake, Franklin Avenue resident, requested the contract for Sustainability Coordinator Services be put out for bid. In reference to Consent Item #7, he pointed out that Eden Housing’s affordable housing was Section 8 housing and requested Council to monitor the number of affordable housing units and not allow developers to exceed the required number, adding that Section 8 housing negatively affected schools.

Mayor Sweeney closed public comments on this item at 7:59 p.m.

Development Services Director Risk noted the proposal was an amendment to an existing contract to allow for the completion of various projects. Mr. Rizk pointed out the program was federally funded through the American Reinvestment & Recovery Act and there were no local funds and the City would lose them if not spent.

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

Resolution 12-049, “Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Professional Services Agreement with Quantum Energy Services & Technologies, Incorporated, to Provide Sustainability Coordinator Services”

7. Authorization to Enter into a Professional Services Agreement with CSG Advisors Inc. in Connection with Multifamily Housing Revenue Bond Issuances for the South Hayward BART and Future Affordable Housing Projects



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 17, 2012, 7:00 p.m.**

Staff report submitted by Housing Development Specialist Cortez, dated April 17, 2012, was filed.

Assistant City Manager Morariu responded to Mr. Drake's concerns about affordable housing and costs noting that the City was not responsible for paying back the bonds. Ms. Morariu said City staff monitored prospective tenant's affordability requirements and the financial consultant was hired to ensure all appropriate fees were incorporated into the bond to make sure the City was appropriately reimbursed.

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

Resolution 12-050, "Resolution Authorizing the City Manager to Execute a Professional Services Agreement with CSG Advisors Inc. to Provide Consulting Services in Connection with Tax-Exempt Multifamily Housing Revenue Bond Issuances for the South Hayward BART and Future Affordable Housing Projects"

8. Adoption of a Resolution to Approve an Amendment to the Service Employees International Union Local 1021 Memorandum of Understanding (Maintenance and Operations Unit)

Staff report submitted by Human Resources Director Robustelli, dated April 17, 2012, was filed.

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

Resolution 12-048, "Resolution Approving an Amendment to the Service Employees International Union Local 1021 Maintenance and Operations Unit Memorandum of Understanding"

Mayor Sweeney noted he worked for a non-profit agency that had applied for social services and to avoid a conflict of interest he said he would recuse himself from the public hearing discussion. Mayor Sweeney turned over the gavel to Mayor Pro Tempore Halliday to preside over the meeting and he left the Council Chambers.

PUBLIC HEARING

9. Community Development Block Grant (CDBG) and Social Services FY 2013 Funding Recommendations

Staff report submitted by Social Services Planning Manager Culver, dated April 17, 2012, was filed.

Library and Community Services Director Reinhart provided a synopsis of the staff report; acknowledged the work of the Community Services Commission (CSC); noted Commissioners Chiasson, Fagalde, and Henderson were in attendance; and introduced Social Services Planning Manager Culver, who then provided a synopsis of the funding recommendations.

In response to Council Member Peixoto's inquiry related to funding for Eden I&R and the 2-1-1 Program, City Manager David noted the funding would be discussed during the upcoming General Fund budget presentation.

Council Member Henson asked staff about the Hayward Day Labor Center's request for additional funding. Social Services Planning Manager Culver explained the Center provided short-term employment, but was not recognized by the Department of Housing & Urban Development (HUD) guidelines as permanent job creation. Ms. Culver noted the Center received a recommendation to receive funding in the "Services" category, which did not have as stringent guidelines as HUD.

Council Member Salinas encourage innovative practices and programs that could accomplish more with less and asked for more youth-focused programs in the next funding cycle. Mr. Salinas suggested waiving the cost of rent for agencies housed at the Eden Youth & Family Services Center and having the savings of the rent applied toward services.

In response to Council Member Zermeño's question about the availability of additional Community Development Block Grant (CDBG) funds, City Manager David said there was a reduction in CDBG funds. Mr. Zermeño supported the idea of maximizing the use of the Eden Family & Youth Center. In response to additional funding for the Hayward Day Labor Center, Ms. David said there was no additional funding, but Council had the option to transfer Social Services funding from one agency to another.

Council Member Quirk noted that the Council could decide, based on priorities, to either increase the deficit or transfer funds. Mr. Quirk did not think waiving the rent fee would be significant. He commented that the Community Services Commission spent a significant amount of time on the funding process and made excellent decisions. He noted he would oppose transferring money from one group to give to another.

Mayor Pro Tempore Halliday concurred with Council Member Quirk's comments about the positive work of the Community Services Commission. Ms. Halliday expressed concern about a full audit cost for smaller agencies and asked if the City could act as the fiscal agent for the Literacy Plus Council or any other group. Social Services Planning Manager Culver explained the fiscal audits served to identify an agency's infrastructure deficits prior to qualifying for grant funds. City Manager David noted that because the Finance Department in understaffed it would not be prudent for the City to act as a fiscal agent for any non-profit because it could potentially place the City in a liability position.

Mayor Pro Tempore Halliday opened the public hearing at 8:42 p.m.



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 17, 2012, 7:00 p.m.**

Ms. Claudia Arreaga spoke under public comments prior to the hearing.

Mr. Pompilio Umaña spoke under public comments prior to the hearing.

Ms. Maria Dimas, Mannon Avenue resident, via an interpreter, thanked the Council for funding the Hayward Day Labor Center, where she had been a member for two years. Ms. Dimas noted that the Center had helped individuals find housekeeping jobs and asked the Council to continue funding the Center.

Ms. Karla Goodbody, Program Director at the Davis Street Family Resource Center, thanked the Commission and staff for all their hard work. Ms. Goodbody expressed her appreciation for the City's support in funding the Resource Center and spoke about fundraising efforts. Ms. Goodbody shared suggestions to address the comments raised and how to partner with other non-profit agencies to fulfill services.

Mr. Gabriel Hernandez, Hayward Day Labor Center, thanked the Community Services Commission and staff for their time and effort with the funding process. Mr. Hernandez provided suggestions to allocate funds for the additional \$30,000 that the Center needed such as 5% from the infrastructure funds, rent relief, and unspent housing rehabilitation program funds from previous years. Mr. Hernandez guaranteed that with the additional \$30,000 the Center could secure a full-time position. He spoke about the rehabilitation work accomplished by volunteers from the Center.

Mayor Pro Tempore Halliday closed public hearing at 8:53 p.m.

Council Member Henson asked staff to address Mr. Hernandez's request for \$30,000 from unspent housing rehabilitation program funds. Social Services Planning Manager Culver said the funds could be reallocated, but they would need to go through an administrative process. City Manager David added that if the funds were reallocated, the HUD requirement would still be in place. Ms. Culver noted the Eden Youth and Family Center's roof was two-thirds completed, and added that the remaining funds would be utilized to address code issues in the building, security at the site, and the building's exterior appearance.

Council Member Quirk indicated the rehabilitation of the Eden Youth and Family Center should continue. Mr. Quirk noted that if the Council felt it was important to increase funding for the Hayward Day and Labor Center, then the item would need to be discussed during the upcoming City's budget deliberations, and emphasized that the impact of the increased funding would need to be known. Council Member Quirk offered a motion per the staff and the Community Services Commission's recommendation. Council Members Henson and Zermeño seconded the motion.

Mayor Pro Tempore Halliday noted the motion included approving the Citizen Participation Plan and FY 12-13 Annual Plan including applications from the federal Community Development Block

Grant and Emergency Solutions Grant Program funds, and that the FY 2013 Social Services allocations would be presented during the City's FY 2013 budget deliberations.

Council Member Salinas mentioned the allocation of funds had been a difficult process during tough economic times and reaffirmed the work done by the Community Services Commission. Mr. Salinas was supportive of the recommendations.

Council Member Zermeño concurred with Council Member Quirk's suggestion that additional funding for the Hayward Day Labor Center could be considered during the City's budget deliberation. Mr. Zermeño asked his fellow members to consider the additional funding requested by the Hayward Labor Center and supported the motion.

Council Member Peixoto noted that, in the past, a solution for community-based organizations that provided similar support services would be to present a collaborative Request for Proposal (RFP). Mr. Peixoto indicated he was an advocate for the fiscal audit in order to ensure adequate internal controls to safeguard the funds and suggested exploring the option for agencies to include the budget for the audit as an external cost. He congratulated the Community Services Commissioners for their hard work and for considering the City's priorities, and expressed support for the recommendation.

Council Member Henson supported the motion. Mr. Henson concurred with Council Member Peixoto regarding similar organizations collaborating to pool their resources and accomplish more. Mr. Henson cautioned the agencies that rely on CDBG funding that there was no indication that funding would increase in the near future. Mr. Henson supported the inclusion of the Eden I&R 2-1-1 Program during upcoming budget deliberations.

Mayor Pro Tempore Halliday supported the recommendations and echoed the comments of fellow Council Members in thanking the Community Services Commission for their hard work. Ms. Halliday noted more needed to be done to explore audit options for small organizations and supported Council Member Peixoto's suggestion. Ms. Halliday also agreed with Council Member Salinas about the need to consider youth-focused programs.

In response to Council Member Zermeño's question about a time frame for the improvements to the Eden Youth and Family Center, City Manager David noted staff would provide an update to Council. Mr. Zermeño said he respected the work of the Community Services Commission and thanked them for their hard work.

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

Resolution 12-051, "Resolution Approving the Citizen Participation Plan (CPP) and FY 12-13 Annual Plan Including Applications for Federal Community Development Block Grant (CDBG) and Emergency Solutions Grant (ESG) Program Funds"



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 17, 2012, 7:00 p.m.**

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño expressed appreciation for all Hayward volunteers who were acknowledged during the presentation. Mr. Zermeño recommended tankless water heaters for their energy and water efficiency. Mr. Zermeño announced the Hayward Youth Commission was sponsoring a Youth Summit on April 28, 2012, at City Hall. He also reminded everyone to participate in the Restaurant Walk on April 19, 2012.

Council Member Salinas mentioned that April 20-22, 2012, was Global Youth Service Day, and noted that on April 22, 2012, there would be a program at Burbank Elementary School where students from various schools would serve breakfast and local elected officials would speak about the importance of service in Hayward.

Council Member Henson encouraged homeowners to make their homes more energy efficient and take advantage of the rebates that are being offered through the City's Residential Energy Efficiency Incentive Program in collaboration with Energy Upgrade California. He noted more information was available on the City's website or by calling the City.

Council Member Halliday announced the Taste of Hayward event on June 6, 2012, and noted that tickets were going on sale starting Friday, April 20, 2012.

ADJOURNMENT

Mayor Pro Tempore Halliday adjourned the meeting at 9:16 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 24, 2012, 7:00 p.m.**

The City Council Meeting was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Zermeño.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Quirk, Halliday, Peixoto, Salinas,
Henson
MAYOR Sweeney
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported that Council met with Labor Negotiators pursuant to Government Code 54957.6, regarding IFPTE Local 21 and HPOA. Mr. Lawson noted there was no reportable action.

PROCLAMATION

Mayor Sweeney proclaimed May 10, 2012, as Bike to Work Day in the City of Hayward. Mayor Sweeney read the proclamation and presented it to Ms. Aiyana Knowles from the East Bay Bicycle Coalition. Mr. Tom Ayres, President of the Board of East Bay Bicycle Coalition thanked Council for their support, and Ms. Sheila Donnelly, President of the Sustainability Council at Life Chiropractic College West, spoke about Bike to Work Day and asked members of the City Council to participate on May 10, 2012. Ms. Knowles accepted the proclamation on behalf of the Alameda County Safe Routes to School and East Bay Bicycle Coalition and thanked Council Member Henson and Midori Tabata for their support with the construction of bike lanes on Whitman Avenue, between Harder Road and Tennyson Road. She also mentioned that this year the Coalition organized Bike to School Day in conjunction with Bike to Work Day.

PRESENTATIONS

Presentation from Alameda County Mosquito Abatement District

Council Member Halliday introduced the Alameda County Mosquito Abatement District Manager, John Rusmisl. Mr. Rusmisl thanked the City for appointing Council Member Halliday to the Board of Trustees, and provided an update on mosquito activity in the City of Hayward. He also submitted a synopsis of the update and the 79th and 80th Report for the Alameda County Mosquito Abatement District – Fiscal Years 2009-2010 and 2010-2011. Mr. Rusmisl also noted that April 22 - 28, 2012, was Mosquito and Vector Control/West Nile Virus Awareness Week in California.

Annual Environmental Achievement Awards

Mayor Sweeney announced the 2012 Environmental Achievement Awards and noted that the awards honored residents and property managers of multi-family dwellings for their participation in the City-sponsored residential recycling program, and the schools and businesses for implementation of waste reduction, reuse, recycling programs, and environmental education activities. Mayor Sweeney recognized the efforts by members of the community in recognition of Earth Day, which was observed on April 22, 2012. Mayor Sweeney congratulated all of the recipients and turned the proceedings over to Council Member Henson.

Council Member Henson acknowledged the environmental achievements of outstanding schools, residents, housing complexes, and businesses. Mr. Henson also acknowledged Kim Huggett from the Hayward Chamber of Commerce; Donna Placzek from California State University-Hayward; and Hugh Murphy, Vera Dahle-Lacaze, and Jamaica Thacker from City Hall. The following schools were recognized: East Avenue Elementary School, Lea's Christian School, Montessori Children's House of Hayward, and Moreau Catholic High School. He also acknowledged residents and property managers of multi-family complexes for their exemplary participation in the City's residential recycling program. Mr. Huggett spoke about the commercial recycling program and announced the following business award winners: Chef's Corner Foods, Church's Chicken, Fremont Bank, Manheim San Francisco Bay, Pot Pie Paradise and Deli, and Taqueria Senaida.

PUBLIC COMMENTS

Mr. Ed Bogue, Poinciana Street resident, mentioned that the South Gate Area Homeowners Association would be hosting a Candidates Night Forum for Hayward City Council at Christ's Community Church on Wednesday, May 2, 2012, from 7:00 p.m. to 9:00 p.m.

Miss Nadia Faraj, Hayward Youth Commissioner, announced that the Hayward Youth Commission would be sponsoring a HaYouth! 2012 Youth Summit, on Saturday, April 28, 2012, at City Hall, and announced a video that was put together by the Hayward Youth Commission. Miss Faraj also mentioned the City of Hayward was currently recruiting members for the Commission.

Mr. Frank Goulart, with business address on Main Street, thanked the City Clerk's office for their assistance with a research project. Mr. Goulart asked that the crosswalk at Russell Way and Foothill Boulevard be put back because he needed it for his historical society walking tour. Mr. Goulart noted that the Visual Artists Rights Act of 1990 was intended to protect art and mentioned that a mural on Foothill Boulevard, which was painted by his son Benjamin Goulart, was in the process of being removed. He mentioned being amenable to continue discussion with staff about this issue.

Mr. Doug Ligibel, Grant Terrace resident and leader of the Downtown Watch Leadership Group, commended the Hayward Police Department, Alameda County Sheriff Department, California Highway Patrol, and BART Police for their successful resolution to a hostage situation at the Wells Fargo Bank on A Street. Mr. Ligibel expressed concern about the increased amount of foreclosed homes in Hayward, which could impact the City's property tax revenue, staffing, and the ability to provide essential public safety services, and he asked the City to address this issue.



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 24, 2012, 7:00 p.m.**

Mr. Jim Drake, Franklin Avenue resident, asked the public to support the ARCO Gas Station on Jackson Street whose owner believes in volume pricing and maintains low prices.

Ms. Beverly Reliford, Sleepy Hollow resident, expressed concern about the number of childcare providers who were going out of business and explained that childcare rates were going to be decreased by the State. She requested Mayor Sweeney and Council's support to help sustain childcare in Hayward.

Ms. Margaret Cunningham, SEIU 1021 Interim Field Representative, expressed gratitude that the City and SEIU Local 1021 Clerical and Confidential Unit were able to reach an agreement, commended the Human Resource Department for their professionalism, hoped the other unions would be able to reach agreements soon, and noted it was a pleasure working with the City of Hayward.

CONSENT

1. Larrabee Sidewalk Repair - Woodland Avenue to Garin Avenue: Approval of Contract Addendum and Award of Contract

Staff report submitted by Assistant City Engineer Owusu, dated April 24, 2012, was filed.

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

Resolution 12-052, "Resolution Awarding Contract to Rosas Brothers Construction for the Larrabee Sidewalk Repair – Woodland Avenue to Garin Avenue Project, Project No. 5182"

2. Pavement Reconstruction FY 2013 - Contessa, Sequoia, Capetown, Tilden, Martha, Wauchula, Edgemore, Gading, and Lindenwood: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 24, 2012, was filed.

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

Resolution 12-053, "Resolution Approving Plans and Specifications for the Pavement Reconstruction FY13 – Contessa, Sequoia, Capetown, Tilden, Martha, Wauchula, Edgemore, Gading, and Lindenwood Project, Project No. 5172 & 5180, and Call for Bids"

3. Pavement Rehabilitation Gas Tax FY 2013 (Districts 4 & 5) – Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 24, 2012, was filed.

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

Resolution 12-054, “Resolution Approving Plans and Specifications for Pavement Rehabilitation Gas Tax (Districts 4 & 5) Project, Project No. 5170, and Call for Bids”

4. Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 13 – Preliminarily Approve the Engineer’s Report and Levy Assessments for Fiscal Year 2013, and Set June 12, 2012, as the Public Hearing Date for Such Actions

Staff report submitted by Development Review Engineer Nguyen, dated April 24, 2012, was filed.

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

Resolution 12-055, “Resolution Preliminarily Approving Engineer’s Report, Declaring Intention to Levy Assessments for Fiscal Year 2013 for Zones 1-13, and Setting June 12, 2012, as the Public Hearing Date Concerning Consolidated Landscaping and Lighting District No. 96-1, Zones 1-13”

5. Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - Preliminarily Approve the Engineer's Report and Levy Assessment for Fiscal Year 2013, Adopt a Resolution of Intention and Set June 12, 2012, as the Public Hearing Date for Such Actions

Staff report submitted by Development Review Engineer Nguyen, dated April 24, 2012, was filed.

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

Resolution 12-056, “Resolution Preliminarily Approving Engineer’s Report, Declaring Intention to Levy Assessments for Fiscal Year 2013, and Setting June 12, 2012, as the Public Hearing Date Concerning Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit – Pacheco Way, Stratford Road, and



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 24, 2012, 7:00 p.m.**

Ruus Lane (MD-1)”

6. Maintenance District No. 2 – Eden Shores Storm Water Facilities and Water Buffer - Preliminarily Approve the Engineer's Report and Levy Assessment for Fiscal Year 2013, Adopt a Resolution of Intention and Set June 12, 2012, as the Public Hearing Date for Such Actions

Staff report submitted by Development Review Engineer Nguyen, dated April 24, 2012, was filed.

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

Resolution 12-057, “Resolution Preliminarily Approving Engineer’s Report, Declaring Intention to Levy Assessments for Fiscal Year 2013, and Setting June 12, 2012, as the Public Hearing Date Concerning Maintenance District No. 2 – Eden Shores Storm Water Facilities and Water Buffer (MD – 2)”

7. Transportation Development Act Article 3 Funds FY 2013: Wheelchair Ramps – Authorization to File Application

Staff report submitted by Transportation Manager Frascinella, dated April 24, 2012, was filed.

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

Resolution 12-058, “Resolution to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2013 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding for Installation of Wheelchair Ramps”

8. Water Pollution Control Facility Grease Receiving and Processing Facility: Award of Contract

Staff report submitted by Senior Utility Engineer Clark, dated April 24, 2012, was filed.

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

Resolution 12-059, “Resolution Approving Addendum Nos. 1 and 2 Modifying the Plans and Specifications for the WPCF Grease

Receiving and Processing Facility, Project 7511; Awarding the Contract to JMB Construction, Inc.; and Appropriating Additional Funding of \$250,000 from the Sewer Capital Improvement Fund 613 to the WPCF Grease Receiving and Processing Facility, Project 7511”

9. Investment Portfolio Management Services – Authorization of Contract with PFM Asset Management LLC

Staff report submitted by Finance Director Vesely, dated April 24, 2012, was filed.

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

Resolution 12-060, “Resolution Authorizing the City Manager to Negotiate and Execute a Contract with PFM Asset Management LLC for Investment Portfolio Management Services”

10. Adoption of a Resolution to Approve an Amendment to the Service Employees International Union Local 1021 Memorandum of Understanding (Clerical and Confidential Unit)

Staff report submitted by Human Resources Director Robustelli, dated April 24, 2012, was filed.

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

Resolution 12-061, “Resolution Approving an Amendment to the Service Employees International Union Local 1021, Clerical and Confidential Unit Memorandum of Understanding”

PUBLIC HEARING

11. Council Member Call-Up of Conditional Use Permit Application PL-2011-0132 / Tentative Tract Map Application PL-2011-0133 – KB Design and Consulting, Ben Wong (Applicant) / Maple Court Homes (Owner) – The project is located at 22471-22491 Maple Court, between McKeever Avenue and A Street, located in the Central City Commercial (CC-C) District

Staff report submitted by Associate Planner Koonze, dated April 24, 2012, was filed.

Development Services Director Rizk provided a synopsis of the report.

Council Member Peixoto raised questions about the rationale that led to the zoning of Central City-Commercial (CC-C) District that allows for residential uses when located above ground-floor



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 24, 2012, 7:00 p.m.**

commercial use, the legality of including owner-occupied language in the Covenants, Conditions and Restrictions (CC&Rs), and the parking formula used for the number of parking spaces for the proposed Maple Court development.

Council Member Henson preferred the inclusion of ground-floor retail as it would compliment Maple Court, and asked staff to address the correspondence submitted by Mr. Greg Jones. Mr. Rizk noted being in receipt of an e-mail correspondence from Mr. Greg Jones, President of Prospect Hill Neighborhood Association, which highlighted concerns about the proposed project. Mr. Rizk indicated that the project would require a variance or text amendment to the Zone Ordinance to increase the vertical height of the building to make the project viable and to accommodate ground floor space.

Council Member Halliday noted that she agreed to call-up this item at the request of neighbors, agreed that the historical house be relocated to a site within an area that supports historical homes in Hayward, was comfortable that the size of the balconies would provide adequate private open space, and with the Tentative Tract Map Condition No. 48(k), which prohibited balconies from being used as storage areas. Ms. Halliday expressed concern related to child safety for ground-floor units with increased traffic on Maples Court due to the 238 Corridor Improvement Project.

Council Member Salinas expressed concern with the proposed project regarding the loss of a prime location for retail use, building additional housing while the City was experiencing a high rate of foreclosures and whether there was proper notification to the neighborhood. Mr. Salinas cautioned that care should be taken if the site was found to have archaeological value.

Council Member Zermeño suggested staff consider a process of checks and balances to ensure that residents are notified of projects. Mr. Zermeño favored requiring that a qualified archaeologist be present on site to monitor all ground-disturbing activities. He agreed with staff about the need to fill existing vacant retail space on B Street, and commented that office space could have been considered for the proposed project. Mr. Zermeño suggested that in the future, developments will need to increase building height limits when available land becomes limited.

Mayor Sweeney opened the public hearing at 8:47 p.m.

Mr. Al Parso, Prospect Street resident, thanked the Council for allowing the public to comment on the proposed project. Mr. Parso did not favor the proposed residential condominiums project because it did not meet the vision of the downtown, did not provide a benefit to the surrounding community, did not have green space, and lacked adequate parking. Mr. Parso noted there were commercial businesses on Maple Street, and favored focusing on bringing major businesses to Hayward and the industries to support them.

Mr. Frank Goulart, with business address on Main Street, invited Council to his August 25, 2012, history walk about Native American burial grounds in downtown, which includes a site on Maple Court. Mr. Goulart added that if the project is approved, then Council should consider having an archaeologist on site to monitor all ground-disturbing activities. He did not think that a Negative Declaration was appropriate because of possible native remains. He added that high rents could be the reason for vacant buildings in downtown.

Mr. Blaine Ricketts, McKeever Avenue resident, agreed with previous speakers and commented that parking in the area was of concern and noted the project should have at least two spaces per unit. Mr. Ricketts expressed concern about traffic safety issues and especially the safety of children. Mr. Ricketts mentioned receiving three notices regarding the proposed project via U.S. mail.

Ms. Julie Machado, Main Street resident, clarified that the comment made by Mr. Jones regarding expanding vertically to get the necessary units to have ground floor commercial space, was not the opinion of the neighborhood, and noted that she did not support tall buildings. Ms. Machado noted the parking allotment of 1.5 spaces per unit was inadequate, and was concerned about giving up retail parking space in order to accommodate additional cars. She did not approve how frequently staff used negative declarations and she felt the City was ignoring plans for retail on the ground floor.

Mr. Ben Wong, project applicant and representing KB Design and Consulting, introduced Takuo Kanno, architect for the proposed project. Mr. Takuo Kanno noted the developer had conformed to all zoning code requirements, that there have been proper notification of the meetings with only one person attending the community study session, and no other response. He said the proposed plans were approved by the Planning Commission and felt the questions being raised about building design were unfair. He added that if there was evidence that the site was a burial ground, then the work would stop to follow proper protocols.

In response to Council Member Peixoto's question, Mr. Kanno confirmed that the developer was aware that the Central City Commercial District required a commercial component, but he was also aware that there were vacant storefronts and he could apply for a Conditional Use Permit. Mr. Kanno noted that if the City required commercial use on the ground-floor, then the landowner would comply by reconfiguring the above ground units.

Council Member Salinas was concerned about losing an opportunity to generate retail space and suggested delaying the decision in order to talk to the landowner.

Council Member Henson noted there was a distinction to attaching residential housing to retail space because the residents would patronize certain uses. Mr. Kanno noted the economic times do not support a retail space for the proposed project.

Mr. Lee Jiang, San Francisco resident representing the property owner and developer, said adding a retail component to the ground floor of the project and accommodating retail parking would not be financially viable. Mr. Jiang noted that as the economy improves, retail uses could be added to other areas in downtown.



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 24, 2012, 7:00 p.m.**

Council Member Quirk asked Economic Development Manager Brooks about the recommendation to remove the ground floor retail requirement for the proposed project. Mr. Brooks spoke about the studies that questioned if mixed-use had been overused and explained there was not enough activity in the Maple Court area to support retail. Mr. Brooks said forcing ground floor retail could result in empty retail spaces and blighted areas. City Manager David added that having smaller units, in order to accommodate retail space, would not warrant the quality of population in the downtown plus it would be economically prohibitive for the developer.

Mayor Sweeney closed the public hearing at 9:37 p.m.

Council Member Quirk thanked all the speakers. Mr. Quirk mentioned the City had a vision of greater density in the downtown with mixed-use and of keeping the amount of parking in downtown lower than in other places. Regarding parking, it was noted that visitor and/or overflow parking could utilize the parking lot across the project with restrictions, and if there was a parking problem, it could be addressed.

Council Member Quirk offered a motion per staff recommendation and included an amendment to Condition for Approval No. 5 that, "require an archaeologist or local Native American tribal representative to be present on site to monitor all ground-disturbing activities." Council Member Halliday seconded the motion.

Council Member Halliday supported the motion and noted the proposed project conformed to the height of the medical building, the second floor open space was attractive, that the project could be an asset to the neighborhood, that current vacant retail spaces needed to fill up, that there was less potential for residential parking problems, and the project met the vision for the downtown and the mixed-use of residential with core retail in downtown.

Council Member Henson noted that after discussion it seemed that the retail component could not work at the proposed site and there was the need to create a pedestrian downtown and agreed with Council Member Quirk about the parking issue. He thought the addition of Condition for Approval No. 5 was positive in making sure the archaeological issues are addressed. Mr. Henson suggested to staff and Mr. Kanno to address child safety in the ground-floor units. Mr. Henson accepted the suggestion offered by Development Services Director Rizk of adding gates across entry ways to make them child-safe.

Council Members Quirk and Halliday accepted the suggestion of adding a Condition for Approval related to child-safety gates, and Mr. Kanno was amenable to the addition.

Council Member Salinas disagreed with the motion and reiterated his inclination for retaining retail space.

Council Member Peixoto pointed out that the goal of transit-oriented development and high density housing in the downtown did not have the expected results. Mr. Peixoto mentioned that housing was always more profitable than retail for developers and the City needed to place more effort on bringing retail development to the downtown area. Mr. Peixoto did not support the motion

Council Member Zermeño spoke about the importance of the retail element and the need to concentrate on filling the many retail vacancies throughout the City. Mr. Zermeño mentioned the purpose of the proposed project was to build density and create a pedestrian ‘critical mass’ to frequent the existing retail in downtown. Mr. Zermeño confirmed that the Planning Director would find a suitable place for the historical house.

Assistant City Attorney Conneely confirmed for Mayor Sweeney that there was language in the City’s condominium conversion language that could be adapted to the CC&Rs that stated that all units shall be owner-occupied and to address special circumstances and undue hardship, the CC&Rs could authorize consent. Mayor Sweeney offered that the units be 75% owner-occupied with the hardship language.

Council Members Quirk asked the developer’s representative to address the proposal. Mr. Jiang noted that due to market conditions the project would most likely be rental units for the first few years. Development Services Director Rizk noted staff was not aware that the project was proposed to be rental for the first few years.

Council Member Quirk withdrew his motion and Council Member Halliday withdrew her second.

Council Member Quirk offered another motion that the item be continued for four to six weeks and that staff consult with the project proponents and reanalyze the project in lieu of the fact that market conditions may not allow for owner-occupied condominiums. Council Member Salinas seconded the motion.

It was moved by Council Member Quirk, seconded by Council Member Salinas, and carried unanimously, to continue the item for four to six weeks and that staff consult with the project proponents and reanalyze the project in lieu of the fact that market conditions may not allow for owner-occupied condominiums.

12. FY 2013 Master Fee Schedule/Fine and Bail Update

Staff report submitted by Finance Director Vesely, dated April 24, 2012, was filed.

Finance Director Vesely and Development Services Director Rizk provided a synopsis of the staff report.

In response to Council Member Peixoto’s question about full cost recovery for items that are not related to Planning, Development Services Director Rizk explained the activities that were not fee based and thus not recoverable. Mr. Rizk noted there was a fee increase recommendation to recover



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 24, 2012, 7:00 p.m.**

costs associated with phone and counter support as there was considerable time spent in the pre-application stage.

Council Member Salinas asked if there was a way to reduce the daycare inspection fee or provide assistance adding that daycare workers were minimally paid. City Manager David noted that the inspections were vital for the protection of the children because many times the proper safety/evacuation precautions were not in place, and she said the Fire Department had worked to increase the value of the inspection by spending time with the providers to developing evacuation plans. Ms. David noted the City still did not recover inspection costs, but added value.

In response to Council Member Henson's question of the availability of an online permit process, City Building Official Martinez noted the Enterprise Resource Planning (ERP) system would allow for an online permit process.

Development Services Director Rizk responded to Council Member Quirk noting that development community outreach was not conducted and that staff felt the recommended fee increases were reasonable and in balance with the required General Fund subsidy. Mr. Quirk said he would have preferred development community feedback on the proposed fees.

Council Member Halliday was bothered that the City's permit and planning fees were on the high end. Ms. Halliday expressed interest for reviewing the progress report of how the permit center was doing in meeting established goals. Mr. Rizk noted the report would be added to the City's website on a quarterly basis. Ms. Halliday expressed concern that the fee increases would discourage development and concurred with Council Member Quirk that past outreach had resulted in reasonable comments. Regarding the childcare inspections, City Manager David said she agreed with the Fire Chief that the City needed to remain diligent with yearly inspections and added that staff was researching an improved process for smaller facilities.

There being no comments, Mayor Sweeney opened and closed the public hearing at 10:48 p.m.

Council Member Quirk offered a motion per the staff recommendation with the addition that next year there should be more notice and outreach to the development community regarding revisions to the fee schedule. Council Member Zermeño seconded the motion.

Council Member Henson concurred with Council Member Quirk about putting a development community outreach process in place, and that he looked forward to a more streamlined process with the use of technology to help resolve developer issues and keeping the fees in line with neighboring municipalities. Mr. Henson supported the motion.

In response to Mayor Sweeney, Development Services Director Rizk explained the City's fee structure was based on a study conducted in 2008 where new construction and additions fees were calculated on a square foot basis rather than a valuation basis that neighboring cities use. Mr. Rizk

said during the next fiscal year the consultant who would be conducting a fee study analysis could research these concerns.

Mayor Sweeney offered a friendly amendment for staff to analyze how to bring the General Plan Fee, related to residential addition of 597 sq. ft. habitable space, more in line with other jurisdictions.

Council Members Quirk and Zermeño accepted the friendly amendment.

Mayor Sweeney noted that the Council would expect to review updates to the General Plan in its entirety and have the opportunity to comment on the complete proposal including fees and timeframes.

It was moved by Council Member Quirk, seconded by Council Member Zermeño, and carried unanimously, to adopt the following with two friendly amendments: that staff conduct more outreach to the development community regarding revisions to the fee schedule for future years, and that staff analyze how to bring the General Plan Fee, related to residential additions of 597 sq. ft. habitable space, more in line with other jurisdictions.

Resolution 12-062, “Resolution Adopting a Revised Master Fee Schedule, Including a Revised Fine and Bail Schedule, Relating to Fees and Charges for Departments in the City of Hayward and Rescinding Resolutions No. 11-045 and All Amendments Thereto”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño announced two events scheduled for April 28, 2012: the Keep Hayward Clean and Green Task Force clean-up event for the Jackson Triangle Neighborhood, and the 2012 Hayward Youth Summit at City Hall.

Council Member Salinas noted that students in the Hayward Unified School District were taking the Standardized Testing and Reporting (STAR) exam and commended Burbank Elementary School for achieving a score close to 800. Mr. Salinas announced that the “Let’s Do Lunch Hayward and Breakfast Too” group was going to meet at City Hall on April 26, 2012.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 10:57 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward

DATE: May 8, 2012

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT: Adoption of Resolutions Approving Agreements Authorizing Participation in the Voluntary Employee Beneficiary Association (VEBA) Program between the City of Hayward and the Following Employee Groups: Service Employees International Unit Local 1021; Hayward Association of Management Employees; Unrepresented Management, Human Resources and City Attorney Employees; International Federation of Professional and Technical Engineers Local 21; and Police Management

RECOMMENDATION

That the City Council adopts the attached Resolutions approving agreements authorizing participation in the Voluntary Employees Beneficiary Association (VEBA) Program between the City of Hayward and the following employee groups: Service Employees International Unit Local 1021 (Local 1021); Hayward Association of Management Employees (HAME); Unrepresented Management, Human Resources and City Attorney Employees (Unrepresented); International Federation of Professional and Technical Engineers Local 21 (Local 21); and Police Management.

BACKGROUND

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

The City of Hayward has contracted with California Government Voluntary Employees Benefit Association (CALGOVEBA) since 2006 to provide a healthcare funding vehicle where employees make tax-free contributions to a trust for accumulating funds for the reimbursement of health care costs. Employees who participate in the VEBA Trust realize a tax benefit because both eligible contributions and the reimbursed expenses are tax exempt.

Currently, not all employees participate in the VEBA trust. For those who do (those listed in the title of this report), participation is mandatory for all members of the respective bargaining group.. There is a mandatory minimum contribution level of five dollars per pay period, per employee.

However, individual employees may contribute more than five dollars provided they submit the proper documentation during open enrollment and continue to contribute that amount for the year. In addition, at retirement, an individual employee can elect to contribute all or a portion of their accrued leave balances to the VEBA account.

A recent IRS ruling determined that all employees within a bargaining group must contribute equally, with this contribution amount being pre-determined based on the terms of the agreement with that group. Human Resources hosted several informational sessions to discuss the impact of the IRS ruling and the need to restructure the City’s plan for only those groups who currently participate. Staff met with each of the City’s bargaining groups to reach an agreement on the pre-designated contributions that will apply to bargaining unit members to ensure compliance with this IRS ruling. The VEBA trust is available for all employee groups to participate in the future and communication from Human Resources to invite those who are not currently participating will occur annually at benefits open enrollment on or about September of each calendar year.

DISCUSSION

In order to be compliant with IRS regulations, the current plan must be restructured as follows: 1) employee participation is not mandatory; 2) employees are given the irrevocable opportunity to opt-in or out of the program; 3) employee per pay period contributions must be made according to a pre-established formula; and 4) contributions at separation must be based on a pre-designed formula.

Employees represented by a union were surveyed to determine what amount their members were interested in contributing. The survey results were compiled and members were given the opportunity to vote to determine the contribution formulas that would apply to their respective bargaining unit. The formulas are contained in the attached agreements, which have been ratified by each group. Unrepresented employees provided their input during informational meetings and through a poll of the group. The Fire and Police groups are currently participating in informational meetings and will make a decision in the near future.

Effective May 1, 2012, employees in the groups that have agreed to continue participation in the VEBA program under the newly negotiated terms have fifteen days to opt-in or out of the program. The decision to opt-in or opt out of the program is irrevocable. Contribution amounts can be changed by negotiating a new agreement each year during the open enrollment period. The terms of each agreement varies depending on bargaining group. A copy of the agreements is available for review in the City Clerk’s Office. The table below summarizes the contribution rates for each bargaining group:

Group	Per Pay Period Contribution	At Retirement Contribution
Local 1021 Clerical and Confidential	\$20	50% of eligible sick leave, vacation and comp time payouts
Local 1021 Maintenance and Operations	\$20	50% of eligible sick leave, vacation and comp time payouts
HAME	\$40	100% of eligible sick leave

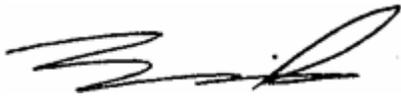
Group	Per Pay Period Contribution	At Retirement Contribution
		payout and 50% of eligible vacation payout
Unrepresented	\$25-\$100 depending on years of service	100% eligible sick leave balances, 50% of comp and vacation after deduction of 200 hours of paid leave.
Local 21	\$30-\$125 depending on years of service	25%-50% of cash value of all accumulated leave balances after a maximum of \$10,000 deduction depending on years of service
Police Management	\$5	100% eligible sick leave payout and 100% of vacation leave payout after deducting \$51,000 in gross cash value

FISCAL IMPACT

There is no fiscal impact associated with the changes to the VEBA program plan restructure. All VEBA contributions are funded through employee contributions to the plan. The City does not contribute to the plan. Costs associated with administering payroll deductions for participating employees are minimal and not expected to change as a result of the plan restructure.

Prepared and Recommended by: Frances M. Robustelli, Human Resources Director

Approved by:



Fran David, City Manager

- Attachments: Attachment I: Resolution Local 1021 Clerical & Confidential
- Attachment II: Resolution Local 1021 Maintenance & Operations
- Attachment III: Resolution HAME
- Attachment IV: Resolution Unrepresented
- Attachment V: Resolution Local 21
- Attachment VI: Resolution Police Management

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION APPROVING AN AGREEMENT WITH SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 1021, CLERICAL AND CONFIDENTIAL UNIT, FOR PARTICIPATION IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to Service Employees International Union Local 1021, Clerical and Confidential Unit and its members (collectively, "SEIU Clerical and Confidential Unit") a Voluntary Employee Beneficiary Association ("VEBA") Plan; and

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

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

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

WHEREAS, the tentative agreement provides that members of the SEIU Clerical and Confidential Unit who opt-in to participate in the VEBA Plan shall contribute twenty dollars (\$20) per pay period to the Plan;

WHEREAS, the tentative agreement further provides that members of the SEIU Clerical and Confidential Unit who opt-in to participate in the VEBA Plan shall also contribute the total of 50% of all accrued leave cash-outs received at retirement; and

WHEREAS, the membership of SEIU Clerical and Confidential Unit ratified the terms of the VEBA agreement as of April 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA plan between it and SEIU Clerical and Confidential Unit effective May 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION APPROVING AN AGREEMENT WITH SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 1021, MAINTENANCE AND OPERATIONS UNIT, FOR PARTICIPATION IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to Service Employees International Union Local 1021, Maintenance and Operations Unit, and its members (collectively, “SEIU Maintenance and Operations Unit”) a Voluntary Employee Beneficiary Association (“VEBA”) Plan; and

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

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

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

WHEREAS, the tentative agreement provides that members of the SEIU Maintenance and Operations Unit who opt-in to participate in the VEBA Plan shall contribute twenty dollars (\$20) per pay period to the Plan; and

WHEREAS, the tentative agreement further provides that members of the SEIU Maintenance and Operations Unit who opt-in to participate in the VEBA Plan shall also contribute 50% of the total of all accrued leave cash-outs received at retirement; and

WHEREAS, the membership of the SEIU Maintenance and Operations Unit ratified the terms of the VEBA agreement as of April 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA Plan between it and SEIU Maintenance and Operations Unit effective May 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION APPROVING AN AGREEMENT WITH HAYWARD ASSOCIATION OF MANAGEMENT EMPLOYEES FOR PARTICIPATION IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to Hayward Association of Management Employees and its members (collectively, "HAME") a Voluntary Employee Beneficiary Association ("VEBA") Plan; and

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

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

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

WHEREAS, the tentative agreement provides that members of the HAME unit who opt-in to participate in the VEBA Plan shall contribute forty dollars (\$40) per pay period to the Plan; and

WHEREAS, the tentative agreement further provides that members of the HAME unit who opt-in to participate in the VEBA Plan shall also contribute 50% to 75%, depending on years of service, of the total the cash value of all accrued leave cash-outs received at retirement; and

WHEREAS, the membership of HAME ratified the terms of the VEBA agreement as of April 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA Plan between it and HAME effective May 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION APPROVING UNREPRESENTED MANAGEMENT, HUMAN RESOURCES, AND CITY ATTORNEY EMPLOYEES PARTICIPATION IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to the Unrepresented Management, Human Resources, and City Attorney Employees (collectively, “Unrepresented group”) a Voluntary Employee Beneficiary Association (“VEBA”) Plan; and

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

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

WHEREAS, the Unrepresented group has agreed to participate in the VEBA plan and has determined that those members of the Unrepresented group who opt-in to participate in the VEBA plan shall contribute between \$25 and \$100 per pay period to the Plan, depending on years of service; and

WHEREAS, the Unrepresented group has further determined that those members of the Unrepresented group who opt-in to participate in the VEBA shall also contribute 100% of any eligible sick leave cash out and 50% of any vacation and compensatory time off leave payouts, less the value of 200 hours of vacation and/or compensatory time off, received upon retirement; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA Plan between it and the Unrepresented group effective May 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION APPROVING AN AGREEMENT WITH INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21 FOR PARTICIPATION IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to International Federation of Professional and Technical Engineers, Local 21 and its members (collectively, “Local 21”) a Voluntary Employee Beneficiary Association Plan (“VEBA”); and

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

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

WHEREAS, the City and Local 21 have reached a tentative agreement which details the terms of participation in the VEBA Plan for members of the Local 21 unit; and

WHEREAS, the tentative agreement provides that members of the Local 21 unit who opt-in to participate in the VEBA Plan shall contribute forty dollars (\$40) per pay period to the Plan;

WHEREAS, the tentative agreement further provides that members of the Local 21 unit who opt-in to participate in the VEBA Plan shall also contribute 100% of any sick leave cash out and 50% of any vacation cash out received upon retirement; and

WHEREAS, the membership of Local 21 ratified the terms of the VEBA agreement as of April 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA Plan between it and Local 21 effective May 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION APPROVING AN AGREEMENT WITH THE HAYWARD POLICE MANAGEMENT UNIT FOR PARTICIPATION IN THE VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA) PLAN

WHEREAS, the City of Hayward will make available to the Police Management Unit Employees and its members (collectively, "Police Management") a Voluntary Employee Beneficiary Association ("VEBA") Plan; and

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

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

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

WHEREAS, the tentative agreement provides that members of the Police Management unit who opt-in to participate in the VEBA Plan shall contribute five dollars (\$5) per pay period to the Plan; and

WHEREAS, the tentative agreement further provides that members of the Police Management unit who opt-in to participate in the VEBA Plan shall also contribute 100% of any accrued leave cash out, after deducting fifty-one thousand dollars (\$51,000) in gross cash value, received upon retirement; and

WHEREAS, the membership of Police Management ratified the terms of the VEBA agreement as of April 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the agreement to participate in the VEBA Plan between it and Police Management unit effective May 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: May 8, 2012

TO: Mayor and City Council
Chair and Members of Successor Agency Board

FROM: Assistant City Manager

SUBJECT: Approval of: 1) Modified Recognized Obligation Payment Schedule and Administrative Budget for the Period January 1 – June 30, 2012; 2) Re-entry by City and Successor Agency into Repayment Agreement; and 3) the Recognized Obligation Payment Schedule and Successor Agency Administrative Budget for the Period July 1 – December 31, 2012

RECOMMENDATION

A. That the City Council, in the capacity as governing board of the successor agency to the former Redevelopment Agency, adopts the attached resolutions (Attachments I-III) that: (1) approve a modified ROPS previously approved by the City Council and the Oversight Board for the period from January 1- June 30, 2012; (2) approve modifications to the Successor Agency Administrative Budget for the same period; (3) authorize the Successor Agency to reenter into that certain Repayment Agreement between the City and the former Redevelopment Agency dated September 23, 1975 as amended and restated in 2008, subject to Oversight Board approval; (4) approve the Recognized Obligation Payment Schedule for the period July 1 – December 31, 2012; (5) approve the Successor Agency Administrative Budget for the same period; and (6) authorize the City Manager to take other administrative actions and execute such other documents as are appropriate to effectuate the intent of the resolutions and all actions necessary to effectuate associated requirements of the Dissolution Act.

B. That the City Council adopts the attached resolution (Attachment IV) that: (1) authorizes the City to reenter into that certain Repayment Agreement between the City and the former Redevelopment Agency dated September 23, 1975 as amended and restated in 2008; and (2) authorizes the City Manager to take other administrative actions and execute such other documents as are appropriate to effectuate the intent of such resolution.

BACKGROUND

The California State Legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law in June of 2011. The California Supreme Court in its decision in *California Redevelopment Association v. Matosantos*,

issued December 29, 2011, declared the Dissolution Act to be constitutional. Under the Dissolution Act, all California redevelopment agencies were dissolved effective February 1, 2012, and various actions are now required by successor agencies to unwind the affairs of all former redevelopment agencies.

DISCUSSION

On January 10, 2012, the City Council adopted a resolution accepting for the City the role of successor agency (the “Successor Agency”) to the Redevelopment Agency of the City of Hayward. An Oversight Board, consisting of members representing the County, the City, and various education and special districts, approves and directs certain actions of the City as Successor Agency. Most of the respective agencies have finalized their appointments and the Oversight Board held its first meeting on April 9, 2012.

The members of the Oversight Board as of the April 9 meeting were: Mayor Sweeney; Sean Brooks, Economic Development Manager, representing former employees of the Redevelopment Agency; County Supervisor Nadia Lockyer; Dr. Terri Swartz of Cal State East Bay as a member of the public; Rita Shue representing HARD; and Board Trustee Jesus Armas representing the County Superintendent of Schools. No appointment had been made by the State Community College Chancellor although both Council Member Zermeño and Council Member Salinas were in attendance. Staff has since received notice that Supervisor Nate Miley will be replacing Nadia Lockyer on the Board, and the State Chancellor of Community Colleges sent a letter appointing Councilmember Salinas to the Board.

At the April 9 meeting, the Board approved the ROPS for the period January through June 2012, which staff sent to the State Department of Finance (DOF) and the County Auditor-Controller. This “First ROPS” was reviewed by DOF staff and the DOF is requiring reconsideration by the Oversight Board of various items included on the First ROPS. The letter from the DOF relating to its review of the First ROPS and a copy of the First ROPS are attached to this staff report as Attachments V and VI.

Approval of Modified First ROPS: In connection with its review of the First ROPS, the Department of Finance objected to the inclusion of the City and former Redevelopment Agency repayment agreement, entered into initially in 1975 and amended and restated in 2008 (the “Repayment Agreement”). The Department also objected to the \$944,298 housing set-aside payment (the “Housing Set-Aside Payment”) that occurred in January 2012. The Department further claimed that certain items were inappropriately listed as enforceable obligations, when they should have been included as costs to be paid from the Successor Agency administrative allowance allowed for under the Dissolution Act. The Dissolution Act limits or caps the administrative allowance of each successor agency.

Staff is preparing a written response to the Department regarding its review. Staff will be reserving the right to challenge any of the Department's objections to the First ROPS. Based on this initial DOF response, staff is recommending the following items related to the requested reconsideration of the First ROPS by the Successor Agency and the Oversight Board:

<p>City/Agency Repayment Agreement (Attachment VI – Item #3)</p>	<p>The Repayment Agreement should be removed from the First ROPS to eliminate any immediate issues with the Department and because payment under this agreement for FY 2012 occurred in a time period prior to that covered by the First ROPS. As described below, staff further recommends that the Successor Agency authorizes an agreement pursuant to which the Successor Agency and City re-enter into the Repayment Agreement and include this re-entered agreement on the Second ROPS for July 1 - December 31, 2012.</p>
<p>Housing Set-Aside Payment (Attachment VI – Item #5)</p>	<p>The Housing Set-Aside Payment may be removed from the First ROPS because it was mistakenly included as revenue as opposed to an expense.</p>

Administrative Budget/Cost Allowance

<p>Employee Costs (“Employee Costs” and “Cost Allocation”) and Legal Fees (Attachment VI – Items #9, 14, and 18)</p>	<p>Payments made in January should remain as an expense that is not subject to the administrative allowance cap because the January payments are former Redevelopment Agency expenses. The Successor Agency did not begin to incur expenses subject to the administrative allowance cap until February 2012. In addition, only those employee and legal costs that are not tied to project delivery will be moved to the administrative allowance line item.</p>
<p>Insurance Costs (Attachment VI – Item #13)</p>	<p>All payments for insurance should remain on the First ROPS as a non-administrative item because the insurance covers continuing liabilities incurred by the Agency (as opposed to Successor Agency overhead).</p>
<p>BIA Support Payment (Attachment VI – Item #19)</p>	<p>Only one BIA support payment was made in January 2012 by the former Agency. This Agency payment should not be included in the administrative allowance of the Successor Agency, because it was not related to Successor Agency administrative costs, but was a project of the former Redevelopment Agency.</p>
<p>Cinema Place Maintenance Costs (Attachment VI – Items #26-31)</p>	<p>These costs should remain as non-administrative allowance items, since they are required by the Cinema Place Ground Lease.</p>

<p>Weed Abatement and Financial Consultant Fee (Attachment VI – Items #44 and 45)</p>	<p>These costs may be removed from the First ROPS because contracts were executed but expenses were never actually incurred or paid by the former Agency or the Successor Agency. These contracts are no longer needed.</p>
--	---

In its letter, the Department also stated that the administrative allowance cap is equal to \$397,329 as opposed to the previously estimated \$250,000. Therefore, as further described below, staff recommends that the amendment to the First ROPS increase the administrative allowance to \$397,329 (Attachment VI – Item #25).

Through the accompanying resolution, staff recommends that the City Council, as governing board of the Successor Agency, approve a modified First ROPS incorporating staff's recommendations as described above. The modified First ROPS will then be submitted to the Oversight Board for its consideration and approval and then to the Department of Finance again.

Approval of Administrative Budget for February 1, 2012 to June 30, 2012: As noted above, DOF is permitting a \$397,329 administrative allowance cap for the Successor Agency, which is an increase from the previously budgeted \$250,000 administration allowance line item. The administrative budget covers certain staff expenses to provide for basic oversight and administration of the Successor Agency. It also provides for a supplies and services budget to cover ancillary expenses of the Successor Agency. Staff of the Successor Agency has prepared a revised administrative budget for Fiscal Year 2012 to reallocate certain employee and legal costs objected to by the Department and to permit increased coverage for other administrative expenses. Through the accompanying resolution, staff recommends that the City Council, as governing board of the Successor Agency, approve the modified Successor Agency's administrative budget for Fiscal Year 2012 for submittal to the Oversight Board. The administrative allowance budget for Fiscal Year 2012 is included as Attachment VII to this staff report and also as an attachment to the resolution.

Approval of Re-Entry into Repayment Agreement: Under the Dissolution Act, the Successor Agency may enter or reenter into former Redevelopment Agency agreements with the City upon obtaining the approval of the Oversight Board. The Department has objected to the Repayment Agreement and asked for it to be removed from the First ROPS. In objecting to the Repayment Agreement, DOF cites that section of the Dissolution Act which invalidates certain agreements between former redevelopment agencies and the cities that created them. Staff recommends that the Repayment Agreement be removed from the First ROPS to satisfy the Department's immediate concerns, but that Council also approve the re-entry of the Repayment Agreement by the City acting on behalf of itself and the City, acting in its capacity as a Successor Agency. In removing the Repayment Agreement from the First ROPS, the Successor Agency will reserve the right to challenge the Department's objection to the Repayment Agreement. Staff will also reserve the right to include the Repayment Agreement on future ROPS.

The Repayment Agreement was entered into in 1975, approximately six years after the formation of the former Redevelopment Agency, but the same year as the adoption of the first Agency redevelopment plan. AB 1585 would recognize agreements entered into between a former redevelopment agency and its sponsoring community within two years of plan adoption, such as the

Repayment Agreement. However, while AB 1585 has passed out of the Assembly, it is being held in the Senate to determine if funds addressed in that bill should be used, instead, to help balance the State budget. Staff is far from certain that AB 1585 will ever become law.

The Repayment Agreement requires the repayment to the City of funds loaned by the City to the former Redevelopment Agency to cover Redevelopment Agency activities. Approximately eight million dollars is still owed to the City under this contract. In order to preserve the commitment made to repay the City for its substantial investment, staff recommends that the Council, acting as the governing body of the City and as the governing body of the Successor Agency, authorize the City and Successor Agency to re-enter into the Repayment Agreement upon obtaining approval of the Oversight Board. The Repayment Agreement will then be listed on the “Second ROPS,” which is also the subject of this meeting.

Approval of Second ROPS: The Oversight Board must approve a ROPS for each six month period during a fiscal year. Given the tight timelines following the dissolution of Redevelopment Agencies in February, the review and approval periods for the first two ROPS overlap. This schedule and approval process will smooth out going forward. Following approval of the “Second ROPS” and Administrative Budget for the first half of FY 2013 by the Successor Agency this evening, the Oversight Board will convene to review and approve the ROPS for the July through December 2012 time period.

The Second ROPS is included with this report as Attachment VIII. The numbering of items on the Second ROPS has remained the same as on the First ROPS so it is easier to cross-reference between the two documents. Most of the changes and updates to the Second ROPS result from one of the following items: revised project costs based on payments made before June 30, 2012; items that were paid prior to the Agency dissolution that now need to be removed from the ROPS; or contracts that are finalized and will be removed from the ROPS. Staff has also removed the Cooperation and Funding Agreement between the City of Hayward and the Redevelopment Agency and the Housing Cooperation and Funding Agreement between the City and Housing Authority for several reasons. Many of the projects listed in these agreements are captured as enforceable obligations elsewhere on the ROPS or have been paid in full. Others do not yet have payments due and therefore do not currently need to be included on the Second ROPS. In addition, the spreadsheet that details the pass through payments to other taxing entities has been removed since the County Auditor will be responsible for calculating and making these payments in the future.

Through the accompanying resolution, staff recommends that the City Council, as governing board of the Successor Agency, approve the Second ROPS for submittal to the Oversight Board.

Approval of Administrative Budget for July 1 – December 31, 2012: In addition to approval of the Second ROPS, staff recommends the approval of the Administrative Budget of the Successor Agency for the period of July 1 – December 31, 2012. Through the accompanying resolution, staff recommends that the City Council, as governing board of the Successor Agency, approve the Successor Agency’s administrative budget for July 1 – December 31, 2012 for submittal to the Oversight Board. The administrative budget is included as Attachment IX to this staff report and also as an attachment to the resolution. With regard to the supplies and services portion of the budget, this is a placeholder budget that will be further refined during review and approval by the

Oversight Board and once further clarification is received from the State and County on allowable expenses.

Implementation Actions: The accompanying Successor Agency resolutions authorize and direct the City Manager to take all steps on behalf of the Successor Agency to implement upcoming requirements under the Dissolution Act, including providing necessary notices, transmittals, and postings regarding the ROPS and Successor Agency administrative budgets. The accompanying City Council resolution also authorizes and directs the City Manager to take all steps on behalf of the City to implement the provisions of such resolution.

Environmental Review: The actions set forth in the recommended accompanying resolution, as summarized above, are exempt under Guideline 15378(b)(4) of the California Environmental Quality Act (CEQA) in that the actions do not constitute a “project,” but instead are required to continue a governmental funding mechanism for enforceable obligations of the former Redevelopment Agency and to perform the statutorily mandated unwinding of the assets, liabilities, and functions of the former Redevelopment Agency pursuant to the Dissolution Act. Staff will file a notice of exemption with the County Clerk in accordance with the CEQA guidelines.

ECONOMIC AND FISCAL IMPACT

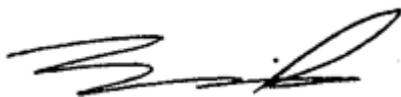
Approval of the modified First ROPS and the Second ROPS will facilitate the ability of the City as Successor Agency to continue payment of the enforceable obligations of the former Redevelopment Agency and is among the reasonable measures required to be taken to avoid triggering an event of default under any enforceable obligations. Approval of the Successor Agency administrative budgets will facilitate the Successor Agency's receipt of the funds to which it is entitled under the Dissolution Act to implement its responsibilities. Approval of re-entry of the Repayment Agreement will permit the City to collect on those funds loaned in good faith by it to the former Agency.

NEXT STEPS

Following approval of the modified First ROPS, the Second ROPS, and the Administrative Budgets by the City Council, acting as Successor Agency, and following approval of the re-entry of the Repayment Agreement by the City and Successor Agency, staff will convene a meeting of the Oversight Board to review and approve these items.

Prepared and Recommended by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Successor Agency Resolution Regarding Modified First ROPS and Approval of Revised Administrative Budget
- Attachment II: Successor Agency Resolution Regarding Re-Entry of Repayment Agreement
- Attachment III: Successor Agency Resolution Regarding Second ROPS and Approval of Related Administrative Budget
- Attachment IV: City Resolution Regarding Re-Entry of Repayment Agreement
- Attachment V: Department of Finance Letter Regarding ROPS January – June 2012 (First ROPS)
- Attachment VI: Modified First ROPS January – June 2012 (First ROPS)
- Attachment VII: Revised Administrative Budget January – June 2012
- Attachment VIII: Recognized Obligation Payment Schedule (ROPS) July 1 – December 30, 2012
- Attachment IX: Successor Agency Administrative Budget July 1 – December 30, 2012

RESOLUTION NO. RSA12-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD, IN COMPLIANCE WITH A STATE DEPARTMENT OF FINANCE REQUEST FOR RECONSIDERATION OF SPECIFIED ITEMS ON THE APPROVED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD ENDING JUNE 30, 2012 (“FIRST ROPS”), INCLUDING APPROVAL OF A MODIFIED FIRST ROPS AND APPROVAL OF A REVISED ADMINSTRATIVE BUDGET

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on December 29, 2011, the California Supreme Court delivered its decision in *California Redevelopment Association v. Matosantos*, finding ABx1 26 the Dissolution Act largely constitutional; and

WHEREAS, under the Dissolution Act and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency of the City of Hayward (the “Dissolved RDA”), were dissolved on February 1, 2012; and

WHEREAS, on January 24, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City of Hayward, a charter city (the “City”), would act as successor agency (the “Successor Agency”) for the Dissolved RDA effective February 1, 2012; and

WHEREAS, under the Dissolution Act, the City, in its capacity as Successor Agency, must prepare a “Recognized Obligation Payment Schedule” (“ROPS”) that enumerates the enforceable obligations and expenses of the Successor Agency for specified six-month periods; and

WHEREAS, the Successor Agency staff prepared, and on March 6, 2012, the City Council, acting as the Governing Board of the Successor Agency, approved the initial recognized obligation payment schedule for the period January through June 2012 (the “Proposed First ROPS”) and the administrative budget for the Successor Agency’s general administrative costs and expenses during the period from February 1 through June 30, 2012 (the “Proposed First Administrative Budget”), from which is documented the Successor Agency's administrative cost allowance for Fiscal Year 2012, as defined and prescribed in Health and Safety Code Section 34171(b) (the “FY 2011-12 Administrative Cost Allowance); and

WHEREAS, pursuant to the Dissolution Act, the duly-constituted Oversight Board for the Successor Agency met at a duly-noticed public meeting on April 9, 2012, to review and consider the Proposed First ROPS, and specific obligations listed on the Proposed First ROPS, and by adoption of Oversight Board Resolution No. 12-01, approved the Proposed First ROPS

(the “Approved First ROPS”), attached hereto as Exhibit A, incorporated herein by this reference, and also approved the Proposed First Administrative Budget prepared by Successor Agency staff, which documents an FY 2012 Administrative Cost Allowance in the minimum amount authorized under the Dissolution Act of \$250,000 (the “Approved First Administrative Budget”); and

WHEREAS, staff posted the Approved First ROPS and the Approved First Administrative Budget on the Successor Agency’s website, and transmitted the Approved First ROPS together with and the Approved First Administrative Budget to the Auditor-Controller of the County of Alameda (the “County-Auditor”), to the California State Controller (the “State Controller”), and to the California Department of Finance (the “DOF”) by notice dated April 12, 2012; and

WHEREAS, under Health and Safety Code Section 34179(h), Oversight Board actions do not become effective for three (3) business days, pending request for review by the DOF. If the DOF requests a review of a given Oversight Board action, the DOF has ten (10) days from the date of its request to approve the Oversight Board action or return the action to the Oversight Board for its reconsideration and any particular disapproved item shall not become effective until approved by the DOF; and

WHEREAS, within the three (3) business day notice period, the DOF informed the Successor Agency and the Oversight Board that the DOF was requesting review of unspecified items on the Approved First ROPS and sent an informal request for additional information, to which the Successor Agency staff timely responded; and

WHEREAS, by letter of April 27, 2012 (the “DOF Formal Notification Letter”), attached to this Resolution as Exhibit B and incorporated in this Resolution by this reference, the DOF notified the Successor Agency and the Oversight Board that the DOF was returning specified items in the Approved First ROPS for reconsideration by the Oversight Board, specifically requesting the Oversight Board reconsider the inclusion of the following items on the Approved First ROPS that were disapproved by the DOF (collectively, the “Reconsideration Items”):

- Item 3, page 1 of the Approved First ROPS (the “Repayment Agreement”);
- Item 5, page 1 of the Approved First ROPS (the “Housing Set-Aside Payment”);
- Item 9, page 1 of the Approved First ROPS (“Employee Payroll Costs”);
- Item 13, page 1 of the Approved First ROPS (“Insurance Costs”);
- Item 14, page 1 of the Approved First ROPS (“Successor Agency Legal Fees”);
- Item 18, page 1 of the Approved First ROPS (“Agency Allocation Cost”);
- Item 19, page 1 of the Approved First ROPS (“BIA Support Payment”);
- Item 25, page 1 of the Approved First ROPS (“Administrative Cost Allowance”);
- Item 26-31, page 1 of the Approved First ROPS (“Cinema Place Maintenance Costs”);
- Item 44, page 2 of the Approved First ROPS (“Financial Consultant Fees”); and
- Item 45, page 2 of the Approved First ROPS (“Weed Removal Contract”); and

WHEREAS, the DOF Formal Notification Letter was issued within the ten day decision period authorized by Health and Safety Code Section 34179(h), which expired on or about April 28, 2012 (the “DOF Notification Deadline”); and

WHEREAS, pursuant to the DOF Formal Notification Letter, and consistent with the guidance issued by Ana Matosantos, the Director of the DOF, by letter dated March 2, 2012, only the Reconsideration Items (as defined above) are ineffective until approved by the DOF; and

WHEREAS, other than the Reconsideration Items identified in the DOF Formal Notification Letter, the remainder of the enforceable obligations and recognized obligations listed on the Approved First ROPS (the “Accepted Enforceable Obligations”), are approved for inclusion in the Approved First ROPS for the six-month period ending June 30, 2012, and failure by the DOF to challenge the Accepted Enforceable Obligations listed on the Initial ROPS forecloses the DOF’s challenge of the Accepted Enforceable Obligations because of the expiration of the DOF Notification Deadline; and

WHEREAS, by forthcoming letter (the “Successor Agency Response Letter”) to DOF, the Successor Agency staff will assert the following:

- Accede to the DOF’s request that the following Reconsideration Items be deleted from the Approved First ROPS (collectively, the “Deleted Items”):
 - The Repayment Agreement because no payments were due under the agreement during the time period covered in the Approved First ROPS. Removal of the Repayment Agreement, from the Approved First ROPS, shall not abrogate, waive, impair or in any other manner affect the right or ability of the City, as a charter city, to initiate and prosecute any litigation with respect to the Repayment Agreement, including, without limitation, any litigation contesting the purported invalidity of said agreement pursuant to the Dissolution Act;
 - The Housing Set Aside Payment because listing of the receipt of the funds is not an expenditure of the Successor Agency and is thus incorrectly included on the Approved First ROPS;
 - The Financial Consultant Fees because no payments are required to be made under the agreement during the time period covered in the Approved First ROPS; and
 - The Weed Removal Contract because no payments are required to be made under the agreement during the time period covered in the Approved First ROPS.
- Partially accede to the DOF’s request that the following Reconsideration Items be modified in the Approved First ROPS in the manner described below (collectively, the “Modified Items”):

- The deletion of payments past January 2012 for Employee Payroll Costs. The January payment for Employee Payroll Costs is accurately included as an obligation paid in January because the Dissolved RDA was required to make that payment to cover employee payroll prior to the dissolution of the RDA. The Employee Payroll Costs incurred by the Successor Agency after the February 1, 2012 dissolution of the RDA are more accurately included under the Administrative Cost Allowance Budget for the period ending June 30, 2012;
- The deletion of payments past January 2012 for Agency Overhead Allocation Costs. The January payment for Agency Allocations Costs is accurately included as an obligation paid in January because the Dissolved RDA was required to make that payment for its share of administrative overhead costs prior to the dissolution of the RDA. The Agency Overhead Allocation Costs incurred by the Successor Agency after the February 1, 2012 dissolution of the RDA are more accurately included under the Administrative Cost Allowance Budget for the period ending June 30, 2012; and
- The deletion of payments past January 2012 for the BIA Support Payment. The January payment for BIA Support is accurately included as an obligation paid in January because the Dissolved RDA was authorized to make that payment under the Dissolved RDA's annual budget appropriations, in effect prior to the dissolution of the RDA. The BIA Support Payments will not be incurred by the Successor Agency after the February 1, 2012 dissolution of the RDA and will be deleted from the Approved First ROPS; and
- Provide further information to the DOF in support of treatment of the following Reconsideration Items (together, the "Further Consideration Items") as enforceable obligations, with the request that the DOF give further consideration to the treatment of the Further Consideration Items in light of the additional information provided in the Successor Agency Response Letter and because:
 - The Insurance Costs listed on the Approved First ROPS are associated with the Successor Agency's continued requirement to carry liability insurance coverage for properties and projects of the Successor Agency and constitute project delivery costs and not administrative expenses or overhead of the Successor Agency;
 - The Successor Agency Legal Fees have been modified to differentiate between project related legal fees that constitute project delivery costs that do not constitute administrative costs of the Successor Agency and other legal fees that are not an administrative cost of the Successor Agency and other legal fees that are more accurately included under the Administrative Cost Allowance Budget for the period ending June 30, 2012;
 - The Cinema Place Maintenance Costs listed on the Approved First ROPS are associated with the Successor Agency's continued requirement to perform property maintenance and remediation and constitute project delivery costs and not an administrative cost of the Successor Agency; and

- Acknowledge an adjustment of the Successor Agency's Approved First Administrative Budget to increase the FY 2012 Administrative Cost Allowance from the minimum amount authorized under the Dissolution Act of \$250,000 to the five percent of the property tax allocated or \$397,329.

WHEREAS, in compliance the DOF Formal Notification Letter, the Successor Agency staff has prepared for consideration of approval by the Oversight Board a modified Approved First ROPS (the "Proposed Modified First ROPS"), attached to this Resolution as Exhibit C and incorporated in this Resolution by this reference; and

WHEREAS, the Proposed Modified First ROPS: 1) deletes the Agreed Deleted Items, as requested by the DOF; 2) adjusts the Modified Items partially acceding to the DOF's request for removal of payments past January 2012; 3) retains the Further Consideration Items pending DOF consideration of the additional information provided to the DOF in the Successor Agency Response Letter, with the understanding and agreement that the future treatment of the Further Consideration Items as enforceable obligations will be dependent on the DOF's further consideration and subsequent approval; and 4) adjusts the Administrative Cost Allowance from the minimum amount authorized under the Dissolution Act of \$250,000 to the five percent of the property tax allocated or \$397,329, as allowed by the DOF;

WHEREAS, in compliance with the DOF Formal Notification Letter, the Successor Agency staff has prepared for consideration of approval by the Oversight Board a modified administrative budget for Successor Agency general administrative costs and expenses during the period from February 1 through June 30, 2012 (the "Proposed Modified First Administrative Budget"), attached to this Resolution as Exhibit D and incorporated in this Resolution by this reference; and

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby finds and determines that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff (including the Successor Agency Response Letter) and the public, form the basis for the approvals, findings, and determinations set forth below.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, as requested by the DOF in the Formal Notification Letter, has duly considered the Reconsideration Items and hereby makes the modifications and determinations with respect to the Reconsideration Items and the Approved First ROPS as described in the foregoing recitals and as set forth in the Proposed Modified First ROPS.

BE IT FURTHER RESOLVED that no further action of the Successor Agency is required in connection with the Accepted Enforceable Obligations contained on the Approved ROPS and the Proposed Modified First ROPS. The Reconsideration Deadline has passed for the Accepted Enforceable Obligations without challenge by the DOF. Consequently, each of the Accepted Enforceable Obligations constitutes an "enforceable obligation" and "recognized obligation" for all purposes of the Dissolution Act, and is necessary for the continued

maintenance and preservation of property owned by the Successor Agency until disposition and liquidation, the continued administration of the ongoing agreements herein approved by the Oversight Board, or the expeditious wind-down of the affairs of the Dissolved RDA by the Successor Agency.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby approves the Proposed Modified First ROPS in the form attached to this Resolution as Exhibit C, subject to approval by the Oversight Board. The City Council hereby declares its intent that the Proposed Modified First ROPS (Exhibit C) shall amend, replace, and supersede the Approved First ROPS (Exhibit A) in its entirety.

BE IT FURTHER RESOLVED that under Health and Safety Code Section 34177(j), the Proposed Modified First Administrative Budget must be submitted by the Successor Agency for approval by the Oversight Board.

BE IT FURTHER RESOLVED that City Council, acting as the Governing Board of the Successor Agency, hereby approves the Proposed Modified First Administrative Budget in the form presented to the City Council and attached hereto as Exhibit D, and authorizes the Successor Agency to incur costs for the general administrative activities and functions described in the Proposed Modified First Administrative Budget.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, finds that the Proposed Modified First Administrative Budget supports an FY 2012 Administrative Cost Allowance to the Successor Agency in the amount of \$397,329.

BE IT FURTHER RESOLVED that the Oversight Board authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to post the Proposed Modified First ROPS and the Proposed Modified First Administrative Budget on the Successor Agency website, to transmit the Proposed Modified First ROPS and the Proposed Modified First Administrative Budget to the Auditor-Controller and to the State Controller and the DOF, to inform the Auditor-Controller of the adjustment to the FY 2012 Administrative Cost Allowance, and to take any other actions necessary to ensure the validity of Proposed Modified First ROPS and the Proposed Modified First Administrative Budget, including but not limited to the FY 2012 Administrative Cost Allowance.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a charter city, to initiate and prosecute any litigation with respect to any agreement or other arrangement of the Dissolved RDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

Exhibit A

APPROVED ROPS

PRELIMINARY RECOGNIZED OBLIGATION PAYMENT SCHEDULE
Per AB 26 - Section 34169, March 1, 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						Total ¹
						Jan	Feb	Mar	Apr	May	Jun	
1) 2004 Tax Allocation Bonds	Wells Fargo	Bond issue to fund non-housing projects	Tax Increment (TI) revenues	62,788,730.00								
2) 2008 Tax Allocation Bonds	Wells Fargo	Bond issue to fund non-housing projects	TI revenues	23,005,214.00	5,054,521.50							
3) Hayward	City of Hayward	To fund startup costs of Hayward Redevelopment Project Area	TI revenues	7,789,845.00	859,010.00					1,684,840.50	1,684,840.50	3,369,681.00
4) SERAF	Hayward Housing Authority	Loan for SERAF FY10 and FY11 payments	TI revenues	3,876,516.00	800,000.00					319,070.00	319,070.00	638,340.00
5) Low-Mod Housing, Set Aside?	Hayward Housing Authority	20% Low & Mod Income Housing Set Aside Required by H & S. Code	TI revenues	1,292,172.00	258,434.40					258,434.40	258,434.40	516,868.80
6) Contract for Restaurant Consulting	Five Star Restaurant	One-on-one restaurant consulting/feilal allocation	TI revenues	944,296.16	944,296.16							944,296.16
7) Contract for Foothill Façade Program	SZFM Design Studio Inc	Develop façade improvement design for two blocks on Foothill Blvd.	TI revenues	14,287.50	2,993.75							4,787.50
8) Foothill Façade Loans	Multiple Property Owners	Matching lease funds for property owners along Foothill Blvd for façade improvement program	TI revenues	1,126,883.00	4,864.85					4,864.85		4,864.85
9) Employee Costs ²	Employees of Agency	Payroll for employees	TI revenues	533,252.93	3,772.60					3,772.60		3,772.60
10) Employee Leave Liability	Employees of Agency Liability Fund	Leave balance payforliability fund deposit for employee leave costs	TI revenues	49,175.00	27,082.80					1,111,772.60		1,128,855.40
11) PERS Liability	Liability Fund	Liability Fund deposit for Agency employee PERS costs	TI revenues	666,235.40	49,175.00					17,020.65		17,020.65
12) OPEB Liability	Liability Fund	Liability Fund deposit for Agency employee OPEB costs	TI revenues	177,227.20	666,235.40					3,772.60		666,235.40
13) Agency insurance costs	City of Hayward	Liability Insurance	TI revenues	54,042.00	177,227.20					4,503.50		4,503.50
14) Legal fees	Goldferb Lipman LLP	Outside legal counsel	TI revenues	66,890.48	4,503.50					4,503.50		4,503.50
15) Code	Hall Altimiana, Inc	Consultant to prepare new form-based code for South Hayward BART/Mission Blvd. Area Blvd corridor.	TI revenues	2,315.47	5,573.37					5,573.37		5,573.37
16) Contract for Mission Blvd Specific Plan	Hall Altimiana, Inc	Consultant to prepare specific plan for Mission Blvd corridor.	TI revenues	213,646.44	30,539.22					30,539.22		30,539.22
17) Contract for Form Based Code EIR	Lampher-Gregory	Consultant to prepare Supplemental Environmental Impact Report for South Hayward Form Based Code	TI revenues	5,655.17	815.87							815.87
18) Cost Allocation	City of Hayward	Payment for Administrative services (payroll, HR, etc) and overhead expenses	TI revenues	238,008.19								
19) BIA Support	Hayward Business Improvement Association	Financial assistance to Downtown Business Association	TI revenues	55,000.00								
20) Community Promotions	Various	Support to local non-profit organizations	TI revenues	75,000.00								
21) Public Art	City of Hayward	Financial support for public art/graffiti abatement program in RDA project area	TI revenues	90,000.00								
25) Successor Agency Admin Allowance	City of Hayward	Per AB 178 to cover administrative costs of Successor Agency	TI revenues	250,000.00								
26) Contract for Security Services	ABC Security Services	Security Patrol Services for Cinema Place garage.	TI revenues	64,160.20	5,346.68					50,000.00		50,000.00
27) Contract for Security Alarm	ADT Security Services	Alarm Service for Cinema Place garage	TI revenues	2,093.81	5,346.68					5,346.68		5,346.68
28) Contract for Elevator Maint and Repair	Mitsubishi Electric	Cinema Place Elevator	TI revenues	6,206.74	174.48					174.48		1,046.88
29) Contract for Sweeping	Montgomery Sweeping Service	Cinema Place Garage Sweeping	TI revenues	9,360.00	6,206.74					6,206.74		6,206.74
30) Utilities	PGE	Cinema Place Water, Utilities	TI revenues	24,500.00	780.00					780.00		780.00
31) Utilities	City of Hayward	Cinema Place Water, Utilities	TI revenues	500.00	2,041.67					2,041.67		2,041.67
32) Contract for Env Remediation Work	AEDIS Architecture & Planning	Burbank School Env Remediation Work	TI revenues	6,504.54	41.87					41.87		41.87
33) Contract for Env Remediation Work	TRC	Burbank School Env Remediation Work	TI revenues	20,000.00	6,504.54							6,504.54
34) Contract for Mural	Andrew Kopf Knight	Cinema Place Mural	TI revenues	11,643.53	5,208.66					5,208.66		5,208.66
35) Contract for Eng Services	FBA, Inc	Engineering Services - deconstruct Centennial Hall	TI revenues	4,800.00	1,513.35					1,513.35		1,513.35
Totals - This Page				\$ 102,176,622.61	\$ 12,822,023.11					\$ 1,147,367.48		\$ 4,800.00
Totals - Page 2				\$ 67,695,458.42	\$ 2,410,559.58					\$ 392,916.78		\$ 4,800.00
Totals - Other Obligations				\$ -	\$ 969,696.33					\$ 3,498,458.83		\$ 2,384,252.09
Grand total - All Pages				\$ 169,872,081.03	\$ 16,217,555.59					\$ 56,105.39		\$ 15,626.87

Note 1: This total only reflects payments required between 1/1/2012 and 6/30/2012 and not the total outstanding obligation.
Note 2: This line item only reflects a deposit made to the Agency's Low Mod Housing Fund that was subsequently granted to the Housing Authority under the Agency/Authority Cooperation Agreement.
Note 3: Eventually, employee costs after Agency dissolution will be covered under the Administrative Allowance once the budget for said allowance is approved by the Oversight Board.

PRELIMINARY RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Per AB 26 - Section 34169, March 1, 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						Total	
						Jan	Feb	Mar	Apr	May	Jun		
36) Contract for Env Remediation	ACC Environmental Consultants	Environmental Services - 22282 Foothill Blvd	Tax Increment (TI) Revenues	3,580.00	3,580.00								
37) Contract for Env Remediation	TRC	Residual Burbank Site - Removal Action Work	TI Revenues	72,882.77	72,882.77	24,294.26	24,294.26						3,580.00
Project Delivery Costs - Burbank Residual Site	City of Hayward (Successor Agency)	Finalize negotiation and execution of Purchase and Sale Agreement - staff project mgmt costs	TI Revenues	18,863.00	18,863.00	3,772.60	3,772.60	3,772.60	3,772.60				72,882.77
Property Disposition Costs - former Agency-held properties	City of Hayward (Successor Agency)	Staff project mgmt costs; legal fees; property mgmt costs; appraisal costs; other associated costs for property disposition	TI Revenues	128,580.00	128,580.00	7,716.00	7,716.00	7,716.00	7,716.00				128,580.00
40) Contract for Env Remediation	AMEC Geomatrix Inc	Env Remediation - Cinema Place	TI Revenues	195,070.82	195,070.82	17,748.93	17,748.93	17,748.93	17,748.93				106,493.96
41) Contract for Access Study	NelsonNygaard	Access Study - South Hayward BART TOD	TI Revenues	1,388.00	1,388.00	1,388.00							1,388.00
42) Contract for Financial Analysis	Keyser Marston	Financial Analysis	TI Revenues	20,000.00	20,000.00	2,573.61	2,573.61						7,720.83
43) Contract for CFD #2	Goodwin Consulting Group	Consultant to assist with creation of Community Facilities District #2 - Cannery Area	TI Revenues	10,108.30	10,108.30			10,108.30					10,108.30
44) Contract for Financial Analysis	Keyser Marston Associates	Consultant to assist with financial analysis of RDA projects	TI Revenues	5,075.63	5,075.63								5,075.63
45) Contract for Weed Removal	Art Cuevas Landscaping	Weed removal - various properties	TI Revenues	1,935.50	1,935.50			1,935.50					1,935.50
46) Contract for Water Testing	SWRCB	Water testing at Cinema Place - monitoring of site	TI Revenues	8,817.40	8,817.40			8,817.40					8,817.40
Cooperative Agreement (see 47) subagreements below)	City of Hayward	To fund public improvements in the RDA project area	TI Revenues	26,713,600.00									26,713,600.00
47a) Mission/South Hayward BART			TI Revenues	12,700,000.00									12,700,000.00
47b) Facilitate Redevelopment of City Center Campus (one-time)			TI Revenues	4,500,000.00									4,500,000.00
47c) Reevaluate and update Downtown Plan (one-time)			TI Revenues	500,000.00									500,000.00
47d) Complete Downtown Gateway's Project (one-time)			TI Revenues	200,000.00									200,000.00
47e) Acquiring Mission Blvd Properties (one-time)			TI Revenues	5,500,000.00									5,500,000.00
47f) Implementation of Downtown Retail Attraction Program (one-time)			TI Revenues	2,500,000.00									2,500,000.00
47g) Implementation of Neighborhood Revitalization Programs (one-time)			TI Revenues	250,000.00									250,000.00
47h) Remediation of Residual Burbank Site (one-time)			TI Revenues	250,000.00									250,000.00
47i) Cinema Place Garage			TI Revenues	66,600.00									66,600.00
47j) Maintenance (annual)			TI Revenues	55,000.00									55,000.00
47k) Business Improvement District Funding (annual)			TI Revenues	20,000.00									20,000.00
47l) Management of Agency Owned Properties (annual)			TI Revenues	75,000.00									75,000.00
47m) Community Promotions (annual)			TI Revenues	90,000.00									90,000.00
47n) Ongoing env monitoring at Burbank School (annual)			TI Revenues	7,000.00									7,000.00
47o) Cooperative Agreement (see 48) subagreements below)	Hayward Housing Authority	To fund affordable housing projects in the City	Various Housing Funds	39,663,000.00	944,298.16	944,298.16							944,298.16
48a) B&Grand Senior Housing (one-time)			Fund (TI Revenues)/HOME Funds	1,320,000.00									1,320,000.00
48b) A&Wainut Ownership Development (one-time)			Fund (TI Revenues)/HOME Funds	1,210,000.00									1,210,000.00
48c) South Hayward BART Senior and Family Housing (one-time)			Fund (TI Revenues)/HOME Funds	7,700,000.00									7,700,000.00
48d) Leidig Court (one-time)			HOME Funds	220,000.00									220,000.00

OTHER OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34169, March 1, 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year ¹	Payments by month						Total ²
						Jan	Feb	Mar	Apr	May	Jun	
1) Pass Through Obligation	County General Fund	Pass Through Obligation	Tax Increment (TI) Revenues	0.00	266,613.55							\$
2) Pass Through Obligation	Chabot-Las Positas Comm Coll	Pass Through Obligation	TI Revenues	0.00	56,279.42							\$
3) Pass Through Obligation	Hayward U.S.D.	Pass Through Obligation	TI Revenues	0.00	195,937.63							\$
4) Pass Through Obligation	New Haven U.S.D.	Pass Through Obligation	TI Revenues	0.00	2,278.44							\$
5) Pass Through Obligation	County Sch TMR 1887	Pass Through Obligation	TI Revenues	0.00	13.54							\$
6) Pass Through Obligation	County Sch PHY HDCCP	Pass Through Obligation	TI Revenues	0.00	50.43							\$
7) Pass Through Obligation	County Sch TMR PH CAP	Pass Through Obligation	TI Revenues	0.00	1.13							\$
8) Pass Through Obligation	County Sch TMR PH TJIT	Pass Through Obligation	TI Revenues	0.00	6.81							\$
9) Pass Through Obligation	County Supt Instr Pupils	Pass Through Obligation	TI Revenues	0.00	3,694.93							\$
10) Pass Through Obligation	County Supt Juv Hall Ed	Pass Through Obligation	TI Revenues	0.00	764.71							\$
11) Pass Through Obligation	County Supt Service	Pass Through Obligation	TI Revenues	0.00	2,296.65							\$
12) Pass Through Obligation	County Supt Capital	Pass Through Obligation	TI Revenues	0.00	1,769.59							\$
13) Pass Through Obligation	County Supt Dev Center	Pass Through Obligation	TI Revenues	0.00	2,148.39							\$
14) Pass Through Obligation	County Supt Audio Vis Cap	Pass Through Obligation	TI Revenues	0.00	460.40							\$
15) Pass Through Obligation	Flood Control	Pass Through Obligation	TI Revenues	0.00	1,801.61							\$
16) Pass Through Obligation	Flood Control Zone 2	Pass Through Obligation	TI Revenues	0.00	15,047.66							\$
17) Pass Through Obligation	Flood Control Zone 3A	Pass Through Obligation	TI Revenues	0.00	11,829.75							\$
18) Pass Through Obligation	Flood Control Zone 4	Pass Through Obligation	TI Revenues	0.00	670.46							\$
19) Pass Through Obligation	B.A. Air Quality Mgmt	Pass Through Obligation	TI Revenues	0.00	2,498.10							\$
20) Pass Through Obligation	Mosq. Abatement	Pass Through Obligation	TI Revenues	0.00	2,389.17							\$
21) Pass Through Obligation	AC Transit Sp Dist 1	Pass Through Obligation	TI Revenues	0.00	62,127.40							\$
22) Pass Through Obligation	BART	Pass Through Obligation	TI Revenues	0.00	8,502.36							\$
23) Pass Through Obligation	HARD	Pass Through Obligation	TI Revenues	0.00	81,161.38							\$
24) Pass Through Obligation	E.B. Regional Park	Pass Through Obligation	TI Revenues	0.00	45,665.95							\$
25) Pass Through Obligation	EBMUD	Pass Through Obligation	TI Revenues	0.00	924.50							\$
26) ERAF Payment	City of Hayward	Pass Through Obligation	TI Revenues	0.00	218,002.94							\$
27)	County/State of CA	Statutory requirement	TI Revenues	0.00	0.00							\$
Totals - Other Obligations				\$	\$	\$	\$	\$	\$	\$	\$	\$
				\$	\$	\$	\$	\$	\$	\$	\$	\$

Note 1: These are the 2011 payment amounts that were paid to taxing entities in November 2011.
 Note 2: This total only reflects payments required between 1/1/2012 and 6/30/2012 and not the total outstanding obligation.

Exhibit B

FORMAL NOTIFICATION LETTER

[Insert Copy of Formal Notification Letter]

Exhibit C

PROPOSED MODIFIED FIRST ROPS

[Insert Copy of Proposed Modified First ROPS]

Exhibit D

PROPOSED MODIFIED FIRST ADMINISTRATIVE BUDGET

[Insert Copy of Proposed Modified First Administrative Budget]

RESOLUTION NO. RSA12-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD, APPROVING AND AUTHORIZING THE SUCCESSOR AGENCY TO RE-ENTER INTO THE REPAYMENT AGREEMENT WITH THE CITY OF HAYWARD AND DIRECTING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE APPROVALS UNDER THIS RESOLUTION

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 24, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the "City Council") declared that the City of Hayward, a charter city (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Redevelopment Agency of the City of Hayward (the "Dissolved RDA") effective February 1, 2012; and

WHEREAS, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, the Dissolution Act requires that the Successor Agency prepare and the Oversight Board approve a Recognized Obligation Payment Schedule setting forth all "Enforceable Obligations" (as defined in Health and Safety Code Section 34171(d)) of the Dissolved RDA; and

WHEREAS, the Dissolution Act generally provides that (with exceptions) agreements between the Dissolved RDA and the City are not Enforceable Obligations, but Health and Safety Code Sections 34178(a) and 34180(h) authorize the Successor Agency and the City, with Oversight Board approval, to reenter into such agreements; and

WHEREAS, on September 23, 1975, the City entered into that certain Repayment Agreement, as amended and restated from time to time (the "Repayment Agreement"), whereby the City made loans to the Dissolved RDA (collectively, the "City Loans") in the current outstanding amount (including unpaid principal and accrued interest) of \$7,789,843.00 to facilitate implementation of the legitimate redevelopment program for the Downtown Hayward Redevelopment Project Area by the Dissolved RDA, and the Dissolved RDA agreed to repay to the City the amounts borrowed under the City Loans in accordance with a defined schedule over

a reasonable term of years and according to the reasonable terms of the Repayment Agreement; and

WHEREAS, the Dissolved RDA used the proceeds of the City Loans to make debt payments related to, and to otherwise pay the costs of, public improvements constructed in or of benefit to the Downtown Hayward Redevelopment Project Area to eliminate blight, stimulate private sector investment, and achieve the purposes of the Community Redevelopment Law and the Redevelopment Plan for the Downtown Hayward Redevelopment Project Area; and

WHEREAS, the City Council, acting as the Governing Board of the Successor Agency, has considered and desires to make a request to the Oversight Board to approve and authorize the Successor Agency to re-enter into the Repayment Agreement pursuant to Health and Safety Code Sections 34178(a) and 34180(h); and

WHEREAS, the request will be submitted by the Successor Agency to the Oversight Board for the Oversight Board's approval in accordance with the Dissolution Act; and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as the Governing Board of the Successor Agency hereby finds, resolves, and determines that that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, pursuant to Health & Safety Code Sections 34178(a) and 34180(h), hereby approves re-entry by the Successor Agency into the Repayment Agreement and/or to enter into a Re-Entry Agreement and hereby submits a request to the Oversight Board to approve the Successor Agency to re-enter into the Repayment Agreement.

BE IT FURTHER RESOLVED that the Successor Agency finds that with respect to the Repayment Agreement, ongoing performance of this agreement is equitable and appropriate and will benefit the local taxing agencies by enabling the City to receive the intended City Loan repayments for municipal purposes that will enhance the physical and economic environment and will repay the City for funds provided to the Dissolved RDA used for costs incurred to decrease or eliminate adverse conditions in the Dissolved RDA's redevelopment project area that hindered private investment in the project area, and benefitted taxing entities by increasing property values in the project area as part of the previously performed Dissolved RDA's redevelopment activities. The Successor Agency further finds that the ongoing performance under the Repayment Agreement will provide significant indirect benefits to the taxing entities, including, but not limited to, continued public safety and fire protection.

BE IT FURTHER RESOLVED that, subject to the Oversight Board approval, the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager, acting on behalf of the Successor Agency, to re-execute the Repayment

Agreement and/or execute such other document and instrument as are appropriate, in consultation with the City Attorney, acting in the capacity of counsel to the Successor Agency, to effectuate the re-entry by the Successor Agency, into the Repayment Agreement with the City of Hayward and to take any other action necessary to effectuate and implement the Repayment Agreement, including but not limited to listing the Repayment Agreement or any re-entry agreement on all Recognized Obligation Payment Schedules prepared by the Successor Agency staff to meet the requirements of the Dissolution Act;

BE IT FURTHER RESOLVED that, the City Council, acting as the Governing Board of the Successor Agency, hereby determines that, as re-authorized, the Repayment Agreement or any re-entry agreement shall constitute an “enforceable obligation” and “recognized obligation” for all purposes of the Dissolution Act.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a municipal corporation, to initiate and prosecute any litigation with respect to any agreement or other arrangement between the City and the Dissolved RDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED, that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

HAYWARD, CALIFORNIA, May 8, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ATTEST: _____
Secretary of the Successor Agency of the
City of Hayward

APPROVED AS TO FORM:

General Counsel

EXHIBIT A

REPAYMENT AGREEMENT

[Insert Copy of Repayment Agreement to be re-authorized]

RESOLUTION NO. RSA12-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD, APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND AN ADMINISTRATIVE BUDGET FOR THE PERIOD JULY THROUGH DECEMBER 2012, AND DIRECTING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE ASSOCIATED REQUIREMENTS OF ABX1 26

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 24, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City of Hayward, a charter city (the “City”), would act as successor agency (the “Successor Agency”) for the dissolved Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) effective February 1, 2012; and

WHEREAS, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the “Oversight Board”) with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, on March 6, 2012, the City Council, acting as the Governing Board of the Successor Agency, approved the initial recognized obligation payment schedule for the period January through June 2012 (the “First ROPS”), and the First ROPS was subsequently transmitted to and approved by the Oversight Board on April 9, 2012, all in accordance with the requirements of the Dissolution Act; and

WHEREAS, in compliance with additional requirements of the Dissolution Act, the City Council, acting as the Governing Board of the Successor Agency, has considered and desires to approve the following additional documents, copies of which are on file with the City Clerk (acting on behalf of the Successor Agency):

1. The second recognized obligation payment schedule for the period July through December 2012 (the “Proposed Second ROPS”); and

2. The second administrative budget of the Successor Agency for the period July through December 2012 (the “Proposed Second Administrative Budget”); and

WHEREAS, the Proposed Second ROPS and the Proposed Second Administrative Budget will be submitted by the Successor Agency to the Oversight Board for the Oversight Board's approval in accordance with the Dissolution Act; and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as the Governing Board of the Successor Agency and in accordance with the Dissolution Act, hereby approves the Proposed Second ROPS and the Proposed Second Administrative Budget, in the respective forms on file with the City Clerk (acting on behalf of the Successor Agency).

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager, acting on behalf of the Successor Agency, to file, post, mail or otherwise deliver via electronic mail, internet posting, and/or hardcopy, all notices and transmittals necessary or convenient in connection with the approval of the Proposed Second ROPS and the Proposed Second Administrative Budget.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a charter city, to initiate and prosecute any litigation with respect to any agreement or other arrangement of the Dissolved RDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED, that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

HAYWARD, CALIFORNIA, May 8, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ATTEST: _____
Secretary of the Successor Agency of the
City of Hayward

APPROVED AS TO FORM:

General Counsel

RESOLUTION NO. 12-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD APPROVING AND AUTHORIZING THE CITY OF HAYWARD TO RE-ENTER INTO THE REPAYMENT AGREEMENT WITH THE CITY OF HAYWARD AS SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD AND DIRECTING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE APPROVALS UNDER THIS RESOLUTION

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 24, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City of Hayward, a charter city (the “City”), would act as successor agency (the “Successor Agency”) for the dissolved Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) effective February 1, 2012; and

WHEREAS, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the “Oversight Board”) with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, the Dissolution Act requires that the Successor Agency prepare and the Oversight Board approve a Recognized Obligation Payment Schedule setting forth all “Enforceable Obligations” (as defined in Health and Safety Code Section 34171(d)) of the Dissolved RDA; and

WHEREAS, the Dissolution Act generally provides that (with exceptions) agreements between the Dissolved RDA and the City are not Enforceable Obligations, but Health and Safety Code Sections 34178(a) and 34180(h) authorize the Successor Agency and the City, with Oversight Board approval, to reenter into such agreements; and

WHEREAS, on September 23, 1975, the City entered into that certain Repayment Agreement, as amended and restated from time to time (the “Repayment Agreement”), whereby the City made loans to the Dissolved RDA (collectively, the “City Loans”) in the current outstanding amount (including unpaid principal and accrued interest) of \$7,789,843.00 to facilitate implementation of the legitimate redevelopment program for the Downtown Hayward Redevelopment Project Area by the Dissolved RDA, and the Dissolved RDA agreed to repay to the City the amounts borrowed under the City Loans in accordance with a defined schedule over a reasonable term of years and according to the reasonable terms of the Repayment Agreement; and

WHEREAS, the Dissolved RDA used the proceeds of the City Loans to make debt payments related to, and to otherwise pay the costs of, public improvements constructed in or of benefit to the Downtown Hayward Redevelopment Project Area to eliminate blight, stimulate private sector investment, and achieve the purposes of the Community Redevelopment Law and the Redevelopment Plan for the Downtown Hayward Redevelopment Project Area; and

WHEREAS, the City Council, acting as the Governing Board of the Successor Agency, has considered and has submitted a request for Oversight Board approval and authorization to allow the Successor Agency to re-enter into the Repayment Agreement pursuant to Health and Safety Code Sections 34178(a) and 34180(h); and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution are based.

NOW, THEREFORE, BE IT RESOLVED that the City Council, hereby finds, resolves, and determines that that the foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

BE IT FURTHER RESOLVED that the City Council hereby approves re-entry by the City into the Repayment Agreement and/or to enter into a Re-Entry Agreement subject to Oversight Board approval pursuant to Health & Safety Code Sections 34178(a) and 34180(h).

BE IT FURTHER RESOLVED that, subject to the Oversight Board approval, the City Council, hereby authorizes and directs the City Manager to re-execute the Repayment Agreement and/or execute such other documents and instruments as are appropriate, in consultation with the City Attorney to effectuate the re-entry by the City, into the Repayment Agreement with the City of Hayward, acting in its capacity as Successor Agency to the Redevelopment Agency of the City of Hayward and to take any other action necessary to effectuate and implement the Repayment Agreement.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

HAYWARD, CALIFORNIA, May 8, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

REPAYMENT AGREEMENT

[Insert Copy of Repayment Agreement to be re-authorized]


**DEPARTMENT OF
FINANCE**
EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

April 27, 2012

Kelly McAdoo-Morariu, Assistant City Manager
 City of Hayward
 777 B Street
 Hayward, CA 94541

Dear Ms. McAdoo-Morariu:

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the City of Hayward (City) Successor Agency submitted a Recognized Obligation Payment Schedule (ROPS) to the California Department of Finance (Finance) on April 13, 2012 for the period January through June 2012. Finance staff contacted you for clarification of items listed in the ROPS.

HSC section 34171 (d) lists enforceable obligation (EO) characteristics. Based on a sample of line items reviewed and application of the law, the following do not qualify as EOs:

- Page 1, Item 3 for a Repayment Agreement with City of Hayward for \$7.8 million. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the City that created the former redevelopment agency are not enforceable obligations.
- Page 1, Item 5 for Low-Mod Housing set aside costs of \$944,298. The requirement to set aside 20 percent of RDA tax increment for low and moderate income housing purposes ended with the passing of the redevelopment dissolution legislation.
- Administrative cost allowance overstated by \$283,926. HSC section 34171 (b) limits administrative expenses to five percent of property tax allocated to the successor agency or \$250,000, whichever is greater. Five percent of the property tax allocated is \$397,329. Therefore, \$283,926 of the claimed \$681,256 is not an EO. Administrative expenses include items 9, 13, 14, 18, 19, 25-31, 44 and 45.

As authorized by HSC section 34179 (h), Finance is returning your ROPS for reconsideration. This action will cause the ROPS items noted above to be ineffective until Finance approval. Furthermore, items listed on future ROPS will be subject to review and may be denied as EOs.

If you believe we have reached this conclusion in error, please provide further evidence that the items questioned above meet the definition of an EO.

Please direct inquiries to Robert Scott or Jenny DeAngelis at (916) 322-2985.

Sincerely,

MARK HILL
 Program Budget Manager

cc: Ms. Carol S. Orth, Tax Analysis Division Chief, Alameda County Auditor Controller

Name of Redevelopment Agency: Hayward Redevelopment Agency
 Project Area(s) All

PRELIMINARY RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34169, Revised May 8, 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						Total ¹
						Jan	Feb	Mar	Apr	May	Jun	
1) 2004 Tax Allocation Bonds	Wells Fargo	Bond issue to fund non-housing projects	Real Property Tax Trust Fund (RPTTF)	62,788,730.00	5,054,521.50					1,684,840.50	1,684,840.50	\$ 3,369,681.00
2) 2006 Tax Allocation Bonds	Wells Fargo	Bond issue to fund non-housing projects	RPTTF	23,005,214.00	959,010.00					319,670.00	319,670.00	\$ 639,340.00
3) Repayment Agreement with City of Hayward	City of Hayward	To fund start-up costs of Hayward Redevelopment Project Area	TI revenues	7,789,843.99	808,090.99							\$ -
4) SERAF	Hayward Housing Authority	Loan for SERAF FY10 and FY11 payments	RPTTF	3,876,516.00	1,292,172.00		258,434.40	258,434.40	258,434.40	258,434.40	258,434.40	\$ 1,292,172.00
5) Low-Mod-Housing Set-Aside ²	Hayward Housing Authority	20% Low & Mod Income Housing Set-Aside-Required by H & S Code	TI revenues	944,298.16	944,298.16	944,298.16						\$ 944,298.16
6) Contract for Restaurant Consulting	Five Star Restaurant	One-on-one restaurant consulting/retail attraction	RPTTF	14,287.50	14,287.50	2,393.75	2,393.75					\$ 4,787.50
7) Contract for Foothill Façade Program	SZFM Design Studio Inc	Develop façade improvement design for two blocks on Foothill Blvd.	RPTTF	4,664.85	4,664.85				4,664.85			\$ 4,664.85
8) Foothill Façade Loans	Multiple Property Owners	Matching loan funds for property owners along Foothill Blvd for façade improvement program	RPTTF	1,108,000.00	1,108,000.00					1,108,000.00		\$ 1,108,000.00
8a) Foothill Façade Loan Project Delivery Costs (Staff Costs/Legal Fees)	Successor Agency	Project Delivery Costs to Implement Foothill Façade Loan Project	RPTTF	24,463.00	24,463.00		3,772.60	3,772.60	4,372.60	6,272.60	6,272.60	\$ 24,463.00
9) Employee Costs ³	Employees of Agency	Payroll for employees	TI revenues	429,577.19	429,577.19	61,368.17						\$ 61,368.17
10) Employee Leave Liability	Employees of Agency/ Liability Fund	Leave balance payoffs/liability fund deposit for employee leave costs	RPTTF	49,175.00	49,175.00		49,175.00					\$ 49,175.00
11) PERS Liability	Liability Fund	Liability Fund deposit for Agency employee PERS costs	RPTTF	666,235.40	666,235.40		666,235.40					\$ 666,235.40
12) OPEB Liability	Liability Fund	Liability Fund deposit for Agency employee OPEB costs	RPTTF	177,227.20	177,227.20		177,227.20					\$ 177,227.20
13) Agency insurance costs	City of Hayward	Liability Insurance	RPTTF	54,042.00	54,042.00	4,503.50	4,503.50	4,503.50	4,503.50	4,503.50	4,503.50	\$ 27,021.00
14) Legal fees	Goldfarb-Lipman-LLP	Outside legal counsel	TI revenues	66,880.48	66,880.48	6,673.37	6,673.37	6,673.37	6,673.37	6,673.37	6,673.37	\$ 33,440.24
15) Contract for South Hayward Form Based Code	Hall Alminana, Inc	Consultant to prepare new form-based code for South Hayward BART/Mission Blvd. Area	RPTTF	2,313.47	2,313.47							\$ -
16) Contract for Mission Blvd Specific Plan	Hall Alminana, Inc	Consultant to prepare specific plan for Mission Blvd corridor	RPTTF	213,649.44	213,649.44	17,804.12	17,804.12	17,804.12	17,804.12	17,804.12	17,804.12	\$ 106,824.72
17) Contract for Form Based Code EIR	Lamphier-Gregory	Consultant to prepare Supplemental Environmental Impact Report for South Hayward Form Based Code	RPTTF	5,653.17	5,653.17		815.87					\$ 815.87
18) Cost Allocation	City of Hayward	Payment for Administrative services (payroll, HR, etc) and overhead expenses	TI revenues	238,008.19	238,008.19	34,001.17						\$ 34,001.17
19) BIA Support	Hayward Business Improvement Association	Financial assistance to Downtown Business Association	TI revenues	55,000.00	55,000.00	4,583.33						\$ 4,583.33
20) Community Promotions	Various	Support to local non-profit organizations	TI revenues	75,000.00	75,000.00	37,500.00						\$ 37,500.00
21) Public Art	City of Hayward	Financial support for public art/graffiti abatement program in RDA project area	TI revenues	90,000.00	90,000.00	7,500.00						\$ 7,500.00
22) Successor Agency Admin Allowance	City of Hayward	Per ABx1 26, to cover administrative costs of Successor Agency	RPTTF	397,329.00	397,329.00		79,465.80	79,465.80	79,465.80	79,465.80	79,465.80	\$ 397,329.00
23) Contract for Security Services	ABC Security Services	Security Patrol Services for Cinema Place garage	RPTTF	64,160.20	64,160.20	5,346.68	5,346.68	5,346.68	5,346.68	5,346.68	5,346.68	\$ 32,080.08
24) Contract for Security Alarm	ADT Security Services	Alarm Service for Cinema Place garage	RPTTF	2,093.81	2,093.81	174.48	174.48	174.48	174.48	174.48	174.48	\$ 1,046.88
25) Contract for Elevator Maint and Repair	Mitsubishi Electric	Cinema Place Elevator	RPTTF	6,206.74	6,206.74					6,206.74		\$ 6,206.74
26) Contract for Sweeping	Montgomery Sweeping Service	Cinema Place Garage Sweeping	RPTTF	9,360.00	9,360.00	780.00	780.00	780.00	780.00	780.00	780.00	\$ 4,680.00
27) Utilities	PGE	Cinema Place Garage Utilities	RPTTF	24,500.00	24,500.00	2,041.67	2,041.67	2,041.67	2,041.67	2,041.67	2,041.67	\$ 12,250.02
28) Utilities	City of Hayward	Cinema Place Water Utilities	RPTTF	500.00	500.00	41.67	41.67	41.67	41.67	41.67	41.67	\$ 250.02
29) Contract for Env Remediation Work	AEDIS Architecture & Planning	Burbank School Env Remediation Work	RPTTF	6,504.54	6,504.54		6,504.54					\$ 6,504.54
30) Contract for Env Remediation Work	TRC	Burbank School Env Remediation Work	RPTTF	20,000.00	20,000.00	5,208.96	5,208.96	5,208.96				\$ 15,626.87
31) Contract for Mural	Andrew Kong Knight	Cinema Place Mural	RPTTF	11,643.53	11,643.53	1,513.35	1,513.35	1,513.35	1,513.35	1,513.35	1,513.35	\$ 9,080.08
32) Contract for Eng Services	FBA, Inc	Engineering Services - deconstruct Centennial Hall	RPTTF	4,800.00	4,800.00		4,800.00					\$ 4,800.00
Totals - This Page				\$ 93,424,854.23	\$ 11,060,097.73	\$ 184,760.85	\$ 1,286,238.98	\$ 379,087.22	\$ 379,143.12	\$ 3,495,095.51	\$ 2,380,888.77	\$ 8,105,214.44
Totals - Page 2				\$ 67,688,447.29	\$ 2,391,138.45	\$ 964,620.70	\$ 58,943.39	\$ 52,575.39	\$ 51,268.78	\$ 51,268.78	\$ 71,974.53	\$ 1,287,206.28
Totals - Other Obligations				\$ -	\$ 984,936.90	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Grand total - All Pages				\$ 161,113,301.52	\$ 14,436,173.08	\$ 1,149,381.54	\$ 1,345,182.38	\$ 431,662.62	\$ 430,411.90	\$ 3,546,364.29	\$ 2,452,863.29	\$ 9,392,420.72

Note 1: This total only reflects payments required between 1/1/2012 and 6/30/2012 and not the total outstanding obligation.
 Note 2: This line item only reflects a deposit made to the Agency's Low Mod Housing Fund that was subsequently granted to the Housing Authority under the Agency/Authority Cooperation Agreement.
 Note 3: Eventually, employee costs after Agency dissolution will be covered under the Administrative Allowance once the budget for said allowance is approved by the Oversight Board.

Name of Redevelopment Agency: Hayward Redevelopment Agency
 Project Area(s) All

PRELIMINARY RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34169, Revised May 8, 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						
						Jan	Feb	Mar	Apr	May	Jun	Total ¹
36) Contract for Env Remediation	ACC Environmental Consultants	Environmental Services - 22292 Foothill Blvd	Real Property Tax Trust Fund (RPTTF)	3,580.00	3,580.00		3,580.00					\$ 3,580.00
37) Contract for Env Remediation	TRC	Residual Burbank Site - Removal Action Work	RPTTF	72,882.77	72,882.77		24,294.26	24,294.26	24,294.26			\$ 72,882.77
38) Project Delivery Costs - Burbank Residual Site	City of Hayward (Successor Agency)	Finalize negotiation and execution of Purchase and Sale Agreement - staff project mgmt costs and legal costs	RPTTF	26,063.00	26,063.00		5,572.60	4,172.60	5,439.60	5,438.60	5,439.60	\$ 26,063.00
39) Property Disposition Costs - former Agency-held properties	City of Hayward (Successor Agency)	Staff project mgmt costs; legal fees; property mgmt costs; appraisal costs; other associated costs for property disposition	RPTTF	108,930.00	108,930.00		3,786.00	3,786.00	3,786.00	48,786.00	48,786.00	\$ 108,930.00
40) Contract for Env Remediation	AMEC Geomatrix Inc	Env Remediation - Cinema Place	RPTTF	195,070.82	195,070.82	17,748.93	17,748.93	17,748.93	17,748.93	17,748.93	17,748.93	\$ 106,493.56
41) Contract for Access Study	Nelson/Nygaard	Access Study - South Hayward BART TOD	RPTTF	1,388.00	1,388.00		1,388.00					\$ 1,388.00
42) Contract for Financial Analysis	Keyser Marston	Financial Analysis	RPTTF	20,000.00	20,000.00	2,573.61	2,573.61	2,573.61				\$ 7,720.83
43) Contract for CFD #2	Goodwin Consulting Group	Consultant to assist with creation of Community Facilities District #2 - Cannery Area	RPTTF	10,108.30	10,108.30					10,108.30		\$ 10,108.30
44) Contract for Financial Analysis	Keyser Marston Associates	Consultant to assist with financial analysis of RDA projects	TI Revenues	5,076.63	5,076.63	5,076.63						\$ 5,076.63
45) Contract for Weed Removal	Art-Cuevas-Landscaping	Weed removal - various properties	TI Revenues	1,936.50	1,936.50					1,936.50		\$ 1,936.50
46) Contract for Water Testing	SWRCB	Water testing at Cinema Place - monitoring of site	RPTTF	8,817.40	8,817.40					5,741.66		\$ 5,741.66
47) Cooperative Agreement (see subagreements below)	City of Hayward	To fund public improvements in the RDA project area	Tax Increment (TI) Revenues	26,713,600.00								\$ -
47a) Mission/South Hayward BART Public Improvements (one-time)			TI Revenues	12,700,000.00								\$ -
47b) Facilitate Redevelopment of City Center Campus (one-time)			TI Revenues	4,500,000.00								\$ -
47c) Reevaluate and update Downtown Plan (one-time)			TI Revenues	500,000.00								\$ -
47d) Complete Downtown Gateways Project (one-time)			TI Revenues	200,000.00								\$ -
47e) Acquiring Mission Blvd Properties (one-time)			TI Revenues	5,500,000.00								\$ -
47f) Implementation of Downtown Retail Attraction Program (one-time)			TI Revenues	2,500,000.00								\$ -
47g) Implementation of Neighborhood Revitalization Programs (one-time)			TI Revenues	250,000.00								\$ -
47h) Remediation of Residual Burbank Site (one-time)			TI Revenues	250,000.00								\$ -
47i) Cinema Place Garage Maintenance (annual)			TI Revenues	66,600.00								\$ -
47j) Business Improvement District Funding (annual)			TI Revenues	55,000.00								\$ -
47k) Management of Agency Owned Properties (annual)			TI Revenues	20,000.00								\$ -
47l) Community Promotions (annual)			TI Revenues	75,000.00								\$ -
47m) Public Art (annual)			TI Revenues	90,000.00								\$ -
47n) Ongoing env monitoring at Burbank School (annual)			TI Revenues	7,000.00								\$ -
48) Cooperative Agreement (see subagreements below)	Hayward Housing Authority	To fund affordable housing projects in the City	Various Housing Funds	39,663,000.00	944,298.16	944,298.16						\$ 944,298.16
48a) B&Grand Senior Housing (one-time)			Low-Mod Housing Fund (TI Revenues)/HOME Funds	1,320,000.00								\$ -
48b) A&Walnut Ownership Development (one-time)			Low-Mod Housing Fund (TI Revenues)/HOME Funds	1,210,000.00								\$ -
48c) South Hayward BART Senior and Family Housing (one-time)			Low-Mod Housing Fund (TI Revenues)/HOME Funds/NSP Funds	7,700,000.00								\$ -
48d) Leidig Court (one-time)			HOME Funds	220,000.00								\$ -

Name of Redevelopment Agency: Hayward Redevelopment Agency
 Project Area(s) All

OTHER OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34169, Revised May 8, 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year ¹	Payments by month						Total ²
						Jan	Feb	Mar	Apr	May	Jun	
) Pass Through Obligation	County General Fund	Pass Through Obligation	Tax Increment (TI) Revenues	0.00	268,613.55							\$ -
1) Pass Through Obligation	Chabot-Las Positas Comm Coll	Pass Through Obligation	TI Revenues	0.00	56,279.42							\$ -
2) Pass Through Obligation	Hayward U.S.D.	Pass Through Obligation	TI Revenues	0.00	195,997.63							\$ -
3) Pass Through Obligation	New Haven U.S.D.	Pass Through Obligation	TI Revenues	0.00	2,278.44							\$ -
4) Pass Through Obligation	County Sch TMR 1887	Pass Through Obligation	TI Revenues	0.00	13.54							\$ -
5) Pass Through Obligation	County Sch PHY HDCP	Pass Through Obligation	TI Revenues	0.00	50.43							\$ -
6) Pass Through Obligation	County Sch TMR PH CAP	Pass Through Obligation	TI Revenues	0.00	1.13							\$ -
7) Pass Through Obligation	County Sch TMR PH TUIT	Pass Through Obligation	TI Revenues	0.00	6.81							\$ -
8) Pass Through Obligation	County Supt Instr Pupils	Pass Through Obligation	TI Revenues	0.00	3,694.93							\$ -
9) Pass Through Obligation	County Supt Juv Hall Ed	Pass Through Obligation	TI Revenues	0.00	764.71							\$ -
10) Pass Through Obligation	County Supt Service	Pass Through Obligation	TI Revenues	0.00	2,296.65							\$ -
11) Pass Through Obligation	County Supt Capital	Pass Through Obligation	TI Revenues	0.00	1,769.59							\$ -
12) Pass Through Obligation	County Supt Dev Center	Pass Through Obligation	TI Revenues	0.00	2,148.39							\$ -
13) Pass Through Obligation	County Supt Audio Vis Cap	Pass Through Obligation	TI Revenues	0.00	460.40							\$ -
14) Pass Through Obligation	Flood Control	Pass Through Obligation	TI Revenues	0.00	1,801.61							\$ -
15) Pass Through Obligation	Flood Control Zone 2	Pass Through Obligation	TI Revenues	0.00	15,047.66							\$ -
16) Pass Through Obligation	Flood Control Zone 3A	Pass Through Obligation	TI Revenues	0.00	11,829.75							\$ -
17) Pass Through Obligation	Flood Control Zone 4	Pass Through Obligation	TI Revenues	0.00	610.46							\$ -
18) Pass Through Obligation	B.A. Air Quality Mgmt	Pass Through Obligation	TI Revenues	0.00	2,498.10							\$ -
19) Pass Through Obligation	Mosq. Abatement	Pass Through Obligation	TI Revenues	0.00	2,389.17							\$ -
20) Pass Through Obligation	AC Transit Sp Dist 1	Pass Through Obligation	TI Revenues	0.00	62,127.40							\$ -
21) Pass Through Obligation	BART	Pass Through Obligation	TI Revenues	0.00	8,502.36							\$ -
22) Pass Through Obligation	HARD	Pass Through Obligation	TI Revenues	0.00	81,161.38							\$ -
23) Pass Through Obligation	E.B. Regional Park	Pass Through Obligation	TI Revenues	0.00	45,665.95							\$ -
24) Pass Through Obligation	EBMUD	Pass Through Obligation	TI Revenues	0.00	924.50							\$ -
25) Pass Through Obligation	City of Hayward	Pass Through Obligation	TI Revenues	0.00	218,002.94							\$ -
26) ERAF Payment	County/State of CA	Statutory requirement	TI Revenues	0.00	0.00							\$ -
27)												\$ -
Totals - Other Obligations				\$ -	\$ 984,936.90	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Note 1: These are the 2011 payment amounts that were paid to taxing entities in November 2011.
 Note 2: This total only reflects payments required between 1/1/2012 and 6/30/2012 and not the total outstanding obligation.

Attachment VII - Revised Administrative Allowance Budget
January - June 2012

Successor Agency Administrative Allowance - Proposed FY 2012 Budget
(Based on \$397,329 for 5 months)

Starting Budget Balance	\$397,329
Employee Salaries & Benefits	(\$169,972)
Balance Remaining	\$227,357
Legal Costs	(\$21,479)
Supplies and Services	(\$205,878)
Balance Remaining	\$0

RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 Per AB 26 - Section 34169 for Period July - December 2012

Project Name / Debt Obligation	Payee	Description	Source of Funding	Total Outstanding Debt or Obligation	Total Due During Fiscal Year	Payments by month						Total ¹	
						Jul	Aug	Sep	Oct	Nov	Dec		
1) 2004 Tax Allocation Bonds	Wells Fargo	Bond issue to fund non-housing projects	Real Property Tax Trust Fund (RPTTF)	36,910,000.00	3,368,981.50		921,990.75						\$ 921,990.75
2) 2006 Tax Allocation Bonds	Wells Fargo	Bond issue to fund non-housing projects	RPTTF	11,720,000.00	636,340.00		278,170.00						\$ 278,170.00
3) Repayment Agreement with City of Hayward	City of Hayward	To fund start-up costs of Hayward Redevelopment Project Area	RPTTF	7,016,422.00	800,000.00	800,000.00							\$ 800,000.00
4) SERAF	Hayward Housing Authority	Loan for SERAF FY10 and FY11 payments	RPTTF	3,876,516.00	2,584,344.00	215,362.00	215,362.00	215,362.00	215,362.00	215,362.00	215,362.00		\$ 1,292,172.00
6) Contract for Restaurant Consulting	Five Star Restaurant	One-on-one restaurant consulting/retail attraction	RPTTF	14,287.50	3,787.50	3,787.50							\$ 3,787.50
8) Foothill Façade Loans	Multiple Property Owners	Matching loan funds for property owners along Foothill Blvd for façade improvement program	RPTTF	1,108,000.00	1,108,000.00	369,333.00	369,333.00	369,334.00					\$ 1,108,000.00
8a) Foothill Façade Loan Project Delivery Costs (Staff Costs/Legal Fees)	Successor Agency	Project Delivery Costs to Implement Foothill Façade Loan Project	RPTTF	24,432.00	24,432.00	4,072.00	4,072.00	4,072.00	4,072.00	4,072.00	4,072.00		\$ 24,432.00
10) Employee Leave Liability	Employees of Agency/ Liability Fund	Leave balance payoffs/liability fund deposit for employee leave costs	RPTTF	49,175.00	49,175.00	49,175.00							\$ 49,175.00
11) PERS Liability	Liability Fund	Liability Fund deposit for Agency employee PERS costs	RPTTF	666,235.40	666,235.40	666,235.40							\$ 666,235.40
12) OPEB Liability	Liability Fund	Liability Fund deposit for Agency employee OPEB costs	RPTTF	177,227.20	177,227.20	177,227.20							\$ 177,227.20
13) Agency insurance costs	City of Hayward	Liability Insurance	RPTTF	54,042.00	54,042.00	4,503.50	4,503.50	4,503.50	4,503.50	4,503.50	4,503.50		\$ 27,021.00
16) Contract for Mission Blvd Specific Plan	Hall Alminana, Inc/Lamphier Gregory	Consultant to prepare specific plan for Mission Blvd corridor	RPTTF	213,649.44	182,412.00	15,201.00	15,201.00	15,201.00	15,201.00	15,201.00	15,201.00		\$ 91,206.00
25) Successor Agency Admin Allowance	City of Hayward	Per AB1 26, to cover administrative costs of Successor Agency	RPTTF	250,000.00	250,000.00	20,833.33	20,833.33	20,833.33	20,833.33	20,833.33	20,833.33		\$ 125,000.00
26) Contract for Security Services	ABC Security Services	Security Patrol Services for Cinema Place garage	RPTTF	68,000.00	68,000.00	5,666.67	5,666.67	5,666.67	5,666.67	5,666.67	5,666.67		\$ 34,000.00
27) Contract for Security Alarm	ADT Security Services	Alarm Service for Cinema Place garage	RPTTF	2,100.00	2,100.00	175.00	175.00	175.00	175.00	175.00	175.00		\$ 1,050.00
28) Contract for Elevator Maint and Repair	Mitsubishi Electric	Cinema Place Elevator	RPTTF	7,000.00	7,000.00	583.33	583.33	583.33	583.33	583.33	583.33		\$ 3,500.00
29) Contract for Sweeping	Montgomery Sweeping Service	Cinema Place Garage Sweeping	RPTTF	12,000.00	12,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00		\$ 6,000.00
30) Utilities	PGE	Cinema Place Garage Utilities	RPTTF	28,000.00	28,000.00	2,333.33	2,333.33	2,333.33	2,333.33	2,333.33	2,333.33		\$ 14,000.00
31) Utilities	City of Hayward	Cinema Place Water Utilities	RPTTF	500.00	500.00	41.67	41.67	41.67	41.67	41.67	41.67		\$ 250.00
32) Contract for Env Remediation Work	AEDIS Architecture & Planning	Burbank School Env Remediation Work	RPTTF	6,504.54	6,504.54		6,504.54						\$ 6,504.54
33) Contract for Env Remediation Work	TRC	Burbank School Env Remediation Work	RPTTF	20,000.00	20,000.00	5,208.96	5,208.96	5,208.96					\$ 15,626.87
34) Contract for Mural	Andrew Kong Knight	Cinema Place Mural	RPTTF	11,643.53	6,710.99	6,710.99							\$ 6,710.99
37) Contract for Env Remediation	TRC	Residual Burbank Site - Removal Action Work	RPTTF	72,882.77	72,882.77	24,294.26	24,294.26	24,294.26					\$ 72,882.77
38) Project Delivery Costs - Burbank Residual Site	City of Hayward (Successor Agency)	Finalize negotiation and execution of Purchase and Sale Agreement - staff project mgmt costs/legal fees	RPTTF	18,863.00	18,863.00	4,643.83	4,643.83	4,643.83	4,643.83	4,643.83	4,643.83		\$ 27,863.00
39) Property Disposition Costs - former Agency-held properties	City of Hayward (Successor Agency)	Staff project mgmt costs; legal fees; property mgmt costs; appraisal costs; other associated costs for property disposition	RPTTF	128,580.00	128,580.00	10,715.00	10,715.00	10,715.00	10,715.00	10,715.00	10,715.00		\$ 64,290.00
40) Contract for Env Remediation	AMEC Geomatrix Inc	Env Remediation - Cinema Place	RPTTF	195,070.82	103,625.06	8,635.42	8,635.42	8,635.42	8,635.42	8,635.42	8,635.42		\$ 51,812.53
42) Contract for Financial Analysis	Keyser Marston	Financial Analysis	RPTTF	20,000.00	20,000.00	2,573.61	2,573.61	2,573.61					\$ 7,720.83
46) Contract for Water Testing	SWRCB	Water testing at Cinema Place - monitoring of site	RPTTF	8,817.40	8,817.40	8,817.40							\$ 8,817.40
Totals - This Page				\$ 62,679,948.60	\$ 10,408,560.36	\$ 2,407,129.40	\$ 1,901,841.20	\$ 695,176.91	\$ 293,766.09	\$ 293,766.09	\$ 293,766.09		\$ 5,885,445.78
Grand total - All Pages				\$ 62,679,948.60	\$ 10,408,560.36	\$ 2,407,129.40	\$ 1,901,841.20	\$ 695,176.91	\$ 293,766.09	\$ 293,766.09	\$ 293,766.09		\$ 5,885,445.78

Note 1: This total only reflects payments required between 7/1/2012 and 12/31/2012 and not the total outstanding obligation.

Attachment IX - Administrative Allowance Budget
July - December 2012

**Successor Agency Administrative Allowance - Proposed July - December 2012 (FY 2013) Budget
(Based on \$250,000 for 6 months)**

	\$125,000
Salaries & Benefits	(\$97,592)
Balance Remaining	\$27,408
Legal Expenses	\$20,000
Supplies and Services	\$7,408
Balance Remaining	\$0

DATE: May 8, 2012

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Support for Extended Producer Responsibility and the Alameda County Safe Medication Disposal Ordinance

RECOMMENDATION

That Council adopts the attached resolution encouraging all manufacturers to share in the responsibility for eliminating waste and supporting the Alameda County Safe Medication Disposal Ordinance.

BACKGROUND AND DISCUSSION

The Safe Medication Disposal Ordinance was brought forth for discussion at the March 13 meeting of the Alameda County Board of Supervisors. At that time, the Board postponed voting on the adoption to allow for further input. A series of stakeholder meetings are being held this month and the ordinance is scheduled to go before the Board again in June.

There are major health and environmental concerns associated with improper disposal of unused and expired medications. Poisoning is the fastest rising cause of accidental death among older adults in Alameda County, particularly from overdoses of over-the-counter, prescription, and illicit drugs. According to the Federal Drug Enforcement Administration's [*Get Smart about Drugs*](#) resource guide for parents, nearly one in five teens has tried prescription medication to get high.

In addition to these health concerns, the U.S. Geological Survey has found that over eighty percent of tested waterways show traces of common medications such as acetaminophen, hormones, blood pressure medicine, codeine, and antibiotics. These drugs, which enter the environment through excretion as waste, flushing down toilets, or leaks in landfills, can impact wildlife and make their way into our drinking water.

There is currently no permanent drug collection program in Alameda County for medications that have expired or are no longer being used. The County's Household Hazardous Waste Program has a small number of drug disposal drop-off boxes at voluntary host sites, but not enough to support a widespread collection program. In 2009, Alameda County citizens returned

roughly 4,000 pounds of drugs, compared with 19,000 pounds in Santa Clara County and 18,000 pounds in San Mateo County.

As currently written, the Safe Medication Disposal Ordinance would require drug producers to provide and pay for a medication take-back program. The producer can operate the program individually, jointly with other producers, or enter into an agreement with a stewardship organization to operate a program on the producer's behalf. The program must include a collection service in all areas of the county that is reasonably convenient to the public and adequate to meet the need. The program must also conduct outreach and include signage, a toll free telephone number, and a website.

The County Environmental Health Department will review, approve, and enforce the programs. The Ordinance requires any business that sells or distributes drugs for resale, defined as a drug wholesaler, to annually provide a list of the producers that it uses. Existing producers must submit product stewardship plans every three years starting on January 1, 2013. In the future, new producers must submit their own product stewardship plan or provide evidence of having joined an existing plan ninety days prior to selling.

If a producer fails to comply, the Department may impose administrative fines. Any person in violation of the Ordinance is liable for a civil penalty of up to \$1,000 per day. In addition, the Alameda County Counsel's Office may petition any court having jurisdiction for injunctive relief, payment of civil penalties, and other appropriate remedies such as restraining the producer from continuing the prohibited activity. The enforcement will be paid for by annual fees charged to the producers.

The Safe Medication Disposal Ordinance is part of a larger policy approach called extended producer responsibility or product stewardship. The approach places the primary responsibility for end-of-life management of consumer products on manufacturers and, in doing so, hopes to encourage product design that minimizes negative impacts on human health and the environment. In 2009 and 2010, the State of California passed extended producer responsibility bills for mercury thermostats, carpet, and paint. Attempts to pass similar bills for pharmaceuticals have been unsuccessful at both the state and federal levels.

If the ordinance is adopted, Alameda County would become the first in the nation to require pharmaceutical manufacturers to take responsibility for the end-of-life management of their products. Currently, drug manufacturers fund similar collection programs in France, Spain, and Canada.

FISCAL AND ECONOMIC IMPACT

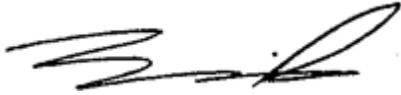
There are no anticipated negative or positive impacts of this County ordinance directly on the City of Hayward.

The ordinance is designed to be cost neutral for Alameda County because the producers are required to pay for their programs as well as administrative costs incurred by the County.

Prepared by: Mary Thomas, Management Fellow

Recommended by: Kelly McAadoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I: A Resolution of Support by the City of Hayward for Extended Producer Responsibility and the Alameda County Safe Medication Disposal Ordinance

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

A RESOLUTION OF SUPPORT BY THE CITY OF HAYWARD FOR
EXTENDED PRODUCER RESPONSIBILITY AND THE ALAMEDA
COUNTY SAFE MEDICATION DISPOSAL ORDINANCE

WHEREAS, Extended Producer Responsibility (EPR) is a policy approach in which producers assume financial and operational responsibility for management of waste products and which has been shown to be effective; and

WHEREAS, there are significant environmental and human health impacts associated with improper management of universal waste, sharps, pharmaceuticals and other products; and

WHEREAS, Bay Area local governments formed the California Product Stewardship Council (CPSC) in 2006 to support education and outreach efforts on the benefits of producer responsibility systems and to advocate for them; these efforts are supported by Alameda StopWaste; and

WHEREAS, in September 2007, the California Integrated Waste Management Board, now known as CalRecycle, adopted the Extended Producer Responsibility Framework for an EPR System in California and the League of Cities has adopted a policy statement in 2008 in support of EPR legislation; and

WHEREAS, in Alameda County, nonfatal hospitalized injuries from unintentional poisonings for adults 60 through 115 years of age increased 43% from 1998 to 2006; and

WHEREAS, the Partnership for a Drug Free America report from February 2010 indicates that over 60% of teens are able to obtain prescription painkillers for free through friends or family; and

WHEREAS, properly disposing of leftover, expired and unwanted drugs would be a significant step towards both preventing unintentional poisoning deaths and improper disposal into the water treatment system; and

WHEREAS, a study released in January 2010 by the Maine Department of Environmental Protection detected the presence of over 40 drug compounds including antibiotics, steroids, antidepressants and pain medications in landfill leachate which is eventually treated by sewer treatment plants; and

WHEREAS, pharmaceutical residues have been proven to be accumulating in ground water and drinking water and are entering the environment through multiple sources including through flushing drugs down toilets; and

WHEREAS, Extended Producer Responsibility(EPR) is a strategy that places the primary responsibility for end-of-life management of products on the producers of the products who make the design and marketing decisions, while encouraging product design that minimizes negative impacts on human health and the environment at every stage of the product's lifecycle; and

WHEREAS, in 2008 and 2010, California passed three significant producer responsibility laws for mercury thermostats, carpet, and paint, requiring producers to design and fund recovery programs for their product waste. To date, 128 resolutions have been passed by California local jurisdictions and organizations supporting producer responsibility; and

WHEREAS, a number of states recently introduced drug product stewardship legislation including Maine, Maryland, Minnesota, Rhode Island, Florida, Oregon, and Washington; and

WHEREAS, there is no permanent drug collection program in Alameda County, but there is considerable demand for it; and

WHEREAS, most Canadian provinces and some other countries have active, well-established drug product stewardship programs funded by many of the same companies that sell drugs in the United States; and

WHEREAS, SB 966 of 2007 had the goal of developing model drug collection systems but did not require the producers to design or fund a program and to date, there is no voluntary or mandatory statewide collection program for unwanted drugs in California, and drug producers have not offered any support for a collection program to date.

NOW, THEREFORE, BE IT RESOLVED, that the City of Hayward encourages all manufacturers to share in the responsibility for eliminating waste through minimizing excess packaging, designing products for durability, reparability, reusability, recyclability; using recycled materials in the manufacture of new products; and providing financial support for collection, processing, recycling, or disposal of used materials; and communicating with haulers and local governments about end of life management; and

BE IT FURTHER RESOLVED, that this City Council does hereby support the Alameda County Board of Supervisors in adopting a producer responsibility ordinance requiring any person who produces a drug offered for sale in Alameda County to participate in a County-approved Drug Stewardship Program for the collection and disposal of unwanted drugs from residential sources.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: May 8, 2012
TO: Mayor and City Council
FROM: Technology Services Director
SUBJECT: Enterprise Resource Planning (ERP) Hardware Acquisition

RECOMMENDATION

That Council adopts the attached resolution providing authority to the City Manager to purchase computer hardware for the proposed Enterprise Resource Planning (ERP) system in an amount not to exceed \$802,845.

BACKGROUND

At the March 27, 2012 meeting, Council approved a resolution authorizing the City Manager to negotiate, procure, and implement a new Enterprise Resource Planning (ERP) system from Tyler Technologies. The original proposal submitted by Tyler Technologies included computer system hardware specifications to support the new ERP but not an actual bid for the hardware.

DISCUSSION

Technology Services, in cooperation with City staff, reviewed the specifications along with consideration of information from other cities using a similar Tyler Technologies system and compiled a configuration more suitable to the City's organizational needs. Because the City is standardized on Cisco products, the new configuration was given to the Cisco Corporation as a sole-source procurement. A quote was received from the Cisco-approved vendor to supply and install the more robust hardware system. The software system vendor, Tyler Technologies, has reviewed and accepted the new hardware configuration as adequately supporting their software.

FISCAL IMPACT

The initial report approved by Council on March 27, 2012, included a line item budget for total system costs. The budget for hardware was \$700,000. The quoted price for the complete hardware system installed and configured with leasing costs is \$802,845. The cost increase of the hardware occurred due to leasing costs and a price increase on several components between the time of staff's budget configuration for the project and the approval to proceed. The project contingency budget will be used to fund the pricing increase and will not increase the overall budget for the ERP system.

Project Cost:	
Software and Implementation	\$2,100,000
1 Year Prepaid Maintenance	\$200,000
Technical Hardware	\$700,000
Project Management Services	\$360,000
Contingency	\$500,000
Total Project Cost	\$3,860,000
Funding Sources:	
Technology Services CIP Fund	\$3,254,000
Waste Water Enterprise Fund	\$249,000
Water Enterprise Fund	\$305,000
Airport Enterprise Fund	\$52,000
Total Funding	\$3,860,000

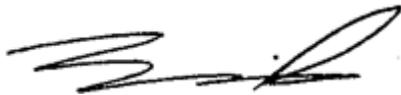
The hardware system will be procured from Cisco Systems through a Key Government Finance, Inc. lease. The lease is for five years at 2.36% interest rate with quarterly payments of \$40,142 and a one dollar purchase “buy out.” The principal purchase is \$759,590 with a financing cost of \$43,255, for a total cost of \$802,845. The terms and conditions of the lease have been reviewed by the Director of Finance and approved for purchase.

NEXT STEPS

The proposed system will be procured, installed, and configured within ninety days of Council approval. The projected completion of the entire project is calendar year-end 2015.

Prepared and Recommended by: Clancy Priest, Technology Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Council Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE COMPUTER HARDWARE TO SUPPORT THE CITY'S ENTERPRISE RESOURCE PLANNING (ERP) PROJECT

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute all documents necessary to acquire computer hardware from Cisco Corporation to support the City's Enterprise Resource Planning (ERP) project, in an amount not to exceed \$802,845, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: May 8, 2012

TO: Mayor and City Council

FROM: Human Resources Director

SUBJECT: Adoption of a Resolution Authorizing Amendment of the Salary and Benefits Resolution for the Unrepresented Management, Human Resources, and City Attorney Employees

RECOMMENDATION

That the City Council adopts the attached Resolution approving an amendment to the Salary and Benefits Resolution for the Unrepresented Management, Human Resources, and City Attorney Employees.

BACKGROUND

The Salary and Benefits Resolution for Unrepresented Management, Human Resources and City Attorney Employees (“Resolution”) was adopted by Council on March 6, 2012 (Resolution Number 12-028). Section 12.07 of the Resolution describes the salary and benefits for the Fire Chief. Because the Fire Chief position is a “Local Fire Firefighter” as that term is defined under the Public Employees’ Retirement Law (“PERL”), the benefits applicable to this position are different from the benefits applicable to other Executive employees (who are defined as either “miscellaneous” employees or, in the case of the Police Chief, as a “Local Police Officer” under the PERL).

California Code of Regulations, Title 2, §§ 570.5 and 571 provide that the pay rates and special compensation pay of employees who are members of the California Public Employees’ Retirement System (“CalPERS”) be listed on a pay schedule in a public document that is approved and adopted by the employer’s governing body. The proposed changes to Section 12.07 of the Resolution are intended to meet this requirement while reflecting the unique status of the Fire Chief under the PERL.

DISCUSSION

Fire Chief Craig Bueno is retiring after more than twenty-seven years of dedicated service to the Hayward community. While serving as Fire Chief, the City has treated Chief Bueno like members of the Fire Chief’s bargaining unit for purposes of CalPERS benefits, including certain items of special compensation. This treatment is reflected in a separate agreement between the City and Chief Bueno. This is consistent with the requirements of the PERL.

The City Manager recently announced the appointment of Chief Bueno's successor. Under the terms of the Resolution, as currently drafted, the successor Chief would be treated differently from all other employees who are "Local Firefighters" within the City. To resolve this inconsistency, without entering into a separate employment agreement with the new Chief, Section 12.07 of the current Resolution must be revised to delete both references to the "incumbent" Fire Chief and the sunset language.

The proposed revisions provide for treatment of the successor Fire Chief in the same manner as all other Local Firefighters for PERS purposes. It also sets forth the special compensation that is provided to Local Firefighter employees who possess and maintain a valid emergency medical technician and/or paramedic certification. The proposed revisions provide the successor Chief with the same terms of compensation that are currently provided to Chief Bueno and other Local Firefighters, who are management employees.

FISCAL IMPACT

The proposed changes are administrative. There is no fiscal impact associated with amending Section 12.07 of the Salary and Benefits Resolution of the Unrepresented Management, Human Resources, and City Attorney Employees. The Fire Chief position is currently funded in the adopted budget for FY 2013.

Prepared and Recommended by: Frances M. Robustelli, Human Resources Director

Approved by:



Fran David, City Manager

Attachments: Attachment I: Resolution approving an amendment to the Salary and Benefits Resolution for Unrepresented Management, Human Resources and City Attorney Employees

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING AN AMENDMENT OF THE SALARY AND BENEFITS RESOLUTION FOR THE UNREPRESENTED MANAGEMENT, HUMAN RESOURCES AND CITY ATTORNEY EMPLOYEES

WHEREAS, the City Council adopted the Salary and Benefits Resolution for Unrepresented Management, Human Resources and City Attorney Employees on March 6, 2012; and

WHEREAS, the Fire Chief is a member of the Executive Team and this position is covered by the Unrepresented Management, Human Resources, and City Attorney Employees Salary and Benefits Resolution; and

WHEREAS, the City of Hayward Fire Department provides essential fire protection services to the Hayward community and continuity of leadership is essential to the ability to provide high quality fire protection services; and

WHEREAS, the incumbent Fire Chief will retire effective May 12, 2012 and the successor Fire Chief will be appointed effective May 13, 2012; and

WHEREAS, in compliance with California Code of Regulations, Title 2, Sections 570.5 and 571, the pay rate and special compensation of employees that are members of California Public Employees Retirement System (CalPERS) must be in a single document that has been approved by the governing body and is available for public view; and

WHEREAS, the Salary and Benefits Resolution complies with the law and Section 12.07 has been revised to reflect the current salary, benefits and special compensation applicable to the position of Fire Chief.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby amends Section 12.07 of the Unrepresented Management, Human Resources and City Attorney Employees Salary and Benefits Resolution effective May 13, 2012, to state:

Section 5.00 and Section 12.06 of this Resolution detailing employee benefit plans and across the board salary or benefit increases shall not apply to the Fire Chief. Instead, employee benefits (including health and retirement benefits) for the Fire Chief will be the same as those set forth in any collective bargaining agreement between the City and the Hayward Fire Chiefs Association. In addition, the Fire Chief will be eligible to receive certification pay for possessing

and maintaining a valid emergency medical technician certification and/or paramedic certification under the same terms and conditions as such pay is provided to employees represented by the Hayward Fire Chiefs Association. Except as specifically provided in this Section 12.07 all other provisions of this Resolution shall apply to the Fire Chief.

This Section 12.07 shall remain in effect until thereafter amended or rescinded by the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: May 8, 2012

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and Adoption of Resolution Authorizing the Issuance of Bonds and the Submission of an Application to the California Debt Limit Allocation Committee, All in Connection with Financing the Construction of the South Hayward BART Affordable Housing Project

RECOMMENDATION

That the City Council:

- a) Conducts a public hearing to consider the issuance of Tax-Exempt Multifamily Housing Revenue Bonds to assist in the financing of the previously-approved South Hayward BART Affordable Housing Project, and
- b) Adopts the attached resolution:
 - 1. Approving the use of tax-exempt bond proceeds to reimburse project costs related to the construction of the South Hayward BART Affordable Housing Project;
 - 2. Authorizing the filing of an application with the California Debt Limit Allocation Committee for a portion of the State of California’s ceiling of private activity bond allocation;
 - 3. Approving the issuance of Tax-Exempt Multifamily Housing Revenue Bonds for purposes of Section 147(f) of the Internal Revenue Code of 1986; and
 - 4. Naming the law firm of Jones Hall as bond counsel.

BACKGROUND

On June 14, 2011, Council approved financing for the South Hayward BART Affordable Housing project (the Project) to be developed by Eden Housing, Inc. (Eden). The Project will be located at 28901 and 28937 Mission Boulevard and will include 150 units (86 affordable units to low income-families, 64 affordable units to low-income seniors, and one manager’s unit). Once it is complete, this development will be a catalyst in the South Hayward community, creating a vibrant, high quality living environment for residents adjacent to the BART station and offering neighborhood amenities that currently do not exist.

Included in the City-approved financing are \$900,000 in HOME funds, \$830,000 in Neighborhood Stabilization Program I (NSP1) funds, and \$4.25 Million in Housing Authority funds from Low and Moderate Income Housing Funds. The largest source of external financing for the Project is approximately \$21 Million in Low Income Housing Tax Credits (LIHTCs) and up to \$40 Million in Tax-Exempt Multifamily Housing Revenue Bonds (the Bonds).

DISCUSSION

Eden has requested that the City serve as issuer for the Bonds in an amount not to exceed \$40,000,000. Tax-exempt bonds enable the use of low-income housing tax credits that together provide the most favorable financing for the project to effectively leverage the City's funds. The Bonds would be limited special obligations of the City, payable only from the revenues from the project; and the City would not have any obligation to advance any of its funds or its credit for the repayment of the Bonds. In other words, the City simply acts as a conduit for the issuance process of the Bonds and is not financially responsible for repayment. It is currently anticipated that the Bonds would be sold on a private placement basis to a sophisticated institutional buyer. The Bonds will be complemented by non-competitive 4% LIHTCs. These two programs are normally used together for the financing of affordable rental housing and the City has facilitated similar transactions in the past.

In order to issue the bonds, the City and Eden need to apply to the California Debt Limit Allocation Committee (CDLAC) for an allocation of the State's ceiling of private activity bonds. CDLAC's rules require that the issuing jurisdiction adopt a resolution approving the application prior to its filing with CDLAC. The City and Eden intend to file the application for the Project by May 18, 2012, so that the application can be considered at CDLAC's July 18, 2012, meeting.

The Internal Revenue Code requires that the "applicable elected representatives" of the jurisdiction in which a project to be financed with "private activity bonds" is to be constructed, adopt a resolution approving the issuance of such bonds after holding a public hearing¹, which has been noticed in a newspaper of general circulation. The City Council is being asked to hold such public hearing, which has been noticed as required by the Code: notice of the TEFRA hearing was published in the Daily Review on April 24, 2012.

Staff proposes using the same bond counsel (Jones Hall) as has been used for previous transactions involving the issuance of tax-exempt bonds for affordable housing developments. Jones Hall attorneys, like all the team consultants proposed for this transaction, are very familiar with the City's processes and, as such, are able to provide the requested services more efficiently.

The actions at this meeting are only preliminary and do not commit or bind the City to the ultimate issuance of the Bonds. The Bonds cannot be issued until the bond allocation has been received from CDLAC, bond counsel has prepared all documents, the purchaser or underwriter of the Bonds has provided all necessary agreements, and the bond documents and final resolution are approved by City Council. The actions today permit the submission process to CDLAC to begin but do not bind the City to ultimately issuing any bonds.

¹ Known as Tax Equity and Fiscal Responsibility Act of 1985 (TEFRA) hearing.

ECONOMIC IMPACT

Issuing the Bonds for the development of the South Hayward TOD Project will have a significant economic impact to the City by serving as a catalyst for other development in the South Hayward BART station area, including the development of market-rate housing. The economic benefits of the Project have been discussed at length in previous staff reports about the Project.²

FISCAL IMPACT

The issuance of bonds does not represent a financial impact to the General Fund; however, an undetermined amount of revenue at this time will be received by the City for Community Facility District Fees and issuance and administrative fees, resulting in a positive fiscal impact. All costs associated with issuance of the bonds will be reimbursed through bond proceeds, including the City's bond counsel fees.

NEXT STEPS

If the City Council adopts the Resolution, staff will proceed with submitting an application to CDLAC and, if the project is awarded an allocation, staff and its consultants will prepare the necessary documentation for the bond issuance to take place and will bring an item back to Council for approval of final documentation.

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo Morariu, Assistant City Manager

Approved by:



Fran David, City Manager

Attachment I Resolution Authorizing the Issuance of Bonds and Related Actions

² See pages 7 to 9 of item #7 of the June 14, 2011 City Council Meeting: "Approval of Certain Financing for Affordable Housing at the South Hayward BART Station Transit-Oriented Development."

RESOLUTION NO. 12- __

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
DECLARING AN OFFICIAL INTENT TO REIMBURSE CERTAIN
EXPENDITURES FROM PROCEEDS OF QUALIFIED RESIDENTIAL
RENTAL PROJECT BONDS, AUTHORIZING AN APPLICATION TO
THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE TO
PERMIT THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL
PROJECT BONDS, AND APPROVING THE ISSUANCE OF QUALIFIED
RESIDENTIAL RENTAL PROJECT BONDS IN ACCORDANCE WITH
SECTION 147(f) OF THE INTERNAL REVENUE CODE**

WHEREAS, the City of Hayward (the “City”) desires to engage in a program (the “program”) of financing the construction of a multifamily rental housing development;

WHEREAS, Eden Housing Inc., a California not-for-profit corporation the “Sponsor”), has made a request to the City for assistance with respect to the financing of the acquisition and construction of a 151 unit multifamily rental housing development located at 28901 and 28937 Mission Boulevard, Hayward, California 94544 (the “Project”), which will be developed and owned by the Sponsor or a limited partnership or limited liability company established by the Sponsor or an affiliate thereof (the “Borrower”);

WHEREAS, all of the units in the Project are expected to be occupied by persons or families of lower or very low income; and

WHEREAS, the assistance requested is the issuance by the City of its qualified residential rental bonds (the “Bonds”) in an amount not to exceed \$40,000,000 the proceeds of which would be loaned to the Borrower for the purpose of acquiring and constructing the Project;

WHEREAS, the Borrower expects to pay certain expenditures (the “Reimbursement Expenditure”) in connection with the Project prior to the issuance of the Bonds for the purpose of financing cost associated with the Project on a long term basis;

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the City to declare its reasonable official intent to reimburse prior expenditures for the Project with proceeds of a subsequent borrowing;

WHEREAS, the Internal Revenue Code of 1986 and the applicable regulations thereunder require the Borrower to take this action in connection with the payment of certain expenses in connection with the Project prior to issuance of tax-exempt bonds in order to allow the Borrower to be reimbursed for such expenditures;

WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the State of California governs the allocation in the State of California of the state ceiling

established by Section 146 of the Code among governmental units in the State having the authority to issue private activity bonds;

WHEREAS, Section 8869.85 of the Government Code requires a local agency to file an application for a portion of the state ceiling with or upon the direction of the California Debt Limit Allocation Committee ("CDLAC") prior to the issuance of private activity bonds;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, requires the City Council of the City (the "City Council"), as the elected representative of the City, the host jurisdiction of such facilities, to approve the issuance of the Bonds after a public hearing has been held following reasonable notice;

WHEREAS, a public hearing was held by the City on the 15th day of May, 2012, at the City Council's meeting which commenced at the hour of 7:00 p.m. City Council Chambers, 777 B Street, Hayward, California 94541, following duly published notice thereof, and all persons desiring to be heard have been heard; and

WHEREAS, it is in the public interest and for the public benefit that the City Council, as the elected representative of the City, the host jurisdiction of such facilities, approve the issuance and delivery by the City, or by a joint powers authority of which the City is a member, of the Bonds;

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

Section 1. The City finds and determines that the foregoing recitals are true and correct.

Section 2. The City hereby declares its official intent to issue, at one time or from time to time, an aggregate of up to \$40,000,000 principal amount of the Bonds, the proceeds of which are to be loaned to the Borrower to finance costs of the acquisition and construction by the Borrower of the Project, including, for the purpose of reimbursing to the Applicant and the Borrower costs incurred for the Project prior to the issuance of the Bonds. The City Council hereby further approves the issuance of the Bonds in the amount of up to \$40,000,000 for purposes of Section 147(f) of the Internal Revenue Code of 1986.

Section 3. The Bonds will be payable solely from the revenues to be received by the City pursuant to a loan agreement or other agreements to be entered into between the City and the Borrower in connection with the financing of the Project.

Section 4. The issuance of the Bonds is subject to the following conditions: (a) the City and the Borrower shall have first agreed to mutually acceptable terms for the Bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the Bond indenture, trust agreement, loan agreement, regulatory agreement and/or

other related documents for the financing of the Project; (b) all requisite governmental approvals shall have first been obtained; (c) a resolution approving the financing documents to which the City will be a party shall have been adopted by the City Council; and (d) an allocation of tax-exempt bond authority with respect to the Bonds shall have been received from the California Debt Limit Allocation Committee (“CDLAC”).

Section 5. The officers and agents of the City are hereby authorized to submit an application to CDLAC for an allocation of a portion of the State Ceiling (as that term is used in the California Government Code) in an amount not to exceed \$40,000,000 for application towards the issuance of the Bonds by the City to finance the Project. The officers and agents of, and financial advisors to, the City are hereby authorized, on behalf of the City, to submit to CDLAC all such other documents as may be required pursuant to the California Government Code in furtherance of the application. A cash deposit equal to one-half of one percent of the amount of allocation requested (not to exceed the maximum deposit pursuant to CDLAC guidelines), to be provided by or on behalf of the Borrower, is hereby authorized to be placed into an escrow account, and the officers of the City are hereby authorized to execute a deposit agreement with the Borrower as may be required with respect to such deposit, and to certify to CDLAC that such funds are available.

Section 6. It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended.

Section 7. The law firm of Jones Hall, A Professional Law Corporation, is hereby designated as Bond Counsel to the City in connection with the issuance of the Bonds. The fees and expenses of such firm for matters related to the Bonds shall be payable solely from the proceeds of the Bonds or other sources of funds of the Borrower.

Section 8. This Resolution shall take effect from and after its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF
HAYWARD
HEART OF THE BAY

DATE: May 8, 2012
TO: Mayor and City Council
FROM: Director of Finance
SUBJECT: Presentation of the FY 2013 & FY 2014 Recommended Biennial Operating Budget

RECOMMENDATION

That Council reviews and comments on the FY 2013 & FY 2014 Recommended Biennial Operating Budget.

DISCUSSION

The City Manager will be presenting to City Council the recommended operating budget for FY 2013 & FY 2014 for consideration over the next eight weeks prior to adopting the budget – which is tentatively scheduled for June 26, 2012.

Tonight marks the initial presentation of the recommended two-year budget, and will commence the Council and public budget review process. The next two months will include at least three budget work sessions and a public hearing so that both City Council and the public have an opportunity to review and comment on the recommended funding levels for City programs and services.

The budget document will be provided electronically to City Council and to the public on Monday, May 7 and a hard copy document will be provided to City Council on Tuesday, May 8. Staff understands that this is the first opportunity for City Council to review the recommended budget and will provide an overview of the budget funding recommendations and contents of the budget document during the May 8 Council meeting.

Prepared and Recommended by: Tracy Vesely, Director of Finance

Approved by:

Fran David, City Manager