



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
FEBRUARY 3, 2015

MAYOR BARBARA HALLIDAY
MAYOR PRO TEMPORE GREG JONES
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER AL MENDALL
COUNCIL MEMBER SARA LAMNIN
COUNCIL MEMBER ELISA MÁRQUEZ

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CITY COUNCIL MEETING FOR FEBRUARY 3, 2015
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 4:00 PM

1. PUBLIC COMMENTS

2. Public Employment

Pursuant to Government Code 54957

➤ Performance Evaluation

City Attorney

3. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

➤ Under Negotiation: State Owned Parcels along Route 238 Bypass Alignment

Lead Negotiators: City Manager David; City Attorney Lawson; Assistant City Manager McAdoo;

Public Works – Engineering & Transportation Director Fakhrai; Development Services Director

Rizk; and Assistant City Attorney Brick

4. Conference with Legal Counsel

Pursuant to Government Code 54956.9

➤ Pending Litigation

• City of Hayward v. Nagra, et al., Alameda County Superior Court No. RG13696610

• City of Hayward v. Feroz, etc., Alameda County Superior Court No. HG13692333

5. Conference with Labor Negotiators

Pursuant to Government Code 54957.6

➤ Lead Negotiators: City Manager David; City Attorney Lawson; Assistant City Manager McAdoo; Finance Director Vesely; Public Works-Engineering & Transportation Director Fakhrai; Human Resources Director Collins; Senior Human Resources Analyst Lopez; Assistant City Attorney Vashi; Community and Media Relations Officer Holland; Jack Hughes, Liebert, Cassidy and Whitmore

Under Negotiation: All Groups

6. Adjourn to City Council meeting

CITY COUNCIL MEETING
Council Chambers – 7:00 PM

CALL TO ORDER Pledge of Allegiance Council Member Jones

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

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

CONSENT

1. Approval of Minutes of the City Council Meeting on January 20, 2015
[Draft Minutes](#)
2. Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2013-0290 Relating to a Residential Development at 123-197 A Street
[Staff Report](#)
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3. New Sidewalks FY15 - Laurel Avenue: Approval of Plans and Specifications and Call for Bids, and Authorization for the City Manager to Execute a Joint Agreement with the County of Alameda
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4. Resolution Appropriating Funds and Authorizing the City Manager to Execute an Agreement for up to \$85,000 with Francisco & Associates to Provide Engineering and Administration Services Related to FY2016 Assessments for the City's Consolidated Landscape and Lighting District and Two Maintenance Districts, and Work Related to a Proposition 218 Election to Increase Assessments for Maintenance District 1
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5. Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System (CalPERS) for Calendar Year 2015 Pursuant to California Government Code Section 22892 of the Public Employees Medical and Hospital Care Act

[Staff Report](#)
[Attachment I](#)

NON-ACTION ITEMS: *(Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.)*

WORK SESSION (60-Minute Limit)

6. Community Facilities District (CFD) Formation (Report from Finance Director Vesely)

[Staff Report](#)
[Attachment I](#)
[Attachment II](#)
[Attachment III](#)

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

7. Legacy Eden Shores Development Agreement - Request to Amend the Development Agreement by Extending its Term for Five Years. The Project is Generally Located West of Hesperian Boulevard and East of Marina Drive, Between Industrial Boulevard and Eden Park Place. Steve Dunn of Legacy Partners (Applicant), Eden Shores Associates I, LLC (Owner) (Report from Development Services Director Rizk)

[Staff Report](#)
[Attachment I Draft Resolution](#)
[Attachment II Draft Ordinance](#)
[Attachment III Draft PC Minutes](#)



LEGISLATIVE BUSINESS

8. Introduction of an Ordinance to Amend the Hayward Plumbing Code to Allow Plastic Pipe as Allowed by the 2013 California Plumbing Code (Report from Development Services Director Rizk)

[Staff Report](#)

[Attchment I - Draft Ordinance](#)

Information items are presented as general information for Council and the public. Should Council wish to take action on any of the "information" items, they will direct the City Manager to bring them back on a future Council agenda as an Action Item.

INFORMATION ITEMS

None

CITY MANAGER'S COMMENTS

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

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT

NEXT SPECIAL MEETING – 7:00 PM, Tuesday, February 10, 2015

PUBLIC COMMENT RULES: *The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

PLEASE TAKE NOTICE *that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.*

PLEASE TAKE FURTHER NOTICE *that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

February 3, 2015



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****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

Please visit us on:





**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 20, 2015, 7:00 p.m.**

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

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that the Council met in closed session regarding two items: (1) Conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups; and (2) conference with real property negotiators pursuant to Government Code 54956.8 related to APN 428-007-1020-00 located at 822 C Street, Hayward. City Attorney Lawson announced there was no reportable action.

PRESENTATION

Mayor Halliday read a Proclamation proclaiming February 2015 as “Teen Dating Violence Awareness and Prevention Month” in the City of Hayward. Ms. Yasi Safinya-Davies, Director of Clinical Services with Safe Alternatives to Violent Environments (SAVE), accepted the proclamation and thanked the City Council for such recognition.

PUBLIC COMMENTS

Ms. Wynn Grcich, Hayward resident, provided documents and a DVD for the record, and spoke about adverse health effects from water fluoridation.

Mr. David Head, Hayward resident, expressed distress about his application for a German shepherd being denied by the Hayward Animal Shelter and the dog being given away to the Oregon Humane Society.

Mr. Charlie Peters, with Clean Air Performance Professionals, provided a document for the record regarding Assembly Bill 32 and greenhouse gas emissions.

Mr. Obray Van Buren, Hayward resident, requested that Legislative Business Item #8 be continued to a future date to allow him to review the document. There was Council consensus to continue the item to a future date.

Council Member Zermeño acknowledged the presence at the meeting of a Chabot College colleague.

CONSENT

Consent Item No. 3 was removed for discussion.

1. Adoption of an Ordinance Repealing Section 6-10.00 to Section 6-10.27 of the City of Hayward Municipal Code and Adding Chapter 6, Article 10 to the Hayward Municipal Code Regarding Massage Establishments

Staff report submitted by City Clerk Lens and Deputy City Attorney II Nishioka, dated January 20, 2015, was filed.

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

Ordinance 15-02, “An Ordinance Repealing Section 6-10.00 to Section 6-10.27 of the City of Hayward Municipal Code and Adding Chapter 6, Article 10 to the Hayward Municipal Code Regarding Massage Establishments”

2. Adoption of Ordinance Authorizing the Amendment of the Contract Between the City of Hayward and the Board of Administration of the California Public Employees’ Retirement System

Staff report submitted by City Clerk Lens, dated January 20, 2015, was filed.

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

Ordinance 15-03, “An Ordinance Authorizing the Amendment of the Contract between the City of Hayward and the Board of Administration of the California Public Employees’ Retirement System”

3. Resignation of Mr. Vishal Trivedi from the Planning Commission and Process for Filling the Vacancy

Staff report submitted by City Clerk Lens, dated January 20, 2015, was filed.

City Clerk Lens explained the process for filling the vacancy as outlined in the staff report.

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



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Resolution 15-009, “Resolution Accepting the Resignation of Vishal Trivedi from the Planning Commission”

4. Authorization to Negotiate and Execute a Professional Services Agreement with New City America for the Formation of a Downtown Community Benefit District

Staff report submitted by Assistant City Manager McAdoo, dated January 20, 2015, was filed.

Council Member Lamnin stated that there would be opportunity for public input during the process of exploring the formation of a Downtown Community Benefit District.

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

Resolution 15-008, “Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with New City America, Inc. For Community Benefit District Formation Consulting Services to Expire No Later than December 31, 2015”

WORK SESSION

5. Overview of the Scope and Schedule for the Downtown Specific Plan Project

Staff report submitted by Senior Planner Golubics, dated January 20, 2015, was filed.

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

Discussion ensued among Council members and City staff. There was general agreement with the vision for the Downtown. Council members offered the following recommendations for the Downtown Specific Plan Project: include a vision for entertainment uses with a strategic plan; include a vision for commercial office space; focus on infrastructure incentives to attract quality business; have more vibrant art scene; include to the list of stakeholders the faith-based community and new residents; improve lighting, landscaping and signage; work in line with the Downtown Community Benefit District; consider a Council liaison for the Downtown Community Benefit District; have more art galleries; gear the banner program to direct residents to downtown; include C Street and Foothill Boulevard as proposed study areas; consider Peak Democracy as a community outreach strategy; improve general pedestrian corridors that access the downtown; include civic uses

and more educational institutions access; consider Police headquarters in downtown; make sure there is historic preservation; address the traffic circulation as it impacts the downtown economy; review parking lot issues in downtown; consider legislation for financing infrastructure improvements; and conduct community outreach through all the available channels.

PUBLIC HEARING

6. Approval of Temporary Appointment of Communications Operator

Staff report submitted by Human Resources Analyst I Halverson, dated January 20, 2015, was filed.

Human Resources Director Collins provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:12 p.m.

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

Resolution 15-010, “Resolution for Exception to the 180-Day Wait Period and Approval of Temporary Appointment to the Position of Communications Operator”

7. New Solid Waste & Recycling Franchise Agreement: Approval of New Franchise Agreement and New Refuse, Recycling, and Organics Services Rates - Introduction of Ordinance

Staff report submitted by Utilities and Environmental Services Director Ameri, dated January 20, 2015, was filed.

Utilities and Environmental Services Director Ameri provided a synopsis of the staff report. A letter from the City to Waste Management of Alameda County regarding recycling worker wages was distributed to the Council.

Discussion ensued among Council members and City staff. There was general agreement among Council about the proposed franchise agreement and the new services. Council members offered the following recommendations: conduct extensive outreach to landlords and tenants about bulky pick up for multi-family dwellings; track illegal dumping to identify hot spots; consider exploring a company or DR3 Recycling to pick up and recycle discarded mattresses for a fee that will alleviate the work of the City and Waste Management; consider easier ways to report complaints about lack of frequent garbage service through Access Hayward.

Mayor Halliday opened the public hearing at 8:54 p.m.

The following speakers spoke in support of the proposed new Solid Waste & Recycling Franchise Agreement and urged the Council to approve staff’s recommendation. Some of the comments included: consensus for the new services in the franchise agreement; support for wage increases for



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recycling workers; support for multi-family dwellings having bulky pick-up for trash and organic collection services, but building owners would need to be educated on the program; agreed the new service was good for progressive diversion rates; Waste Management of Alameda County (WMAC) was a member of the Hayward Chamber of Commerce; WMAC helped the City implement the illegal dumping ordinance; the current cost of being green and the policies instituted would benefit future generations; the agreement provided for a low income discount.

Mr. Felix Martinez, Teamsters Local 70 representative
Mr. Kim Huggett, Hayward Chamber of Commerce President
Ms. Ruth Abbe, Zero Waste Committee of the Sierra Club member
Ms. Delfina Casillas, Hayward resident and Alameda County Industries employee (via interpreter)
Mr. Agustin Ramirez, International Longshore and Warehouse Union lead organizer
Mr. Obray Van Buren, Hayward resident
Mr. David Tucker, Waste Management of Alameda County

Mr. Tom Silva, Rental Housing Association representative, urged Council to approve the proposal and suggested there be an annual report to the Council about the program.

Mr. Joffre (Jay) Henderick, Eden Gardens Estates resident, noted two mobilehome parks submitted petitions in opposition to the proposed Solid Waste & Recycling Franchise Agreement. Mr. Henderick expressed that seniors did not generate enough trash and did not need an additional bulky item collection and a compost giveaway, the proposed ten percent increase was six times CPI and was high for moderate-income people. Mr. Henderick suggested that a 10-gallon service be provided as opposed to the 20-gallon service.

Mr. Albert Ramos, Hayward mobilehome resident, asked for the item to be held over for thirty days to allow time to review the proposal in depth so that voters could provide input.

Mayor Halliday closed the public hearing at 9:22 p.m.

Council members were appreciative of the efforts by City staff, Alameda County Waste Management (ACWM), and key stakeholders in reaching a mutual and satisfying agreement.

Council Member Zermeño asked staff for a report to Council on the new services offered through the new franchise agreement and its effectiveness on illegal dumping. While Council Member Zermeño sympathized with the comments in opposition to the franchise agreement, he was confident the proposal was solid. Mr. Zermeño offered a motion per staff recommendation. Council Member Mendall seconded the motion.

Director of Utilities and Environmental Services Ameri reported that City Clerk Lens was in receipt of two additional protest letters, which resulted in a total of 37 individual protest letters and two

petitions with 128 signatures. Mr. Ameri confirmed that the number of protests received did not meet the legal threshold of 17,179.

Council Member Lamnin supported the motion and noted the community concerns were addressed in the new franchise agreement with the new services. Ms. Halliday asked staff to review with the mobilehome residents the concern expressed that a 20-gallon service was excessive for the residents and encourage staff to find a solution. Ms. Halliday encouraged communication with the schools about the additional bulky pick-up through parent networks.

Council Member Mendall supported the motion and noted that while the rate increases were going up, there were new services and discount rates and the rates were significantly lower than neighboring cities. Mr. Mendall suggested that a copy of the annual report presented to the Council Sustainability Committee on recycling and waste processing, plus the new services information might satisfy the need for the annual report to the Council.

Council Member Márquez expressed support for the motion and noted that avenues such as Access Hayward would allow community members to voice concerns about illegal dumping. Ms. Márquez asked City staff and WMAC to develop workshops to assist residents in completing discount rate applications and enable them the opportunity to take advantage of the programs.

Council Member Jones supported the motion and thanked the current and former City Council about the clear vision to clean up the community through the additional services. Mr. Jones said he appreciated the personal garbage/recycling service at an affordable rate.

Mayor Halliday supported the motion and noted the increase in rate is also attributed to the efforts to divert the bulk of trash from landfill to recycling, which is a benefit for the community. Mayor Halliday agreed to have the annual report that is presented to the Council Sustainability Committee shared with the City Council. Ms. Halliday added that the City needs to continue to talk about the issue of the perception of public trash cans not being cleaned frequently. Ms. Halliday added that the public needs to be educated about the new services, discount rates, and coupons available.

City Manager David thanked the City Council for its strategic leadership and vision.

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

Introduction of Ordinance 15-_, “An Ordinance Granting Exclusive Franchise to Waste Management of Alameda County for Solid Waste, Recyclable Materials and Organic Materials Services”

Resolution 15-011, “Resolution of the City Council of the City of Hayward Opting into Phase 2 of the Alameda County Waste Management Authority’s Ordinance No. 2012-1, Regarding the Implementation of Organics Collection at Multi-Family Developments and Businesses and Regulating Recycling by Businesses, Multi-Family Residences and Self-Haulers”



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Resolution 15-012, “Resolution Authorizing the City Manager to Execute an Extension to the Current Memorandum of Understanding with Oro Loma Sanitary District and Waste Management of Alameda County Related to Residential Recycling Programs”

There was Council consensus to remove Item No. 8 from the agenda and move it to a future date.

LEGISLATIVE BUSINESS

8. Introduction of an Ordinance to Amend the Hayward Plumbing Code to Allow Plastic Pipe as Allowed by the 2013 California Plumbing Code

INFORMATION ITEMS

There were none.

CITY MANAGER’S COMMENTS

City Manager David made two announcements: The Hayward Area Recreation and Park District recruitment for a Board of Directors vacancy and the San Francisco Giants World Series Trophies Tour on January 29, 2015, at Hayward City Hall.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño announced the Keep Hayward Clean and Green Task Force clean-up event on January 24, 2015, beginning at Leidig Court, adjacent to the UPRR tracks.

Council Member Mendall noted the Hayward Local Agencies Committee identified focus efforts for the year: training resources, Access Hayward, disaster preparedness and youth needs. Mr. Mendall mentioned he was elected as the Vice Chair of the Bay Area Water Supply and Conservation Agency and noted that Hayward needed to continue water conservation measures.

Council Member Lamnin reported she attended the New Mayors and Council Members Academy sponsored by the League of California Cities and she was appointed to the Employee Relations Policy Committee of the League.

Council Member Márquez spoke about the successful Dr. Martin Luther King Jr. Birthday Celebration at Chabot College, highlighted the news article about actor Tom Hanks attending Chabot College, and added that the new coach of the Oakland Raiders, Jack Del Rio, was a Hayward alumnus.

Mayor Halliday spoke highly about the Dr. Martin Luther King Jr. Birthday Celebration at Chabot College and the walk organized by South Hayward Parish held at the City Hall Plaza. Ms. Halliday announced the Metropolitan Transportation Commission's Open House on January 29, 2015 at Hayward City Hall to address plans to convert the existing High Occupancy Vehicle lanes between Oakland and Milpitas to express lanes.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:50 p.m.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward

DATE: February 3, 2015
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2013-0290 Relating to a Residential Development at 123-197 A Street

RECOMMENDATION

That the City Council adopts the Ordinance introduced on January 27, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Mendall at the January 27, 2015 meeting of the City Council with the following vote:

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

The Resolution was approved with two revisions to Condition of Approval No. 18 (b) and No. 95 to address typographical errors; and one modification to Condition of Approval No. 9 (g) by adding the following language, “All mailboxes shall be locking mailboxes.”

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 31, 2015. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachment: Attachment I Summary of Ordinance Published on 1/31/15

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

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD
MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION
WITH ZONE CHANGE APPLICATION NO. PL-2013-0290 RELATING TO A
RESIDENTIAL DEVELOPMENT AT 123-197 A STREET

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

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 123-197 A street (APN: 431-0016-088-03) from Medium Density Residential (RM) to Planned Development (PD) District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

Introduced at the meeting of the Hayward City Council held January 27, 2015, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at a regular meeting of the Hayward City Council, to be held on February 3, 2015, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 31, 2015
Miriam Lens, City Clerk
City of Hayward



CITY OF
HAYWARD
HEART OF THE BAY

DATE: February 3, 2015

TO: Mayor and City Council

FROM: Director of Public Works – Engineering & Transportation

SUBJECT: New Sidewalks FY15 – Laurel Avenue: Approval of Plans and Specifications and Call for Bids, and Authorization for the City Manager to Execute a Joint Agreement with the County of Alameda

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) approving the plans and specifications for the New Sidewalks FY15 – Laurel Avenue project, calling for bids to be received on March 3, 2015, and authorizing the City Manager to execute a joint agreement with the County of Alameda for the project.

BACKGROUND

Laurel Avenue was selected to fill in the missing sidewalk in both the City and County’s right-of-way and further the City’s goal of providing safe and continuous pedestrian access to schools. The new sidewalks are in the vicinity of the former Sunset High School, which now contains both Hayward Adult School and Brenkwitz High School. In addition, the City has received requests from the neighborhood for sidewalk improvements in these locations. A location map that depicts the limits of work is attached (see Attachment II).

DISCUSSION

This project, which is a direct result of on-going City/County collaboration meetings, will span across the City-County boundary and construct new curb, gutter, and sidewalk on approximately 755 feet of Laurel Avenue from Flagg Street to Meekland Avenue; 200 feet of new sidewalk will be constructed in the City’s right-of-way and 555 feet in the County’s right-of-way. Detectable warning tiles will be retrofitted into existing curb ramps within the County portion, while new curb ramps will be installed at the curb returns within the City’s portion in order to satisfy the requirements of the Americans with Disabilities Act (ADA). The proposed improvements will add 0.04 mile of new sidewalk to the City’s inventory, which totals 460 miles.

Construction of the new sidewalk within County right-of-way will be performed in accordance with a joint City-County agreement in which the County agrees to pay for all design, construction, and inspection costs for the work in the County portion. The Alameda County Board of Supervisors is currently processing the joint agreement for execution. Staff recommends that Council authorize

the City Manager to execute the joint agreement upon receipt of the signed documents from the County.

The project is categorically exempt under Sections 15301 (b) and (c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

FISCAL IMPACT

The estimated project cost is as follows:

Construction Contract	\$240,000
Design and Administration	30,000
Inspection, Testing and Construction Administration	30,000
Total	\$300,000

The approved FY 2015 Capital Improvement Program includes \$300,000 in the Measure B Pedestrian and Bicycle Fund for the New Sidewalks FY15 - Laurel Avenue project. The County of Alameda will reimburse the City approximately \$200,000 for their share of the project cost. Actual reimbursement will be determined by the project's actual construction cost.

PUBLIC CONTACT

Staff has sent letters to all of the affected property owners. Right-of-entry permits from property owners will be acquired in order to grant the City's contractor permission to enter the property and install driveway conforms. All necessary right-of-entry authorizations will be secured prior to the start of construction.

After the project is awarded, staff will send notification letters to all affected residents regarding the project schedule.

COMPLETE STREETS

This project considers all users of the public right-of-way in addition to motorists. The existing accommodations such as sidewalk and street lighting will be maintained. This project will construct new curb ramps, bring existing ramps into compliance with ADA, and restripe existing crosswalks. These measures are consistent with the City's adopted Complete Streets Policy, where consideration is to be given to all users of the street, in addition to vehicular traffic.

SCHEDULE

Open Bids	March 3, 2015
Award Contract	April 7, 2015
Begin Work	May 4, 2015
Complete Work	June 19, 2015

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works – Engineering and Transportation

Approved by:



Frances David, City Manager

Attachments:

- Attachment I: Resolution
- Attachment II: Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-_____

Introduced by Council Member _____

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE NEW SIDEWALKS FY15 – LAUREL AVENUE PROJECT, PROJECT NO. 05269 AND CALL FOR BIDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A JOINT AGREEMENT WITH THE COUNTY OF ALAMEDA

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

WHEREAS, those certain plans and specifications for the New Sidewalks FY15 – Laurel Avenue Project, Project No. 05269, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project; and

WHEREAS, the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law; and

WHEREAS, sealed bids therefor will be received by the City Clerk’s office at City Hall, 777 B Street, 4th Floor, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday, March 3, 2015, and immediately thereafter publicly opened and declared by the City Clerk in the Public Works Conference Room, 4D, located on the 4th Floor of City Hall, Hayward, California.

NOW, THEREFORE, BE IT RESOLVED, that the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the project is categorically exempt under section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute a joint co-operation agreement with the County of Alameda for construction of new curb, gutter, and sidewalk within County right-of-way, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

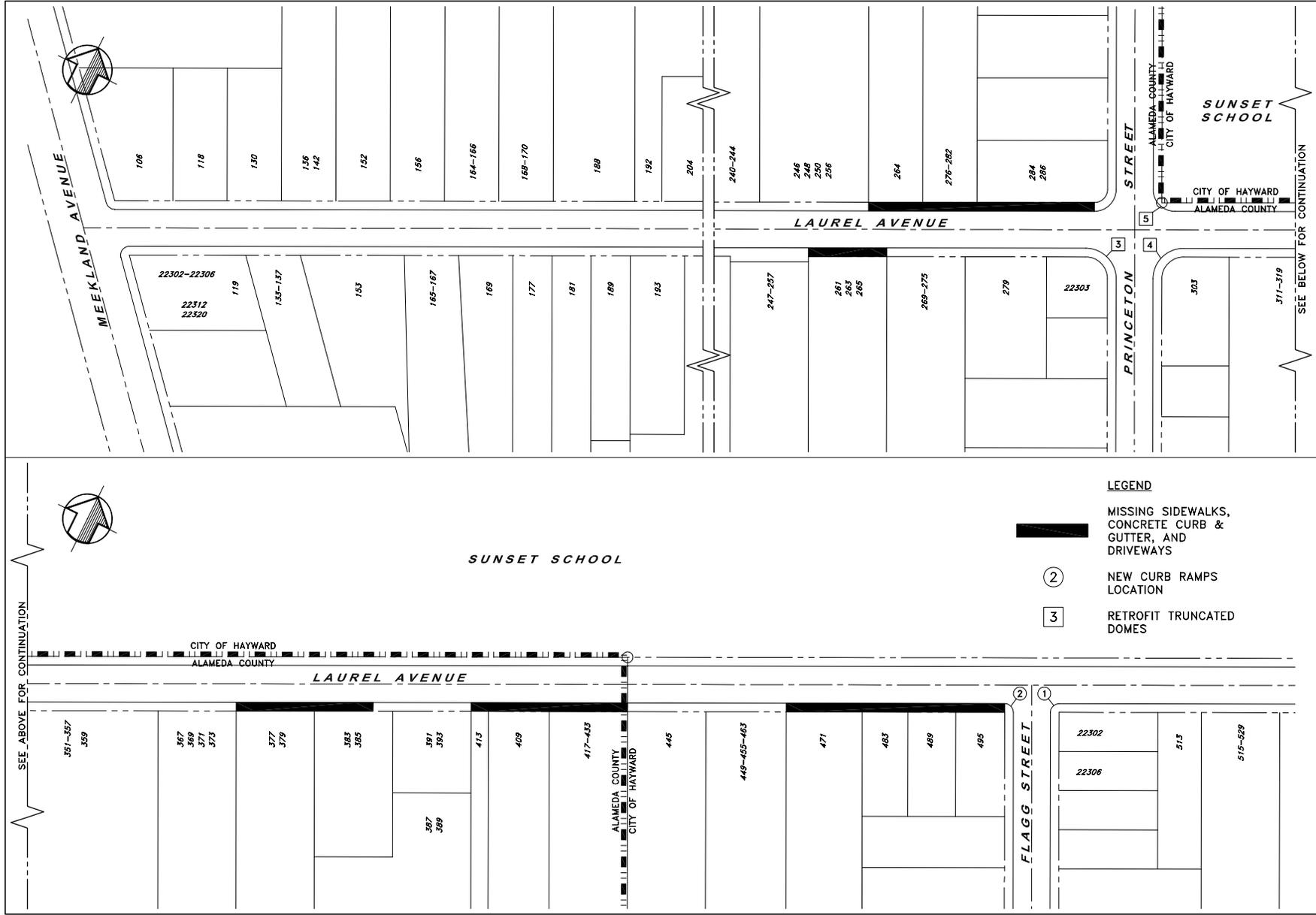
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward





DATE: February 3, 2015

TO: Mayor and City Council

FROM: Development Services Director
Maintenance Services Director
Public Works – Engineering and Transportation Director

SUBJECT: Resolution Appropriating Funds and Authorizing the City Manager to Execute an Agreement for up to \$85,000 with Francisco & Associates to Provide Engineering and Administration Services Related to FY2016 Assessments for the City’s Consolidated Landscape and Lighting District and Two Maintenance Districts, and Work Related to a Proposition 218 Election to Increase Assessments for Maintenance District 1

RECOMMENDATION

That Council approves the attached resolution appropriating funds and authorizing the City Manager to execute an agreement for up to \$85,000 with Francisco & Associates (Attachment I).

BACKGROUND AND DISCUSSION

Since 2001, the City of Hayward has contracted with Francisco & Associates to provide accounting and special district fund forecasting services for the City’s Consolidated Landscape and Lighting District No. 96-1, Zones 1 through 13 (LLD), and for two Maintenance Districts (MD1 and MD2). Francisco & Associates also provided additional consultant services last year to assist staff in the preparation of reports and recommendations to the Council and to conduct public meetings regarding the proposed annual assessments. In 2006, Francisco & Associates supported staff to conduct a Proposition 218 election for LLD Zone 3 (passed) and MD1 (failed).

Francisco & Associates is again recommended to provide engineering/accounting services in the same capacity it has provided in the past (generally Phase I and II work identified in the attached scope of work, Attachment II). Similar to last year, the proposed scope of work also includes some tasks traditionally performed by the City’s staff and the Development Review Engineer in the Planning Division (primarily Phase III in the attached scope) to free up time for the Development Review Engineer to focus on several complex development projects submitted recently. Draft reports and documents provided by Francisco & Associates will be reviewed by the Development Services, Public Works, and Maintenance Services departments’ staffs.

The attached scope of work allows for completion of all outreach to homeowners associations, and coordination with the City Maintenance Services Department, Hayward Area Recreation and Park District (HARD), and Alameda County Flood Control District staffs, so that the assessment levels

for FY 2016 can be accurately calculated and incorporated into engineer's reports to Council. Consistent with previous years, staff will return with engineer's reports and a separate action to conduct public hearings and for Council to levy assessments for Fiscal Year 2016.

Task No. 10 of Phase III relates to holding a Proposition 218 election related to increasing assessments for MD1 this summer for FY2016 assessments. MD1 was formed to fund the operation and maintenance of a storm drain pumping station that serves the 174 residences and park site in Stratford Village. When it was formed in 1995, it did not include an inflation factor to allow assessments to be increased. As the cost for maintaining facilities in MD1 has increased, and even with augmenting limited funds from associated LLD Zone 4 funds, additional funding is needed.

Staff and its consultant have been working with the Alameda County Flood Control District staff on a capital replacement fund amount and analysis associated with the pump station in order to provide a 100-year flood protection for properties within the MD1 boundary. This task must be completed to establish an appropriate assessment amount before staff asks Council for approval to conduct an assessment election to increase the assessment amount. Staff will provide to property owners and residents informational letters, handouts and brochures related to the need and justification for the assessment increase, a critical component to this task. A

ditionally, staff is working with the Alameda County Flood Control District staff to have a noticed public meeting/open house at the pump station on a Saturday morning in early April to show residents the facilities and explain the need for additional revenues to adequately maintain and, if necessary, replace the pump facilities. Also, another meeting in late April or early May will be noticed and held on a weekday evening.

FISCAL IMPACT

Consistent with past practice, the costs for outside consultant and City staff work will be paid by assessments from all districts. This contract amount will similarly not involve General Fund revenues and be fully funded by the assessments from the various districts.

NEXT STEPS

Should the Council approve the attached resolution, staff will work with Francisco & Associates to execute an agreement so that work may commence as stipulated in the contract.

Prepared by: John P. Nguyen, P.E., Development Review Engineer
Recommended by: David Rizk, AICP, Development Services Director
Todd Rullman, Maintenance Services Director

Approved by:



Fran David
City Manager

Attachments:

Attachment I	Resolution
Attachment II	Francisco & Associates Scope of Work

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-_____

Introduced by Council Member _____

RESOLUTION APPROPRIATING FUNDS AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR UP TO \$85,000 WITH FRANCISCO & ASSOCIATES TO PROVIDE ENGINEERING AND ADMINISTRATION SERVICES RELATED TO FY2016 ASSESSMENTS FOR THE CITY'S CONSOLIDATED LANDSCAPE AND LIGHTING DISTRICT AND TWO MAINTENANCE DISTRICTS, AND WORK RELATED TO A PROPOSITION 218 ELECTION TO INCREASE ASSESSMENTS FOR MAINTENANCE DISTRICT 1

WHEREAS, the City of Hayward has contracted with Francisco & Associates to provide accounting and special district fund forecasting services for the City's Consolidated Landscape and Lighting District No. 96-1, Zone 1 through 13 (LLD) and for two Maintenance Districts (MD1 and MD2) since 2001; and

WHEREAS, the firm of Francisco & Associates has been selected to continue to provide the aforementioned services to the City to assist with preparation of the Engineer's Report and Assessment Proposals for the City's Consolidated Landscape and Lighting Districts and two Maintenance Districts; and

WHEREAS, Francisco & Associates has agreed to provide additional services previously performed by the Development Review Engineer as additional services in its contract; and

WHEREAS, Francisco & Associates has also agreed to conduct a Proposition 218 election to increase assessments for Maintenance District No. 1, as additional services in its contract.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized and directed to execute a professional services agreement with Francisco & Associates, in an amount not to exceed \$85,000, in a form to be approved by the City Attorney;

BE IT FURTHER RESOLVED, that \$85,000 is appropriated for Fiscal Year 2016 special district accounting and fund forecasting services and specified additional services to be provided by Francisco & Associates.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



January 13, 2015

John Nguyen
Department of Development Services
City of Hayward
777 B Street
Hayward, CA 94541-5007

Subject: Proposal to Administer the City of Hayward's Landscape & Lighting Assessment District No. 96-1, Maintenance District No. 1 and Maintenance District No. 2 for FY 2015-16

Dear John:

Please find enclosed our proposal to administer the City of Hayward's Landscape & Lighting Assessment District No. 96-1, Maintenance District No. 1 and Maintenance District No. 2 for FY 2015-16. The proposed services will include; analysis of the annual budgets, preparation of the Engineer's Reports, attendance at project team meetings/Council meetings, placement of assessments on the Alameda County secured property tax roll and assistance with property owner phone calls. In addition we have included an Additional Services section to assist with staff augmentation. The scope of services will consist of:

SCOPE OF SERVICES

The scope of work has been broken down into three (3) phases. Phase I will consist of all work associated with the development of the assessment databases, preparation of the assessment diagrams and Engineer's Reports and attendance at the City Council Public Hearing. Phase II will consist of all work associated with placement of assessments on the property tax rolls and assistance with property owner inquiries. Phase III will consist of additional services if the City wants assistance with Staff Augmentation. Below is a detailed listing of the tasks associated with each Phase.

PHASE I - PREPARATION OF THE ENGINEER'S REPORTS

Francisco & Associates, Inc. will prepare the ensuing year's Engineer's Reports for the Landscaping & Lighting District No. 96-1, Maintenance District No. 1 and Maintenance District No. 2. The reports will include; a description of improvements, the annual budget for each Benefit Zone, the benefit spread methodology, assessment district diagrams detailing each Benefit Zone and a listing of each parcel's assessment within each Benefit Zone. The specific tasks to complete the Engineer's Reports are as follows:

130 Market Place, Suite 160 ~ San Ramon, CA 94583
(925) 867-3400 ~ fax (925) 867-3415

Task 1 - Project Kickoff Meeting

Meet with City staff to review scope of work, project schedule, any changes to the proposed assessment districts from the previous year and review all tasks required for the annual renewal of the assessment districts. Identify if there were any annexations or de-annexations to the assessment districts which may affect revenues. Identify if there has been any changes in the number and types of improvements that the City is maintaining for the ensuing year.

Task 2 - Collect Available Data

Collect available data from the County Assessor's and County Auditor's office, that is pertinent to the annual administration of the assessment districts, including land use information, building permit information, and Assessor parcel maps. The ensuing year's data would include the secured closed property tax roll from the County, the proposed budgets by Benefit Zone and annexation/de-annexation information for each Benefit Zone from City staff.

Task 3 – Update Parcel Databases

Update the parcel databases to include the most current parcel information such as: property owner name, mailing address, situs address, use code, benefit zone, acreage, units, and any other pertinent parcel attributes that are needed to calculate assessments.

Task 4 - Prepare Updated Assessment Diagrams

Prepare the updated Assessment Diagrams identifying each Benefit Zone in both hard and electronic format. This includes updating the assessment diagrams to include all parcels that have either annexed or de-annexed into each Benefit Zone from the prior year.

Task 5 – Development of Assessment Districts Budgets

Assist with the establishment of expenditure and revenue estimates for each Benefit Zone for the ensuing fiscal year. These estimates will be based upon, but not limited to, maintenance contract costs, utility costs, capital improvement costs, incidental costs (engineering, legal, administration, etc.). Assist with calculating projected Fiscal Year ending fund balances for the ensuing Fiscal Year. Review calculations with City staff prior to the preparation of the Preliminary Engineer's Reports.

Task 6 – Project Team Meetings/Assessment Analysis

Meet with City staff as necessary to address issues pertaining to budgets, improvements, statute requirements and benefits received. Provide analysis of any increase and/or decrease in assessments, as well as contributions to be made from other funding sources. Review mailed and published legal notices and establish dates for public meetings and public hearings, if required. Verify scheduling, and other issues related to continued successful operation of the assessment districts.

Task 7 - Draft Preliminary Engineer's Reports

Based upon the information received at the project kick-off meeting and other team meetings, prepare the Draft Preliminary Engineer's Reports in both hard and electronic formats. The Draft Preliminary Engineer's Reports will include a description of improvements, the ensuing year's maintenance budget for each Benefit Zone, the benefit spread methodology, Assessment Diagram identifying each Benefit Zone and a listing of individual assessments for the ensuing year. In addition, coordinate with City staff to ensure all tasks are completed for the increasing of assessments, where necessary, including incorporating CPI increases.

Task 8 – Submit the Draft Preliminary Engineer's Reports to City Staff

Submit the Draft Preliminary Engineer's Reports to City staff for review and comment.

Task 9 – Preliminary Engineer's Reports

Based upon the comments received from the City staff on the Draft Preliminary Engineer's Reports, prepare the Final Preliminary Engineer's Reports in both hard and electronic formats and submit to City staff for City Council approval.

Task 10 – Final Engineer's Reports

Based upon the comments received from the City staff and City Council at the City Council meeting, prepare the Final Engineer's Reports and Assessment Diagrams in both hard and electronic formats and submit to the City for City Council approval.

Task II - Public Hearing

Attend the Public Hearing regarding the approval of the Final Engineer's Reports and adoption of the Resolution Authorizing the Levy of Assessments.

Task 12 - Filing of Engineer's Reports, Assessment Diagram and Resolution Authorizing the Levy of Assessments

In accordance with the County's annual submittal requirements, file the Engineer's Reports, Assessment Diagram and Resolution Authorizing the Levy of Assessments with the County Auditor's office.

PHASE II – AUDITOR'S REPORTS AND PROPERTY OWNER ASSISTANCE

Following the Public Hearings, Francisco & Associates will complete the tasks needed to place the ensuing year's assessments on the County's secured property tax roll. Phase II will consist of all work associated with preparation of the Auditor's Reports and Property Owner Assistance.

Task 1 – Auditor's Reports

Francisco & Associates will prepare the annual Auditor's Reports in County approved hard and electronic formats. If there are any rejected parcels resulting from the first submittal we will research them and resubmit to the County to ensure that the City receives all of the assessment revenue they are entitled to.

Task 2 – Final Assessment Roll

Francisco & Associates will provide the City with Final Assessment Rolls in hard copy format (2 copies) and electronic format for their records.

Task 3 - Property Owner Assistance

Francisco & Associates will provide property owner assistance, which will involve researching property owner questions, providing written responses to their questions, if necessary, and coordinating any changes with the County Auditor's office.

PHASE III – ADDITIONAL SERVICES

If requested by the City, Francisco & Associates, Inc. will provide the following services on a time and materials basis or for an agreed upon lump sum fee.

Task 1 –Developer/HOA Budget Meetings

Meet with Developers and/or Board Members of the following Homeowner Associations to review and discuss prior year's revenues and expenditures and to develop the ensuing year's annual maintenance budgets and capital replacement budgets for FY 2015-16. For new developments, identify new improvements which will be turned over to the City for maintenance in the ensuing fiscal year. Coordinate with Finance Department to ensure HOA invoices are paid.

- a. Prominence
- b. Twin Bridges
- c. Eden Shores
- d. Stonebrae Country Club
- e. Cannery Place

Task No. 2 - Property Owner Meeting Notices

Obtain the current property owner mailing information from Alameda County for all property owners located within the LLAD, MD No. 1 and MD No. 2. Prepare a mailing list in Microsoft Excel format and remove all non-assessed parcels and duplicate mailing addresses. Provide the Microsoft excel file to City print and Mail for preparation and mailing of public meeting notices. Coordinate with City Print & Mail to ensure all notices are mailed to each property owner in sufficient time prior to the property owner meeting.

Task No. 3 – Property Owner Meetings

With coordination from City staff, conduct property owner meetings to solicit input from property owners regarding their issues/concerns about the maintenance of their landscape improvements. Pertinent information obtained at these meetings will be included in the staff reports when the Public Hearings are conducted.

Task No. 4 – Preparation of Staff Reports and Resolutions

Prepares the three (3) DRAFT staff reports and associated DRAFT resolutions for the following City Council actions. Coordinate with City staff to incorporate comments/changes to these documents before finalizing them.

- a) Resolution of Initiation;
- b) Resolution of Intention; and
- c) Public Hearing

Task No. 5 – City Clerk Coordination

Coordinate with the City Clerk to agendaize each City Council meeting and review and comment on the Draft legal notices that will be published by the City Clerk.

Task No. 6 – County of Alameda Coordination

Coordinate with the County of Alameda Public Works Department to review and comment on their annual budget and invoices for Maintenance District No. 1. Coordinate with Finance Department to ensure Alameda County invoices are paid.

Task No. 7 - Hayward Area Recreation & Park District Coordination

Coordinate with the Hayward Area Recreation and Park District regarding the development of their annual budget and invoices for park maintenance. Coordinate with Finance Department to ensure Hayward Area Recreation & Park District invoices are paid.

Task No. 8 – Public Hearing Notices

Obtain the current property owner mailing information from Alameda County for all property owners located within the LLAD, MD No. 1 and MD No. 2. Prepare a mailing list in Microsoft Excel format and remove all non-assessed parcels and duplicate mailing addresses. Provide the Microsoft excel file to City print and Mail for preparation and mailing of public hearing notices. Coordinate with City Print & Mail to ensure all notices are mailed to each property owner in sufficient time prior to the property owner meeting.

Task No. 9 – Power Point Presentations

Prepare three (3) DRAFT power point presentations for Landscaping & Lighting District No. 96-1, Maintenance District No. 1 and Maintenance District No. 2. The power point presentations will be used by the City's Development Review Engineer during their Public Hearing presentation. Based on comments received by City staff, make the appropriate changes to the power point presentation before finalizing.

Task No. 10 – Assessment Increase – Conduct Proposition 218 Election

Assist with conducting a Proposition 218 election for Maintenance District No. 1. This will include property owner meetings to disseminate information on the need for the assessment increase, preparation and mailing of informational materials, notices and ballots to each property owner, tabulation of assessment ballots, coordination with legal counsel, and attendance at City Council meetings.

Task 10-1 – Develop updated Property Owner Meeting Database – (Meetings No. 1 & 2)

Coordinate with the County to obtain the most current property owner database and update the property owner names and mailing address information for the parcels located within Maintenance District No. 1.

Task 10-2 –Mail Merge and Duplicate 175 Property Owner Meeting Letters and Envelopes – (Meetings No. 1 & 2)

Develop an educational outreach letters for the property owners explaining the need for the assessment increase. Mail merge and duplicate 175 property owner meeting letters and envelopes. The outgoing envelopes will be white No. 10 windowed envelopes with the City's

logo and return address. The property owner letter will contain information associated with the need for the proposed assessment increase.

Task 10-3 –Property Owner Meeting – (Meetings No. 1 and 2)

Attend a property owner meeting and be available to answer any questions. It is envisioned at this meeting City and Alameda County staff will provide function, performance, conditions of the pump station and the needs for assessment increase for maintaining the pump station. Francisco & Associates will be available to answer any questions regarding the assessment amount and balloting process.

Task 10-4 – Develop updated Notice and Ballot Database

Coordinate with the County to obtain the most current property owner database and update the property owner names and mailing address information for the parcels located within Maintenance District No. 1.

Task 10-5 –Mail Merge and Duplicate 175 Notices, Ballots, Outgoing Envelopes and Return Envelopes

Develop updated educational outreach letters for the property owners explaining the need for the assessment increase. Mail merge and duplicate 175 notices, ballots, outgoing and incoming envelopes. The outgoing envelopes will be white No. 10 windowed envelopes with the City's logo, return address, stamp and statement that the envelopes contains an assessment ballot inside. The No. 9 return envelopes will be a light pastel color and contain the City's logo and return address on them along with a prepaid postage stamp. The notice will contain the required information associated with the proposed assessment increase and the ballot will be colored card stock.

Task 10-6 – Mailing of Notices and Ballots

Fold, stuff, apply postage to outgoing and incoming envelopes and deliver approximately 175 notices and ballots to the Post Office to ensure they are delivered by the legal deadline. The ballots will be mailed no less than 45 days prior to the public hearing.

Task 10-7 – Duplicate Notices and Ballots

If requested by City staff or the property owner, Francisco & Associates will prepare and mail duplicate notices and ballots in the event they are lost, misplaced, or if the property owner wishes to change their vote, etc. These ballots will be printed on a different colored card stock than the original ballots to ensure ballots are not counted twice.

Task 10-8 – Tabulation of Ballots

After the close of the Public Hearing, open, sort, and tabulate all returned ballots and prepare the ballot tabulation report. The tabulation reports shall include, but are not limited to; the number of returned ballot votes in favor of the assessment increase, number of ballot votes opposed to the assessment increase, number ballot votes considered invalid, and number of ballots not returned.

Tentative Proposition 218 Schedule

Finalize MD No. 1 Assessment Rate Increase	February 28, 2015
Mail Property Owner Letters	March 19, 2015
Property Owner Meeting No. 1 (at Pump Station to be confirmed)	April 11, 2015
Mail Property Owner Letters	April 15, 2015
Property Owner Meeting No. 2 (location to be determined)	April 29, 2015
City Council Meeting - Resolution of Intention	May 19, 2015
Mail Notices and Ballots	May 22, 2015
Public Hearing	July 7, 2015

Task No. 11 – Additional Services Not Listed Above (Contingencies)

With approval from City staff provide additional services not listed above.

FEE SCHEDULE

The following is a listing of our lump sum fee schedule by Phase.

PHASE I - Preparation of the Engineer's Reports	\$ 20,995 (Lump Sum)
PHASE II - Auditor's Report/Property Owner Assistance	\$ 3,975 (Lump Sum)
PHASE III - Additional Services	\$60,000 (T&M)

The lump sum fee for Phase I and Phase II is broken down by Benefit Zone as shown below:

Zone 1 – Huntwood Avenue & Panjon Street	\$855/yr.
Zone 2 – Harder Road & Mocine Avenue	\$855/yr.
Zone 3 – Hayward Boulevard & Fairview Avenue	\$2,590/yr.
Zone 4 – Pacheco Way, Stratford Road, Ruus Lane, Ward Creek	\$855/yr.
Zone 5 – Soto Road & Plum Tree Street	\$855/yr.
Zone 6 – Peppertree Park	\$855/yr.
Zone 7 – Mission Boulevard, Industrial Parkway, Arrowhead Way	\$2,590/yr.
Zone 8 – Capitola Street	\$855/yr.
Zone 9 – Orchard Avenue	\$855/yr.
Zone 10 – Eden Shores	\$2,590/yr.
Zone 11 – Stonebrae Country Club	\$2,590/yr.
Zone 12 – Eden Shores East	\$2,590/yr.
Zone 13 – Cannery Place	\$2,590/yr.
Maintenance District No. 1	\$855/yr.
Maintenance District No. 2	\$2,590/yr.

The estimated T&M fee for each Task is shown below:

Task No. 1 – Developer/HOA Budget Meetings	\$5,800
Task No. 2 – Property Owner Meeting Notices	\$6,000
Task No. 3 – Property Owner Meetings	\$2,320
Task No. 4 – Preparation of Staff Reports and Resolutions	\$6,960
Task No. 5 – City Clerk Coordination	\$ 435
Task No. 6 – County of Alameda Coordination	\$2,320
Task No. 7 – HARD Coordination	\$2,320
Task No. 8 – Public Hearing Notices	\$6,000
Task No. 9 – Power Point Presentations	\$660
Task No. 10 – Conduct Proposition 218 Election	\$15,000 ¹
Task No. 11 – Additional Services (Contingencies)	<u>\$12,185</u>
Total	\$60,000

¹ These fees are estimated. Fees could increase based upon the number of property owner meetings, format of information mailers and number of mailings. Contingency funds would be used if actual costs are higher.

Francisco & Associates, Inc. will invoice the City for Phase III and a time and materials basis per the hourly fees shown below.

Employee Classification	Hourly Rate
Principal Engineer	\$145 /Hour
Project Manager	\$145 /Hour
Project Engineer	\$125 /Hour
Associate Engineer	\$100 /Hour
Senior Financial Analyst	\$95 /Hour
Financial Analyst	\$80 /Hour
CADD/GIS Operator	\$80 /Hour
Clerical	\$55 /Hour

Reimbursable items such as mailing services (e.g. property owner postcard mailing), postage, mileage, county assessor data, will be billed at cost plus 15%, Mileage will be invoiced at \$0.56/mile.

TERMS

Francisco & Associates will invoice the City on a monthly basis for services performed during the previous month. The City will pay undisputed invoices within 30 days of receipt of invoice.

If you have any questions regarding the proposal please contact me at (925) 867-3400.

Sincerely,
FRANCISCO & ASSOCIATES, INC.



Joseph A. Francisco, P.E.
Principal

Enclosure

DATE: February 3, 2015

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT: Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System (CalPERS) for Calendar Year 2015 Pursuant to California Government Code Section 22892 of the Public Employees Medical and Hospital Care Act

RECOMMENDATION

That the City Council adopts the attached resolution authorizing the implementation of the mandatory minimum employer contributions to active and retiree medical premiums for calendar year 2015.

BACKGROUND

The City contracts with CalPERS to provide competitive health benefits to its active and retired employees. California Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA) establishes the minimum employer health contribution. As of January 1, 2009, the employer contribution is adjusted annually by the CalPERS Board to reflect any change in the Medical Care Component of the Consumer Price Index, rounded to the nearest dollar. The table below shows the minimum employer contribution required by CalPERS for the last five years, and the 2015 rate:

Calendar Year	Employer Contribution
2010	\$105.00
2011	\$108.00
2012	\$112.00
2013	\$115.00
2014	\$119.00
2015	\$122.00

DISCUSSION

This action is necessary to meet the requirement that the governing body adopt a resolution agreeing to the minimum contribution amount established by CalPERS. The City currently contributes to medical premiums in accordance with the terms of the existing agreements between each of the bargaining units, based on the health plan and family status the employee elects and for which they are eligible. For both retirees and active employees, the total amount the City contributes towards medical benefit premiums meets (and in some cases, exceeds) the statutory minimum contribution required by CalPERS.

FISCAL AND ECONOMIC IMPACT

This action is for administrative purposes only. There is no fiscal or economic impact associated with this report because the City's current contribution toward employee medical premiums as provided for in applicable Memoranda of Understanding has already been established and this action does not provide an increase to the current total City contribution towards medical premiums.

Prepared and Recommended by:

Nina S. Collins, Director of Human Resources

Approved by:



Fran David, City Manager

Attachment I: Resolution Establishing the City Contribution for Active and Retiree Medical Premiums for CY 2015

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AGREEING TO MEET THE MINIMUM EMPLOYER CONTRIBUTION TOWARD MEDICAL COST AS SET BY CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM ONE HUNDRED TWENTY TWO DOLLARS (\$122) PER MONTH FOR CALENDAR YEAR 2015

WHEREAS, the City of Hayward contracts with California Public Employees' Retirement System ("CalPERS") to provide medical coverage for its employees and their eligible dependants and to qualified retirees; and

WHEREAS, Government Code 22892 of the Public Employees Health and Medical Care Act (PEHMCA) provides that a local agency contracting under the Public Employees' Medical must annually adopt a Resolution agreeing to the minimum contribution amount established by CalPERS; and

WHEREAS, the California Public Employees Retirement System Board adjusts the minimum contribution rate annually based on changes to the Consumer Price Index.

NOW, THEREFORE, BE IT RESOLVED, that that effective January 1, 2015, the employer's contribution towards the cost of employee and retiree cost of health benefits shall be a minimum of one hundred twenty two dollars (\$122) per month as required by CALPERS.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



DATE: February 3, 2015

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Community Facilities District (CFD) Formation

RECOMMENDATION

No action required. Staff is requesting that the City Council reviews and comments on this report.

BACKGROUND

The Mello-Roos Community Facilities Act of 1982

The reduction in property tax revenue that resulted from the passage of Proposition 13 in 1978 required public agencies and real estate developers to look for other means to replace that lost revenue and to fund the increasing cost of public services and infrastructure. The funding available from traditional assessment districts was limited by certain requirements of the assessment acts, and it became clear that a more flexible funding tool was needed. In response, the California State Legislature (the “Legislature”) approved the Mello-Roos Community Facilities Act of 1982 (the “Act”), which provides for the levy of a special tax within a defined geographic area if such a levy is approved by two-thirds of the qualified electors within the area based on the City demonstrating a clear benefit to those paying the levy. Community facilities districts can generate funding for a broad range of services and facilities, and special taxes can be allocated to property in any reasonable manner other than on an ad valorem basis (a tax based on the value of the property).

In addition to funding specified services, a community facilities district (CFD) is authorized to issue tax-exempt bonds that are secured by land within the district. If a parcel does not pay the special tax, a public agency can foreclose (similar to the process for delinquent property tax) on the parcel and use the proceeds of the foreclosure sale to make the required principal and interest payments to bondholders. Because bonds issued by a community facilities district are land-secured, there is no risk to a public agency’s general fund or taxing capacity.

Existing City of Hayward Community Facilities Districts

The City currently has two Community Facilities Districts.

1. Eden Shores (CFD #1) was formed in July 2009 and contains 274 taxed parcels. It is located in the southwestern portion of the City and encompasses a 119-acre site that is part of a larger development known as the Eden Shores Business Park. The tax supports the debt service for an original bonded indebtedness of \$9.965 million to finance various backbone infrastructure and related improvements, including a number of public street improvements,

including traffic signals, and various sanitary sewer and storm facilities. Construction of the facilities and public improvements funded through the Bond proceeds is now complete and debt service is paid through the special tax.

2. Cannery Place (CFD #2) was formed in May 2009 and contains 540 taxed parcels. Unlike CFD #1, CFD #2 was formed to levy a special tax to fund public safety services for its residents. No bonded debt was issued. CFD#2 is located in the City's downtown former redevelopment area and is part of the Cannery Place project area.

As part of the formation process with CFD #1 and CFD #2 and pursuant to State Government Code, the City adopted Local Goals and Policies for Community Facilities Districts (Attachment I) – now Chapter 8, Article 17 of the Hayward Municipal Code (<http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/CITY-CLERK/MUNICIPAL-CODE/LocalGoalsandPolicies.pdf>). These adopted goals and policies include language providing for a standard condition of approval in all new residential developments regarding CFDs. Currently, the City of Hayward requires a \$20,000 deposit in its Conditions of Approval for discretionary planning permits/approvals for residential developers to fund a study/fiscal analysis to determine the need for a CFD and the formation of one¹. The study would analyze any deficit between ongoing revenues generated by a project and the added cost of public safety services above existing levels. Resolution 09-049 adopted revisions to the goals and policies to add the specific language in the City's Conditions of Approval (Attachment II).

The requirement to form a CFD is based on the assumption that residential developments add more cost for services than they will generate in new revenues and taxes, thus creating a gap between revenue created and costs expended in order to serve the new development. The intent behind the City's current CFD policy is for all new residential development to mitigate any identified deficit between generated revenue and needed expenditures to provide expected levels of service; and to ensure that new development does not negatively impact existing residents in terms of public safety services. In order to accomplish this, the City considers establishing a special tax district for each development requiring discretionary approvals to provide an ongoing funding source for public safety services in future years, and has collected a \$20,000 deposit from several developers for pending projects. Pending City projects include:

1. Camden Place Mt. Eden area: Standard Pacific (144 Units) –
 - o already subject to fee of \$10,008+/unit for previous infrastructure development paid entirely the related developer
2. 808 A Street: Meta Housing (60 units)
3. Maple Court (44 units)
4. South Hayward BART: market rate and affordable development (357 units).
 - o Negotiated rate as part of the Owner Participation Agreement.
5. Cannery Place CFD#1 – authorizes two annexations:
 - o Libitzky site/Tri Pointe Homes (157 units)
 - o Residual Burbank School Site – Apricot Lane/Urban Dynamics (57 units)

¹ “The developer shall pay the costs of providing public safety services to the project should the project generate the need for additional public safety services. The developer may pay either the net present value of such costs prior to issuance of building permits, or the developer may elect to annex into a special tax district formed by the City and pay such costs in the form of an annual special tax. The developer shall post an initial deposit of \$20,000 with the City prior to submittal of improvement plans to offset the City's cost of analyzing the cost of public safety services to the property and district formation.”

Staff has commenced the required analysis regarding CFD formation for these projects. Part of the information before Council in this report is the review of a model staff has developed in conjunction with the City's consultant. This model attempts to quantify the deficit created by each new development as identified above. The calculations forming the basis of the model are based on a number of project-specific components, projected revenues generated by both property taxes and consumer-based taxes, and the projected cost of increasing public safety services above existing levels to the development.

DISCUSSION

The conceptual application of forming CFDs for all residential development projects subject to discretionary planning reviews in the City raises a number of questions and policy considerations regarding whether or not to use CFDs as a funding source for service delivery; and, if the answer is yes, whether or not to form a CFD for every project. These questions and policy considerations are posed or framed in the following presentation for Council's discussion and resulting direction to staff.

Why form a CFD?

Forming a CFD for new residential development is intended to create a taxing mechanism specifically to pay for the ongoing cost of services required by the new development – above and beyond the level of base tax revenue generated by the new development. The intent is to ensure new development does not create a deficit between the revenues it generates and the cost of service to avoid adding a financial burden on the City as a whole and ultimately diminish services to all tax payers in the City. Therefore, by law, any revenue raised through creation of a specific new CFD must be for delivery of services in excess of those that would be provided to the new development through existing service levels.

Don't property and other consumer-based taxes pay for the services required by a new development?

Historically, it has long been held that the taxes paid by new residential developments do not cover the cost of the services a City provides to property and residents in that development. More currently, new data and improved ways of assessing the total revenue potentially generated by a new residential development implies that in fact, this might not be entirely accurate. However, in making this assessment, there are many variables and assumptions.

Property Tax revenue is the largest and most direct revenue generated by new residential development – and is a good example for this discussion. In California today, there are a variety of property tax levels within any given community: pre-Proposition 13 properties, post-Proposition 13 properties, newly constructed properties, properties that have been reassessed during the recession according to State law, etc. These levels underline the fundamental challenge of the State's current property tax structure and the disproportionate impact that newer developments pay towards the costs of existing services.

- Pre-Proposition 13 properties pay lower property tax. Based on the current cost of City services (public safety in particular), these properties almost always do not cover the full cost of the services delivered to them.

- Post-Proposition 13 properties are assessed at a higher level of valuation and pay higher property taxes, which may or may not cover the full cost of service delivery
- Reassessed properties (pursuant to Proposition 8 – 1978) are those that applied for and received a lower market value assessment (resulting in lower property taxes), or are properties for which the County Assessor has directly applied a valuation reduction, due to the dramatic drop in their property values during the recent great recession. Many of these properties are being re-assessed up, but it is a much slower process to regain the previous assessed valuation (and resulting property tax revenue) levels.
- New construction has no previous base and thus usually pays the highest levels of property taxes based on current market value. If a CFD is added to new construction, those property owners will pay an even higher amount toward City services.

Why not form a CFD?

Unless structured and administered very carefully, in some instances, CFD taxes could result in one set of property owners paying higher property taxes and receiving the same level of service as those paying lower taxes. Or, if an improved level of service is offered to those paying the higher taxes, unless they actually cover the cost of that higher level of service, it could result in resources being shifted to the higher tax district and older neighborhoods receiving a lower level of service. The application of the CFD concept for uses other than infrastructure raises fundamental fairness and social equity issues about City government’s role in providing equally for the overall safety of the community, and adds to the tax inequity between neighbors.

What determines “additional level of service” and how is it measured?

The requirement of a CFD is that the district receives an added benefit – or enhanced level of services above what is normally provided as a component of basic taxes. Achieving this requirement demands extensive analysis and restructuring of City service provision. It is difficult to quantify with precision the extent to which a district actually does receive a higher level of service or to connect that to the annual CFD fees paid.

1. How do we justify “improved” service levels to new developments when pre-Proposition 13 properties (both residential and commercial) are not currently paying their proportionate share of costs for existing basic levels of service?
2. How do we “prove” that a new development to which a CFD is applied actually received increased levels of public services at any given point in time; and is it really possible to provide increased services to one area without negatively impacting another?

CFD Model – Consideration of Formation and Calculation of Tax

The tax rates for the existing CFDs (Eden Shores and Cannery) were established based on what was known at the time each was established. Eden Shores involved infrastructure improvements and was based on actual costs. Cannery was based on a calculated cost of a police service unit.

In an attempt to standardize the analysis for any new CFDs formed for services, and pursuant to the City’s Conditions of Approval for new development, staff has created a model to help determine

whether or not a new residential development requires formation of a CFD to fund public safety services. A generic version of this model is included as Attachment III. The model uses a set of assumptions to establish whether or not – or to what level – a new residential development should be taxed to support the cost of public safety services. However, the model’s assumptions, although conservative, are subject to discussion, assumption, and interpretation.

The model considers a number of variables including:

- Assumed per unit vacancy rates
- Unit type (single-family detached, single-family attached and multi-family)
- Assumed household size (persons per unit)
- City workforce and resident population
- Cost of public safety services (police and fire) as a percentage of the General Fund
- Consumer-based General Fund revenue generated by the new development that includes property tax, sales tax, utility user tax, and fines & forfeiture revenues – as a percentage of public safety costs

How does the City form a CFD?

Formation of a CFD for public safety services requires a number of critical steps that include at least two separate City Council meetings and a timeline of about 60-90 days. Below is a brief summary of some of the most critical elements of the process:

1. Adopt/update Local Goals and Policies
2. Complete CFD formation analysis (model)
3. Create & approve a boundary map
4. Adopt a Resolution of Intention to form a CFD
5. Record the boundary map
6. Prepare and file a CFD report
7. Conduct a public hearing on CFD formation – majority protest process
8. If no majority protest, adopt a Resolution of Formation and Resolution Calling Special Election
9. Election (to be held between 90-180 days from adoption of the Resolution of Formation)
10. A similar process is conducted for annexation properties

Is the cost of formation worth the annual revenue generated from the district?

The model accounts for the cost of public safety services and the proportionate revenues generated by a new residential development in order to determine the appropriate level of tax. Creating a CFD for each new development requires considerable staff and Council time and the cost of formation is approximately \$10,000 per CFD. Annual administration costs range from \$5,000 - \$10,000 per year. These costs would be built into the CFD tax so would not be additional costs to the City.

The estimated per unit annual CFD special tax would vary by development and is probably around \$50-\$300/unit depending on the variables identified above. For a fifty-unit development, this is a range of \$2,500 - \$15,000 per year in new revenue for public safety services.² This raises a number of questions:

² As a point of reference, the total annual cost of a fully equipped new police officer is approximately \$250,000.

1. Even though the formation model may indicate that a new development does not fully cover the cost of service, at what point does it make sense to establish a special tax district?
2. Even though a single CFD formation may not pay for significant new services, is the cumulative effect of multiple CFD formations and the resultant revenues beneficial to the City?
3. Is the collateral cost of increasing the costs of development (either borne by the developer or passed on to the resident) worth the annual revenue: the higher cost of the development may dissuade developers from pursuing projects and a CFD may price a Hayward development out of the market if other, similar, developments in adjoining cities do not have CFDs or other equivalent tax structures/rates.

If the City decides to form a CFD for new development, should there be a threshold for formation?

Given the cost of formation and possible level of revenues generated by CFDs, Council might wish to consider establishing a threshold for formation based on number of units; level of new revenue (e.g., greater than 150 units or annual gross revenue greater than \$50,000); or type of units. Given the cost of formation and ongoing administration, it is not advisable to form CFDs for small, in-fill developments, especially since some of those would not be subject to discretionary review (e.g., Site Plan Review, Zone Change, Tentative Tract Map, etc.). The greatest benefit from a CFD is for a larger development.

Another threshold variable Council may wish to consider is the type of development. Should CFDs be formed for affordable housing or senior housing developments? While from a policy perspective the City may want to maintain the lowest cost possible for these developments, these affordable and senior housing developments have the potential to generate the highest cost for services based on an increased level of use by the ultimate residents of these properties.

Are there rational and defensible alternatives to a CFD?

Staff has begun to investigate the possibility of other revenue-raising alternatives such as mitigation fees not already applied (e.g., traffic mitigation fees); or increasing existing mitigation fee levels (e.g., park mitigation fees). However, only new or increased mitigation fees would generate new revenue directly for the City; and these fees would be one-time payments as opposed to providing an on-going revenue stream. School impact fees would go directly to schools and not the City.

1. Are there other alternatives for generating mitigation fees that might be applied more evenly across all tax payers to help meet the rising costs of service delivery?
2. To what kinds of development should/could they be applied?
3. Would they apply to all development – both commercial and residential?

Staff Recommendations for Council's Discussion

Based on the questions outlined above, staff generally recommends the following approach moving forward:

1. That the City not form CFDs for the provision of public safety services at this time.
2. If the City decides to move forward with the formation of CFDs for the provision of public safety services, that the City forms CFDs only for those new residential projects with greater than 150 units or projected annual gross tax revenue greater than \$50,000.
3. That staff aggressively explores other options for mitigation fees or other creative approaches to help meet the rising costs of service delivery.

PUBLIC CONTACT

Staff discussed the topic with the Council Budget & Finance Committee on December 8, 2014. After a good discussion of the issues, the Committee recommended this topic be scheduled as a Work Session for full City Council discussion.

NEXT STEPS

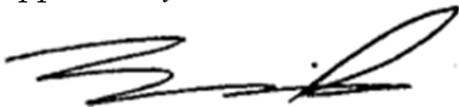
Based on the outcome of Council's discussion and direction, staff will:

1. Continue to develop an administrative structure for applying and administering CFDs for service delivery; and/or
2. Continue to develop and/or identify other possible mechanisms to generate additional revenue for the City, particularly as it relates to increased demand for public safety services created by both existing and new developments.

Prepared and Recommended by: Tracy Vesely, Director of Finance
Kelly McAdoo, Assistant City Manager

Approved by:

Approved by:



Fran David, City Manager

Attachments:

- | | |
|----------------|---|
| Attachment I | Local Goals and Policies for Community Facilities Districts |
| Attachment II | Resolution 09-049 |
| Attachment III | Proposed Hayward CFD Model |

ARTICLE 17

LOCAL GOALS AND POLICIES FOR
COMMUNITY FACILITIES DISTRICTS

Sections	Subject Matter
8-17.00	INTRODUCTION
8-17.01	GOALS
8-17.02	ELIGIBLE PUBLIC FACILITIES AND SERVICES
8-17.03	PRIORITIES FOR CFD FINANCING UNDER THE ACT
8-17.04	CREDIT QUALITY REQUIREMENTS FOR CFD BOND ISSUES
8-17.05	DISCLOSURE REQUIREMENTS FOR PROSPECTIVE PROPERTY PURCHASERS
8-17.06	EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES
8-17.07	APPRAISALS
8-17.08	ABSORPTION STUDY
8-17.09	TERMS AND CONDITIONS OF BONDS
8-17.10	CFD COST DEPOSITS AND REIMBURSEMENTS
8-17.11	CONTINUING DISCLOSURE
8-17.12	USE OF CONSULTANTS
8-17.13	EXCEPTIONS TO THESE POLICIES

ARTICLE 17

LOCAL GOALS AND POLICIES FOR
COMMUNITY FACILITIES DISTRICTS

SEC. 8-17.00 INTRODUCTION. Section 53312.7(a) of the California Government Code requires that prior to the initiation of proceedings pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act") the City of Hayward (the "City") consider and adopt local goals and policies concerning the use of the Act prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act. The following goals and policies are intended to meet the minimum requirements of the Act, and may be amended or supplemented by resolution of the City Council at any time.

SEC. 8-17.01 GOALS. Except as otherwise provided, only those public improvements that benefit not only the particular development, but also the City at large will be considered for financing. Such improvements include, but are not limited to, trunk water, sanitary and storm sewer and related facilities, bridges, major collector or "spine" streets, including related landscaping and lighting, parks, trails, and other recreational facilities, community centers, and fire stations. Unless specifically approved by the Council, whether through its approval of a development agreement or otherwise, in-tract utilities, streets, landscaping and lighting serving individual properties will not be financed in new development, nor will the acquisition of rights-of-way, lands and easements for public improvements for new development be financed.

School facilities will not be financed except under appropriate joint community facilities agreements with, or joint exercise of powers agreements created between the City and, school districts.

The City shall make the determination as to whether a proposed district shall proceed under the provisions of the California assessment laws or the Act. The City may confer with consultants and the applicant to learn of any unique CFD requirements such as facilities serving the regional area prior to making any final determination.

All City and consultant costs incurred in the evaluation of new CFD applications and the establishment of CFDs will be paid by the applicant(s) by advance deposit increments. The City shall not incur any non-reimbursable expense for processing CFDs. Expenses not chargeable to the CFD shall be borne by the applicant.

SEC. 8-17.02. ELIGIBLE PUBLIC FACILITIES AND SERVICES. The improvements eligible to be financed by a CFD must be owned by a public agency or public utility, and must have a useful life of at least five (5) years, except that up to five percent of the proceeds of an issue may be used for facilities owned and operated by a privately-owned public utility. The development or redevelopment proposed within a CFD must be consistent with the City's general plan and must have received any required legislative approvals such as zoning or specific plan approvals prior to the issuance of public debt. A CFD shall not vest any rights to future land use on any properties, including those which are responsible for paying special taxes.

The list of eligible public facilities include, but are not limited to, the types of facilities specified in Government Code section 53313, as it currently exists, or may hereafter be

amended.

The funding of public facilities to be owned and operated by public agencies other than the City shall be considered on a case-by-case basis. If the proposed financing is consistent with a public facilities financing plan approved by the City, or the proposed facilities are otherwise consistent with approved land use plans for the property, the City shall consider entering into a joint financing agreement or joint powers authority in order to finance these facilities.

The City will consider on a case-by-case basis CFDs established for the provisions of services eligible to be funded under the Act. Eligible services are as specified in the Act.

SEC. 8-17.03 PRIORITIES FOR CFD FINANCING UNDER THE ACT. Priority for CFD financing shall be given to public facilities which: (a) are necessary for economic development, or (b) are otherwise incident to an economic development project. If appropriate, the City shall prepare a public facilities financing plan as a part of the specific plan or other land use document that identifies the public facilities required to serve a project, and the type of financing to be utilized for each facility.

SEC. 8-17.04 CREDIT QUALITY REQUIREMENTS FOR CFD BOND ISSUES. All CFD bond issues should have at least a three to one property value to public lien ratio per land use category, including any overlapping special assessment or special tax liens, after calculating the value of the financed public improvements to be installed. Property value may be based on either an appraisal or on assessed values as indicated on the county assessor's tax roll. The appraiser shall be selected by the City, and the appraisal shall be based on standards promulgated by the State of California and otherwise determined applicable by City staff and consultants. The appraisal must be dated within nine months of the date the bonds are issued. The public lien amount shall include the bond issue currently being sold plus any public indebtedness secured by a lien on real property currently existing against the properties to be taxed.

Less than a three to one property value to public lien ratio, excessive tax delinquencies, or projects of poor economic viability may cause the City to disallow the sale of bonds or require credit enhancement prior to bond sale. The City may consider exceptions to the above policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement or other reasons specified by the City, and which otherwise provide extraordinary public benefits.

If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution, in a form and upon terms and conditions satisfactory to the City. Any security required to be provided by the applicant may be discharged by the City upon the opinion of a qualified appraiser, retained by the City, that a value-to-lien ratio of three to one has been attained per land use category, including any overlapping special assessment or special tax liens.

As an alternative to providing other security, the applicant may request that a portion of the bond proceeds be placed in escrow with a corporate agent in an amount sufficient to assure a value-to-lien ratio of at least three to one on the outstanding proceeds. The proceeds shall be released at such times and such amounts as may be necessary to assure a value-to-lien ratio of at least three to one per land use category, including any overlapping special assessment or special tax liens, on the aggregate outstanding bond proceeds.

SEC. 8-17.05 DISCLOSURE REQUIREMENTS FOR PROSPECTIVE

PROPERTY PURCHASERS.

- a. Disclosure Requirements for Developers. Developers who are selling lots or parcels that are within a CFD shall provide disclosure notice to prospective purchasers that complies with all of the requirements set forth in Section 53341.5 of the Government Code. The disclosure notice must be provided to prospective purchasers of property at or prior to the time the contract or deposit receipt for the purchase of property is executed. Developers shall keep an executed copy of each disclosure document as evidence that disclosure has been provided to all purchasers of property within a CFD.
- b. Disclosure Requirements for the Resale of Lots. The City Finance Department shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Civil Code. This notice shall be provided by the City within five working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

SEC. 8-17.06 EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES. Special tax formulas for CFDs shall provide for minimum special tax levels which satisfy the following expenses of a CFD: (a) 110 percent debt service coverage for all CFD bonded indebtedness, (b) the reasonable and necessary annual administrative expenses of the CFD, and (c) amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on bonds of the CFD. Additionally, the special tax formula may provide for the following: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts equal to projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, and (h) any other costs or payments permitted by law. In structuring the special tax, projected annual interest earnings on bond reserve funds may not be included as revenue for purposes of the calculation.

The special tax formula shall be reasonable and equitable in allocating public facilities' costs to parcels within the CFD. Exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

The total projected property tax levels for any CFD shall not exceed any maximum specified in the Act (the residential property criteria limits the total of all taxes and assessments to 2% of assessed value). The annual increase, if any, in the maximum special tax for any parcel shall not exceed any maximum specified in the Act. The increase in the special tax levied on any parcel as a consequence of delinquency or default by the owner of any other parcel shall not exceed any maximum specified in the Act.

Special taxes will only be levied on an entire County Assessor's parcel, and any allocation of special tax liability of a County Assessor's parcel to leasehold or possessory interest in the fee ownership of such County Assessor's parcel shall be the responsibility of the fee owner of such parcel (except where the City is the fee owner of the parcel and has leased the parcel pursuant

to a lease with a term of at least 5 years, in which case the lessee shall have the responsibility for the special tax liability) and the City shall have no responsibility therefore and has no interest therein. Failure to pay or cause to be paid any special taxes in full when due, shall subject the entire parcel to foreclosure in accordance with the Act.

The City shall retain a special tax consultant to prepare a report which: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.

SEC. 8-17.07 APPRAISALS. The definitions, standards and assumptions to be used for appraisals shall be determined by City on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California, including the Appraisal Standards for Land-Secured Financings prepared by the California Debt and Investment Advisory Commission. In any event, the value-to-lien ratio shall be determined based upon an appraisal by an independent Member Appraisal Institute ("M.A.I.") appraiser of the proposed CFD. The appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the entity requesting the establishment of the CFD through the advance deposit mechanism.

SEC. 8-17.08 ABSORPTION STUDY. An absorption study of any proposed development project shall be required for land secured financing. The absorption study shall be used A) as basis for verification that sufficient revenues can be produced; and B) to determine if the public financing of the public facilities is appropriate given the timing of the development. Additionally, the projected absorption rates will be provided to the appraiser for use in the appraisal required in Section V, above.

SEC. 8-17.09 TERMS AND CONDITIONS OF BONDS. All terms and conditions of the bonds shall be established by the City. The City will control, manage and invest all CFD issued bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or rating of the City. These security measures could include a combination of credit enhancement, foreclosure covenant, special reserve fund or deposits and/or a contractual commitment by the proponents and successors to pay the special taxes or assessments during the initial development stages of the development project. The City has the sole discretion to determine the types of credit enhancement, foreclosure covenant and reserve fund that may be required.

All statements and material related to the sale of bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City is pledged to security or repayment of the Bonds. The sole source of pledged revenues to repay CFD bonds are special taxes, bond proceeds and reserve funds held under the bond document, and the proceeds of foreclosure proceedings and additional security instruments provided at the time of bond issuance.

The City is under no obligation to issue tax-exempt debt. The ability to issue tax-exempt debt depends upon the particular facts and circumstances of each CFD. If the City, in its sole discretion determines to issue tax-exempt debt, the developer must agree to cooperate in connection with any covenants or other requirements of state and/or federal tax law that may be necessary in order for the City to issue tax-exempt debt.

SEC. 8-17.10 CFD COST DEPOSITS AND REIMBURSEMENTS. All City and consultant costs incurred in the evaluation of CFD applications and the establishment of CFDs will be paid by the entity requesting the establishment of the CFD by advance deposit increments. The amount of the initial advance deposit shall be determined by the City. The City shall not incur any non-reimbursable expenses for processing and administering CFDs. Expenses not chargeable to the CFD shall be directly borne by the applicant.

Each petition for formation of a CFD shall be accompanied by the initial deposit in the amount determined by the City to fund initial staff and consultant costs associated with CFD review and implementation. If additional funds are needed to off-set costs and expenses incurred by the City, the City shall make written demand upon the applicant for such funds. If the applicant fails to make any deposit of additional funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

The City shall not accrue or pay any interest on any portion of the deposit refunded to the applicant or the costs and expenses reimbursed to the applicant. Neither the City nor the CFD shall be required to reimburse the applicant or property owner from any funds other than the proceeds of bonds issued by the CFD.

SEC. 8-17.11 CONTINUING DISCLOSURE. Landowners owning land within any CFD, and which are responsible for ten percent (10%) or more in the aggregate of the special taxes or assessments, must agree to provide A) initial financial disclosure at the time of issuance of any bonds relating to such CFD; and B) annual financial disclosure as required under Rule 15c2-12 of the Securities Exchange Commission until the time at which the aggregate special tax of such landowner is less than 10%.

SEC. 8-17.12 USE OF CONSULTANTS. The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, financial advisors, appraiser, absorption consultant, and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

SEC. 8-17.13 EXCEPTIONS TO THESE POLICIES. The City may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special City benefits to be derived from such waiver. Such waivers only will be granted by action of the City Council.

CITY OF HAYWARD

RESOLUTION NO. 09-049

Introduced by Council Member Henson

**RESOLUTION APPROVING AMENDED AND RESTATED
LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS**

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended, being Sections 53311 and following of the California Government Code (the "Act"), and prior to the institution of any proceedings thereunder, the legislative body of a local agency must adopt goals and policies as provided in the Act; and

WHEREAS, the City Council of the City of Hayward previously approved "Local Goals and Policies for Community Facilities Districts" by Ordinance No. 01-13, entitled "An Ordinance Adding Article 17 to Chapter 8 of the Hayward Municipal Code Relating to Adopting Local Goals and Policies for the Establishment of Community Facilities Districts," adopted on October 9, 2001 (the "Existing Goals and Policies"); and

WHEREAS, the Existing Goals and Policies provide that they may be amended or supplemented by resolution of the City Council; and

WHEREAS, the City Council wishes to amend and restate the Existing Goals and Policies for the purpose of complying with the requirements of the Act and to further update the Existing Goals and Policies.

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

1. Approval. The "Amended and Restated Local Goals and Policies for Community Facilities Districts" (the "Amended Goals and Policies") on file with the City Clerk, which amend and restate the Existing Goals and Policies, are hereby found to meet the requirements of the Act and are hereby adopted by the Council for the purposes of compliance with the Act, subject to further amendment by the Council as may be required from time to time.

2. Effective Date. This resolution and the Amended Goals and Policies shall be effective from and after the date of the adoption of this resolution by the City Council.

IN COUNCIL, HAYWARD, CALIFORNIA April 21, 2009

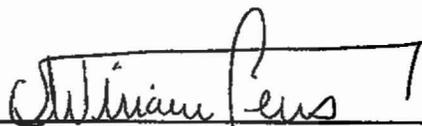
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeño, Halliday, May Dowling, Henson
MAYOR: Sweeney

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Quirk

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward

CITY OF HAYWARD

**AMENDED AND RESTATED
LOCAL GOALS AND POLICIES FOR
COMMUNITY FACILITIES DISTRICTS
AND SPECIAL TAX DISTRICTS**

I. GENERAL.

Section 53312.7(a) of the California Government Code requires that the City of Hayward (the "City") consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act") prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act.

These Amended and Restated Local Goals and Policies for Community Facilities Districts (the "Policies") amend and supercede prior Local Goals and Policies adopted by the City on October 9, 2001.

These Policies provide guidance and conditions for the conduct by the City of proceedings for, and the issuance of bonds secured by special taxes levied in, a special tax district or a community facilities district ("CFD") established under the Act or an ordinance adopted by the City in its capacity as a charter city pursuant to Section 3, 5 and 7 of Article XI of the California Constitution (an "Ordinance"). The Policies are intended to be general in nature; specific details will depend on the nature of each particular financing. The Policies are applicable to financings under the Act or an Ordinance and are intended to comply with Section 53312.7 (a) of the Government Code. These Policies shall not apply to any assessment financing or any certificate of participation or similar financings involving leases of or security in public property. The Policies are subject to amendment by the City Council at any time.

In each and every circumstance, the decision as to whether or not the City will make use of the Act or an Ordinance is a decision that will be made solely by the City. Nothing contained herein shall be construed as obligating the City to make use of the Act or an Ordinance in any circumstance or as granting to any person any right to have the City make use of the Act or an Ordinance in any circumstance.

II. FINANCING PRIORITIES.

Eligible Public Facilities. The public facilities eligible to be financed by a CFD must be owned by a public agency or public utility, and must have a useful life of at least five years, except that up to five percent of the proceeds of an issue may be used for facilities owned and operated by a privately-owned public utility. The development or redevelopment proposed within a CFD must be consistent with the City's general plan and must have received any required legislative approvals such as zoning or specific plan approvals prior to the issuance of public debt. A CFD shall not vest any rights to future land use on any properties, including those which are responsible for paying special taxes.

The list of eligible public facilities include, but are not limited to, the following:

- Cultural facilities
- Elementary and secondary school sites and facilities
- Flood control facilities
- Governmental facilities

- Landscaping on public property or in public easements
- Libraries
- Parks and recreational facilities
- Police and fire protection facilities
- Potable and reclaimed water facilities
- Public utilities
- Sanitary sewer facilities
- Storm drain facilities
- Streets and street lighting
- Traffic signals and safety lighting
- Utility relocations
- Other facilities as may be permitted pursuant to the Act or an Ordinance as it may be amended from time to time.

If appropriate, the City shall prepare a public facilities financing plan as a part of the specific plan or other land use document that identifies the public facilities required to serve a project, and the type of financing to be utilized for each facility. The City will attempt to schedule construction of CFD-financed facilities in a manner such that private development will not occur ahead of the installation of public infrastructure necessary to support that development.

Eligible Public Services. In general, the services eligible to be financed by a CFD (the "Services") are those identified in the Act or an Ordinance which are provided by the City, including:

- Fire protection and suppression services and ambulance and paramedic services
- Flood and storm protection including operation and maintenance of storm drainage systems and sandstorm protection systems
- Library services
- Maintenance and lighting of streets and roads
- Maintenance and lighting of parks, parkways and open space
- Operation and maintenance of museums and cultural facilities
- Police protection services
- Recreation program services
- Services related to removal or remedial reation for the cleanup of hazardous substance released or threatened to be released in the environment
- Other services as may be permitted pursuant to the Act or an Ordinance as it may be amended from time to time.

The City may finance services to be provided by another local agency if it determines the public convenience and necessity require it to do so, although the City prioritizes financing services to be provided by the City as described below. If appropriate, the City shall prepare a public services financing plan as a part of the specific plan or other land use document that identifies the public services required to serve a project and the source of funding for each such service.

Eligible Private Facilities. Financed improvements may be privately-owned in the specific circumstances, and subject to the conditions, set forth in the Act or an Ordinance.

Eligible Prior Debt. A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act or an Ordinance, as applicable.

Priorities for Financing. The priority that various kinds of public facilities and services will have for financing through the City's use of the Act or an Ordinance is as follows:

- (a) City services authorized to be financed pursuant to the Act or an Ordinance;
- (b) Backbone infrastructure to be owned and/or operated by the City that is required to serve proposed development and that is identified in an infrastructure master plan, specific plan or other appropriate document approved by the City as a major backbone infrastructure element;
- (c) Other public facilities to be owned and/or operated by the City for which there is a clearly demonstrated public benefit; and
- (d) Public facilities to be owned and/or operated by a public agency other than the City, including such public facilities financed *in lieu* of the payment of development fees imposed by such public agency. If the proposed financing is consistent with a public facilities financing plan approved by the City, or the proposed facilities are otherwise consistent with approved land use plans for the property, the City shall consider entering into a joint financing agreement or joint powers authority in order to finance these facilities. A joint agreement with the public agency that will own and operate any such facility must be entered into at the time specified in the Act or an Ordinance.
- (e) Fee obligations imposed by government agencies the proceeds of which fees are to be used to fund public capital improvements of the nature listed above. The City will not, generally, consider an application to finance fee obligations, but may consider such financing on a case-by-case basis.
- (f) Services provided by a public agency other than the City. If the proposed financing is consistent with a public services financing plan approved by the City, or the proposed facilities are otherwise consistent with approved land use plans for the property, the City shall consider entering into a joint financing agreement or joint powers authority in order to finance these services. A joint agreement with the public agency providing the services must be entered into at the time specified in the Act or an Ordinance.
- (g) Privately owned facilities (that is, facilities not owned by a local agency) will, generally, not be financed through the City's use of the Act or an Ordinance; provided, however, that the City may consider the financing of such facilities on a case by case basis.

In-tract infrastructure will, generally, not be financed through the City's use of the Act or an Ordinance, provided however, that the City may consider the financing of such facilities on a case by case basis.

III. BOND ISSUE CREDIT QUALITY REQUIREMENTS

The following are minimum requirements related to issuance of CFD bond issues by the City. Under extraordinary real estate or bond market conditions, the City may, at its own discretion, require more restrictive criteria or additional credit enhancement to improve credit quality.

Value-to-Public Lien Ratio. Generally, CFD bond issues should have at least a three-to-one property value to public lien ratio after calculating the value of the financed public improvements to be installed, unless otherwise specifically approved by the City Council as provided in Section 53345.8(b)

or (c) of the Act. Property value may be based on either an appraisal (as described in VI below) or on assessed values as indicated on the county assessor's tax roll. The public lien amount shall include the bond issue currently being sold plus the portion of any existing public indebtedness secured by a lien on the properties to be taxed.

Entitlement Status. The City will require all major land use approvals and governmental permits necessary for development of land in the CFD to be substantially in place before bonds may be issued.

Reserve Fund. In order to enhance the credit quality of CFD bond issues, the City generally will require that each such bond issue be secured by a reserve fund. Generally, each such reserve fund will be required to be funded with cash in an amount no less than the least of (a) 10% of the initial principal amount of the bonds of such issue, (b) maximum annual debt service on the bonds of such issue, or (c) 125% of the average annual debt service on the bonds of such issue.

Bond Structure for Owner-Occupied Residential Property. Generally, for a CFD created by a landowner vote where special taxes will be received primarily from owner-occupied residential properties, bonds for such CFD will be structured such that, once principal amortization thereof has commenced, debt service thereon will be substantially level.

Failure to Meet Credit Criteria. Less than a three-to-one property value to public lien ratio, excessive tax delinquencies, or projects of uncertain economic viability may cause the City to disallow the sale of bonds, or require additional credit enhancement prior to bond sale. The City may consider exceptions to the above policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement or other reasons specified by the City, and/or which otherwise provide extraordinary public benefits, to the extent permitted by and subject to any applicable requirements of the Act.

If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution, in a form and upon terms and conditions satisfactory to the City. Any security required to be provided by the applicant may be discharged by the City upon satisfaction of the applicable credit criteria specified by the City.

As an alternative to providing other security, and subject to federal tax law, the applicant may request that a portion of the bond proceeds be placed in escrow with a trustee or fiscal agent in an amount sufficient to assure the financing will meet the applicable credit criteria, including, but not limited to, meeting a value-to-lien ratio of at least three-to-one on the outstanding proceeds. The escrowed proceeds shall be released at such times and in such amounts as may be necessary to assure the applicable credit criteria has been met. Generally, in the event escrow bonds are issued, all interest during the escrow period shall be gross funded. Generally, an escrow bond structure for CFD bonds will not be employed unless such a structure advances an extraordinary City development or financial objective.

Suitable Investors. The City will require that bond financings be structured so that bonds are purchased and owned by suitable investors. For example, the City may require placement of bonds with a limited number of sophisticated investors, large bond denominations and/or transfer restrictions in situations where there is an insufficient value-to-lien ratio, where a substantial amount of the property within a CFD is undeveloped, where tax delinquencies are present in parcels within the CFD, and in any other situation identified by the City.

IV. DISCLOSURES

Purchasers of Property. As a minimum, any disclosures mandated by applicable state law to inform prospective purchasers of their obligations under the CFD shall apply to each CFD. In addition, there may be additional requirements mandated by the City for particular kinds of financings on a case-by-case basis. The City may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD.

Disclosure Requirements for the Resale of Lots. The City shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Act. This notice shall be provided by the City within five working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

Continuing Bond Disclosure. Landowners in a CFD that are responsible for ten percent (10%) or more of the annual special taxes must agree to provide: (i) initial disclosure at the time of issuance of any bonds; and (ii) annual disclosure as required under Rule 15c2-12 of the Securities Exchange Commission until the special tax obligation of the property owned by such owner drops below 10%.

V. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Minimum Special Tax Levels. Special tax formulas shall provide for minimum special tax levels which satisfy the following payment obligations of a CFD: (a) 110 percent gross debt service coverage for all CFD bonded indebtedness, (b) the administrative expenses of the CFD. Administrative costs of the CFD shall be prioritized ahead of all CFD bonded indebtedness. Generally, the rate and method of apportionment for CFD special taxes will be required to include a back-up tax so that changes in development within the CFD would not result in the inability to levy special taxes that would produce special tax revenues in such amounts.

In addition, the special tax formula may provide for the following to be included in the special tax levels: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts equal to projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of authorized facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, and (h) the costs of services, (i) the costs incurred to resolve or foreclose on delinquent parcels, and (i) any other costs or payments permitted by law. In structuring the special tax, projected annual interest earnings on bond reserve funds may not be included as revenue for purposes of the calculation.

Generally, the special tax rate and method of apportionment for a CFD will be structured so as to allow the prepayment by property owners of special taxes levied to finance facilities.

Reasonable Basis of Apportionment. The special tax formula shall be reasonable in allocating the CFD's payment obligations to parcels within the CFD. Exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

Aggregate Tax Burden. For Non-residential Property. The total projected non-residential property tax levels for any CFD (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding property owners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) must be reasonable, and will be considered by the City on a case-by-case basis.

For Residential Property. The total projected residential property tax levels (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding homeowners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) for any CFD (or, if a CFD has multiple improvement areas, for each improvement area and not the entire CFD) shall not exceed, at the time of CFD formation, the lesser of (i) 2.0% of the estimated sales prices of the respective homes to be constructed in the CFD (with such prices to be determined by reference to an absorption study or appraisal prepared for the CFD or such other information as the City shall determine), (ii) any maximum specified in the Act, or (iii) lesser amount as may be determined by the City on a case-by-case basis. The annual increase, if any, in the maximum special tax for any parcel shall not exceed any maximum specified in the Act. The increase in the special tax levied on any residential parcel as a consequence of delinquency or default by the owner of any other parcel shall not exceed any maximum specified in the Act.

Levy on Entire Parcels. Special taxes will only be levied on an entire county assessor's parcel, and any allocation of special tax liability of a county assessor's parcel to leasehold or possessory interest in the fee ownership of such county assessor's parcel shall be the responsibility of the fee owner of such parcel and the City shall have no responsibility therefor and has no interest therein. Failure of the owner of any county assessor's parcel to pay or cause to be paid any special taxes in full when due, shall subject the entire parcel to foreclosure in accordance with the Act.

Feasibility Analysis. The City may retain a special tax consultant and/or real estate market consultant to prepare a report or other analysis which: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.

VI. APPRAISALS

The definitions, standards and assumptions to be used for appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California, (including, but not limited to, the California Debt and Investment and Advisory Commission). The appraiser shall be selected by or otherwise acceptable to the City, and the appraisal shall be coordinated by and under the direction of, or otherwise as acceptable to, the City.

The appraisal must be dated within three months of the date the bonds are priced, unless the City Council determines a longer time is appropriate.

All costs associated with the preparation of the appraisal report shall be paid by the entity requesting the establishment of the CFD, if applicable, through the advance deposit mechanism described below.

VII. CITY PROCEEDINGS

Petition. For new development projects, a petition meeting the requirements of the applicable authorizing law will be required. The applicant is urged to obtain unanimous waivers of the election waiting period. In applying to the City for formation of a CFD, the applicant must specify any reasonably expected impediments to obtaining petitions, including from co-owners and/or lenders of record (where required). Waiver of the petition shall be made only upon showing of extraordinary hardship. For existing development, petitions are preferred, but may be waived, depending on the nature of the project and degree of public importance.

Deposits and Reimbursements. All City staff and consultant costs incurred in the evaluation of CFD applications and the establishment of the CFD will be paid by the entity, if any, requesting the establishment of the CFD by advance deposit increments. The City shall not incur any expenses for processing and administering a CFD that are not paid by the applicant or from CFD bond proceeds. In general, expenses not chargeable to the CFD shall be directly borne by the proponents of the CFD.

Generally any petition for formation of a CFD to fund Public Facilities shall be accompanied by an initial deposit in the amount not less than \$75,000 to fund initial staff and consultant costs associated with CFD review and implementation. If additional funds are needed to off-set costs and expenses incurred by the City, the City shall make written demand upon the applicant for such funds. If the applicant fails to make any deposit of additional funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

The City shall not accrue or pay any interest on any portion of the deposit refunded to any applicant or the costs and expenses reimbursed to an applicant. Neither the City nor the CFD shall be required to reimburse any applicant or property owner from any funds other than the proceeds of bonds issued by the CFD or special taxes levied in the CFD.

Representatives. The City and the applicant shall each designate a representative for each financing district proceeding. The representatives shall be responsible for coordinating the activities of their respective interests and shall be the spokespersons for each such interest. The purpose of this requirement is to avoid duplication of effort and misunderstandings from failure to communicate effectively. In the case of the City, it allows the City's consultants to report to a single official who will, in turn, communicate with other staff members.

Time Schedule. The final schedule of events for any proceeding shall be determined by the City, in consultation with its financing team and the applicant. Any changes will require approval by the appropriate City official. Time schedules will (unless specific exceptions are allowed) observe established City Council meeting schedules and agenda deadlines. To the extent possible, financings will be scheduled to allow debt service to be placed on the tax rolls with a minimum of capitalized interest.

VIII. FINANCING TERMS AND CONDITIONS OF BONDS.

No Impact On City's Credit. All terms and conditions of any CFD bonds shall be established by the City. The City will control, manage and invest all CFD issued bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or credit rating of the City through the special taxes, credit enhancements, foreclosure covenant, and reserve funds.

All statements and material related to the sale of bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City is pledged to security or repayment of the Bonds. The sole source of pledged revenues to repay CFD bonds are special taxes, bond proceeds and reserve funds held under the bond document, and the proceeds of foreclosure proceedings and additional security instruments provided at the time of bond issuance.

Finance Team Selection. The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, disclosure counsel, financial advisors, appraiser, market absorption/pricing consultant, and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

IX. EXCEPTIONS TO THESE POLICIES.

The City may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special benefits to be derived from such waiver. Such waivers only will be granted by action of the City Council.



SPECIAL TAX SUMMARY FOR NEW RESIDENTIAL DEVELOPMENT

Introduction

The City of Hayward has a policy requiring all new residential development to cover its proportional share of public safety costs and not be detrimental to existing residents. In order to facilitate the funding of future public safety services, the City will create a special tax district for each development to provide an ongoing funding source in future years. The calculation of the annual special tax will be based on a number of project-specific components including unit type (single-family detached, single-family attached, and multi-family) and projected revenue generation from property tax, sales tax, utility users tax, and fines and forfeitures.

Methodology & Assumptions

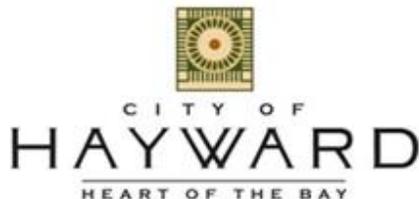
The City used 5-year averages for all data to smooth out any year-over-year anomalies.

Using the most recent California Department of Finance E-5 City/County Population and Housing Estimates for the City, new residential development has been divided into three categories with following household size and vacancy rates:

Unit Type	Household Size	Vacancy Rate
Single Family Detached	3.80	3.00%
Single Family Attached	2.90	6.00%
Multi-Family	2.50	10.00%

Annual employment data provided by the California Employment Development Department, Labor Market Information Division is used to determine the total City workforce. Based on an average of 8 hours per day within the City, 33.3% of the workforce population amount was added to the residential population to determine the total service population.

Service Population Calculation (5-Year Average)	
Workforce Population	64,320
Ratio of Workers/Resident	33%
Workforce Service Population	21,440
Resident Population	147,176
Total Service Population	168,616



Cost Calculation

The special tax calculation allocates a five-year average of police and fire costs across the total service population (assuming a certain vacancy rate based on the unit types). The projected residential population increase resulting from the development will be based on project-specific characteristics including unit sizes, bedroom counts, density and target market.

The total service population is divided by a five-year average of police/fire staffing levels to determine the service population per full-time equivalent employee ("FTE"). A five-year average of police/fire costs is then divided by the service population per FTE to determine a cost per FTE.

Based on the projected residential population increase, it was determined how many new FTEs would be required in response to the new development to maintain the historical average.

Revenue Credits

Based on a 5-year historical average, public safety makes up approximately 71.4% the City's General Fund operating budget; therefore, 71.4% of revenues generated by new development have been applied as a credit against incremental public safety costs.

PROPERTY TAXES - Property tax revenue is based on the City's share (16.0%) of Proposition 13 property tax collections and the average assessed value for each unit type.

SALES TAXES - Non-residents account for 35% of all sales tax revenue generated within the City. Using a five-year average of sales tax revenue (less the non-resident portion of 35%) and dividing by the five-year total service population average, tax revenue per capita is determined. Sales tax revenues per capita is then multiplied by the assumed household size to determine the amount of sales tax revenue generated per unit type.

UTILITY USERS TAXES - Using a five-year average of utility users tax ("UUT") revenue and dividing by the five-year total service population average, UUT revenue per capita is determined. UUT revenue per capita is then multiplied by the assumed household size to determine the amount of UUT revenue generated per unit type.

FINES AND FORFEITURES - Using a five-year average of fines and forfeitures revenue and dividing by the five-year total service population average fines and forfeitures revenue per capita is determined. Fines and forfeitures revenue per capita is then multiplied by the assumed household size to determine the amount of fines and forfeitures revenue generated per unit type.

CITY OF HAYWARD
PUBLIC SAFETY SPECIAL TAX CALCULATION

Project: Hayward Heights
Developer: Any Developer
Location: Any Place

Expenditures	
Development Mix:	
Unit Type	Unit Count
SFD	50
SFA	50
MF	100
Population Growth:	
SFD	190
SFA	145
MF	250
Total	585
Historical Service Population per FTE:	
Police	550.78
Fire	1,255.52
Additional Police FTE:	
SFD	0.34
SFA	0.26
MF	0.45
Total	1.06
Additional Fire FTE:	
SFD	0.15
SFA	0.12
MF	0.20
Total	0.47
Cost per FTE:	
Police	\$178,488.81
Fire	\$194,394.67
Cost per Unit Type:	
SFD	\$1,819.81
SFA	\$1,388.80
MF	\$1,197.24

Revenues	
Average Development Value (Assessed):	
Unit Type	Avg. Price/Value
SFD	\$650,000
SFA	\$550,000
MF	\$400,000
Single Family Detached Revenues per Unit:	
Source	Amount
Property Tax	\$1,040.00
Sales Tax	\$200.09
Utility Users Taxes	\$243.01
Fines and Forfeitures	\$39.51
Total Units:	\$1,522.61
Single Family Attached Revenues per Unit:	
Source	Amount
Property Tax	\$880.00
Sales Tax	\$152.70
Utility Users Taxes	\$185.45
Fines and Forfeitures	\$30.15
Total Units:	\$1,248.31
Multi-Family Revenues per Unit:	
Source	Amount
Property Tax	\$640.00
Sales Tax	\$131.64
Utility Users Taxes	\$159.87
Fines and Forfeitures	\$25.99
Total Units:	\$957.51
Revenue per Unit Type:	
SFD	\$1,522.61
SFA	\$1,248.31
MF	\$957.51

Per Unit Special Tax

Hayward Heights	
Unit Type	Special Tax
SFD	\$297.20
SFA	\$140.50
MF	\$239.74

Gross Annual Special Tax

Hayward Heights	
Unit Type	Special Tax
SFD	\$14,860.09
SFA	\$7,024.81
MF	\$23,973.80
Total	\$45,858.70

**City of Hayward
2014 Services Special Tax Analysis**

Project: Hayward Heights
 Developer: Any Developer
 Location: Any Place

City Share of 1%: 16.0%
 % Sales Tax Generated by Non-Residents: 35.0%
 Revenue Growth Rate: 2.00%
 Expense Growth Rate: 3.00%
 Workforce Ratio: 33.3% 8 hours per day within the City
 Public Safety's Share of General Fund Budget: 71.4%

	Single Family Detached	Single Family Attached	Multi-Family	Mobile Home	Total
Persons per Household	3.80	2.90	2.50	2.00	3.21
Units*	25,421	4,633	16,664	2,322	49,040
Vacancy Rate	3.0%	6.0%	10.0%	5.0%	
Occupied Units	24,658	4,355	14,998	2,206	46,217
Population	93,702	12,630	37,494	4,412	148,237

*Source: State of California Department of Finance E-5 City/County Population and Housing Estimates

	Unit Count	SFD/SFA Avg. Sales Price	Total Value Including Land	Estimated	
				Price per Sq.Ft.	Square Footage
SFD	50	\$650,000	\$32,500,000	\$0	0
SFA	50	\$550,000	\$27,500,000	\$0	0
MF	100	\$400,000	\$40,000,000	\$0	0
Total	200	\$100,000,000	\$67,500,000		

**City of Hayward
 Services Subsidy Analysis from New Residential Development
 Public Safety Share of Non-Property Tax Revenues**

Public Safety Share of Revenues							
Fiscal Year	2010-11	2011-12	2012-13	2013-14	<i>Projected</i> 2014-15	5-Year Average	Per Capita Revenues
Sales Tax (consumer-driven)	12,703,515	13,211,655	13,740,122	14,179,149	14,462,732	13,659,435	81.01
Utility Users Taxes	10,490,956	10,560,317	10,662,131	10,990,681	11,210,495	10,782,916	63.95
Fines and Forfeitures	1,967,355	2,106,120	2,096,869	1,284,625	1,310,318	1,753,057	10.40
Total	\$25,161,826	\$25,878,092	\$26,499,121	\$26,454,456	\$26,983,545	\$26,195,408	\$155.36

Service Population Calculation						
Workforce Population	61,800	62,700	64,700	66,200	66,200	64,320
Ratio of Workers/Resident	33%	33%	33%	33%	33%	33%
Workforce Service Population	20,600	20,900	21,567	22,067	22,067	21,440
Resident Population	143,921	145,101	146,926	148,895	151,037	147,176
Total Service Population	164,521	166,001	168,493	170,962	173,104	168,616

Incremental Revenue Verification						
Incremental Revenue	\$152.94	\$155.89	\$157.27	\$154.74	\$155.88	\$155.36
Percentage Change		1.9%	0.9%	-1.6%	0.7%	

City of Hayward
Services Subsidy Analysis from New Residential Development
Police Services

Police Service Expenses						
Fiscal Year	2010-11	2011-12	2012-13	2013-14	2014-15	5-Year Average
Total Outlay	51,737,948	53,176,969	55,700,826	55,665,509	56,931,573	54,642,565
Other						-
Grand Total	51,737,948	53,176,969	55,700,826	55,665,509	56,931,573	54,642,565

Service Population Calculation						
Workforce Population	61,800	62,700	64,700	66,200	66,200	64,320
Ratio of Workers/Resident	33%	33%	33%	33%	33%	33%
Workforce Service Population	20,600	20,900	21,567	22,067	22,067	21,440
Resident Population	143,921	145,101	146,926	148,895	151,037	147,176
Total Service Population	164,521	166,001	168,493	170,962	173,104	168,616

Police Service Cost Calculations						
Staffing Level (FTE)	317.70	303.00	303.00	303.00	304.00	306.14
Service Population per FTE	517.85	547.86	556.08	564.23	569.42	550.78
Cost per FTE	\$162,852	\$175,502	\$183,831	\$183,715	\$187,275	\$178,489
Cost per Service Population	\$314.48	\$320.34	\$330.58	\$325.60	\$328.89	\$324.07

City of Hayward
Services Subsidy Analysis from New Residential Development
Fire Services

Fire Service Expenses						
Fiscal Year	2010-11	2011-12	2012-13	2013-14	2014-15	5-Year Average
Total Outlay	24,892,934	25,720,406	26,075,745	26,047,951	27,798,983	26,107,204
Other						-
Grand Total	24,892,934	25,720,406	26,075,745	26,047,951	27,798,983	26,107,204

Service Population Calculation						
Workforce Population	61,800	62,700	64,700	66,200	66,200	64,320
Ratio of Workers/Resident	33%	33%	33%	33%	33%	33%
Workforce Service Population	20,600	20,900	21,567	22,067	22,067	21,440
Resident Population	143,921	145,101	146,926	148,895	151,037	147,176
Total Service Population	164,521	166,001	168,493	170,962	173,104	168,616

Fire Service Cost Calculations						
Staffing Level (FTE)	134.50	133.50	133.50	134.50	135.50	134.30
Service Population per FTE	1,223.20	1,243.45	1,262.12	1,271.09	1,277.52	1,255.52
Cost per FTE	\$185,078	\$192,662	\$195,324	\$193,665	\$205,159	\$194,395
Cost per Service Population	\$151.31	\$154.94	\$154.76	\$152.36	\$160.59	\$154.83

City of Hayward
Services Subsidy Analysis from New Residential Development
Calculation of Public Safety's Share of the General Fund Budget

Calculation of Public Safety's Share of the General Fund Budget

Fiscal Year	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Average
General Fund Expenditures <i>(in millions)</i>	117.559	121.143	122.510	123.467	130.154		
Public Safety Expenditures <i>(in millions)</i>	81.637	89.003	89.579	86.889	91.672		
Public Safety's Share of General Fund Budget	69.4%	73.5%	73.1%	70.4%	70.4%		71.4%

Population Data

Fiscal Year	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Resident Population*	140,720	141,495	142,642	143,921	145,101	146,926	148,895	151,037			

*Source: State of California Department of Finance E-4 Population Estimates for Cities, Counties, and State

Fiscal Year	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Employment**	65,000	65,000	62,300	61,800	62,700	64,700	66,200				

** Source: State of California Employment Development Department, Labor Market Information Division (Not Seasonally Adjusted)

Net Expenses (GF allocation net any GF revenue attributed to operations)								Revenues			General Fund Expenditures			
Police			Fire			Sales Tax								
Fiscal Year	Total Outlay	Other	Staffing Level (FTE)	Fiscal Year	Total Outlay	Other	Staffing Level (FTE)	Fiscal Year	(consumer-driven)	Utility Users Taxes	Fines and Forfeitures	Fiscal Year	General Fund Expenditures	Public Safety Expenditures
2007-08				2007-08				2007-08				2007-08		
2008-09				2008-09				2008-09				2008-09	113.330	79.467
2009-10				2009-10				2009-10				2009-10	117.559	81.637
2010-11	51,737,948		317.70	2010-11	24,892,934		134.50	2010-11	17,800,000	14,699,792	2,756,632	2010-11	121.143	89.003
2011-12	53,176,969		303.00	2011-12	25,720,406		133.50	2011-12	18,512,000	14,796,979	2,951,068	2011-12	122.510	89.579
2012-13	55,700,826		303.00	2012-13	26,075,745		133.50	2012-13	19,252,480	14,939,639	2,938,106	2012-13	123.467	86.889
2013-14	55,665,509		303.00	2013-14	26,047,951		134.50	2013-14	19,867,640	15,400,000	1,800,000	2013-14	130.154	91.672
2014-15	56,931,573		304.00	2014-15	27,798,983		135.50	2014-15				2014-15		
2015-16				2015-16				2015-16				2015-16		
2016-17				2016-17				2016-17				2016-17		
2017-18				2017-18				2017-18				2017-18		

DATE: February 3, 2015

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Legacy Eden Shores Development Agreement - Request to Amend the Development Agreement by Extending its Term for Five Years. The Project is generally located West of Hesperian Boulevard and East of Marina Drive, Between Industrial Boulevard and Eden Park Place. Steve Dunn of Legacy Partners (Applicant), Eden Shores Associates I, LLC (Owner)

RECOMMENDATION

That the City Council relies on the previously approved environmental documents, adopts the attached resolution (Attachment I), and introduces the attached ordinance (Attachment II) to amend the Legacy Eden Shores Development Agreement by extending its term for five years to September of 2019, subject to the finding, as recommended by the Planning Commission, that such amendment is consistent with the General Plan.

SUMMARY

Due to the economic recession, this request to extend the term of the existing Development Agreement for an additional five years is made to allow additional time for project completion/buildout. Specifically, Legacy Partners is requesting a second five-year extension to allow time to obtain entitlements and complete construction, which would entail buildout of the area west of the Costco store, including to the west of Marina Drive; the area zoned for neighborhood commercial south of the Costco store and north of Eden Shores Boulevard; and the residentially-zoned area south of Eden Shores Boulevard. The Planning Commission recommended that Council approves the requested extension of the Development Agreement term at its meeting of December 18, 2014.

BACKGROUND

In 1998, City Council certified a Program Environmental Impact Report (EIR) associated with the approval of the South of Route 92 General Plan Amendment, Zone Change and Specific Plan for the Oliver Estate/Weber Properties. In 1999, the Mount Eden Business and Sports Park Community Development Agreement was executed. The Development Agreement was recorded on December 13, 1999.

In November of 2005, the Specific Plan, Development Guidelines and Development Agreement were amended, as were the City's General Plan and Zoning Ordinance, to allow for residential development by Standard Pacific (Eden Shores East – Bridgeport and The Crossings communities) on approximately twenty-nine acres formerly designated for light manufacturing just east of the railroad tracks. Those developments, consisting of 139 single-family units and 122 condominiums, respectively, have been completed.

In 2006, Legacy Eden Shores, which acquired the property from Standard Pacific, expressed an interest in exploring other potential land uses for the remaining undeveloped approximately sixty acres.

In October 2007, City Council approved a General Plan amendment, Specific Plan amendment, Development Guidelines revisions, Zone Change application, Zoning Text amendment, an amendment to the Mount Eden Business and Sports Park Community Development Agreement (Development Agreement), and Partial Assignment of the Development Agreement associated with a request to build 167 units (townhouse and single-family)¹. The proposal also included providing future regional commercial, neighborhood retail, and business park-office space on undeveloped land generally located west of Hesperian Boulevard, along Marina Drive, south of Industrial Boulevard and north of Eden Park Place.

The 2007 action resulted in all of this land being zoned "Business Park," except for approximately 16.5 acres that contains the Costco store, gas station, and associated parking lot (approved on December 17, 2008); approximately 5.8 acres of undeveloped land directly south of the Costco site that is zoned "Neighborhood Commercial" (CN); and approximately 14.4 acres south of Eden Shores Boulevard and north of Eden Park Place that is zoned "Medium Density Residential" (RM). As per the Development Agreement, building permits for the residential units must be issued proportionally to the issuance of building permits for building shells in the area of land described above. To date, the only development that has occurred within such area is the Costco site, which equates to the proportional release of 58.4 percent of the area that carries a residential zoning designation.

On May 20, 2014, City Council approved a Zone Change Application and Vesting Tentative Tract Map for 118 detached single-family homes, to be constructed in two phases, to complete the residential component per the Specific Plan. Phase I of the project will consist of sixty-six of the units and represents a proportional release of residential lots (58.4%) in relation to the development of the "Costco Parcel" as per the Development Agreement. The completion of Phase II (fifty-two units) will be contingent on the issuance of building permits for the development of other portions of the Business Park/Neighborhood Commercial site.

A subsequent application was approved by staff in December 2014 to adjust the phasing line between Phase I and Phase II to address potential wetlands on the site. The applicant has submitted a Wetland Delineation to the Army Corps of Engineers for approval in order to allow construction of Phase I. No site work or construction shall occur until the wetlands have been verified by the US Army Corps of Engineers and Regional Water Quality Control Board.

¹ Please see staff report and attachments as agenda items #10a and #10b at: <http://www.ci.hayward.ca.us/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2007/rp102307-10A.pdf>

The applicant is marketing the neighborhood retail area for development, and is exploring alternatives for the land zoned Business Park.

December 18, 2014 Planning Commission Hearing: The Planning Commission heard the matter at its regular meeting on December 18, 2014² and recommended approval of the project on a 4:1:1:1 vote (one absence and one abstention) (see draft meeting minutes, Attachment III). As the minutes reflect, the Commissioners found that the amendment would be consistent with the General Plan and that it was appropriate given the specific impact of the economic downturn on the building industry. The Commissioners expressed a desire to see completion of the overall development during this next period.

DISCUSSION AND STAFF ANALYSIS

In order to approve the Development Agreement Extension, the City Council must make a finding that the provisions of the Agreement are consistent with the City of Hayward General Plan and any applicable specific plan. The Amendment does not propose new or amended provisions that modify the development authorized under the Agreement and other City approvals. Also, the General Plan land use designation for the property has not changed.

Environmental Review - The City certified the Environmental Impact Report (EIR) for the Project in 1998, and thereafter approved an Initial Study/Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and Technical Memorandum adopted on October 23, 2007. There is no substantial change proposed in the Project or in the circumstances under which the Project is being undertaken, nor is there any new information, which would require additional environmental review.

ECONOMIC IMPACT

There is no new economic impact for this recommendation.

FISCAL IMPACT

There is no new fiscal impact for this recommendation.

PUBLIC NOTICE & OUTREACH

Three hundred seventy-five notices of this public hearing were sent to all property owners and residents within a 300-foot radius of the project site on January 23, 2015 and published in *The Daily Review* newspaper on January 24, 2015. No comments were received at the time this staff report was completed.

² Please see Planning Commission staff report with attachment as agenda item #1 at: <http://www.ci.hayward.ca.us/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/PLANNING-COMMISSION/2014/PCA14PDF/pca121814full.pdf>.

NEXT STEPS

If the Development Agreement extension is approved by Council, the new Agreement with a modified term will be recorded and the construction of the approved improvements will continue in accordance with the modified development agreement.

Prepared by: Linda Ajello, AICP, Associate Planner

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David
City Manager

Attachments:

- Attachment I Draft Resolution
- Attachment II Draft Ordinance
- Attachment III Planning Commission Meeting Minutes, dated December 18, 2014

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Councilmember _____

RESOLUTION AUTHORIZING AMENDMENT OF THE MOUNT EDEN BUSINESS AND SPORTS PARK COMMUNITY DEVELOPMENT AGREEMENT RELATING TO LEGACY EDEN SHORES

WHEREAS, Legacy Partners, LLC., has requested a five-year extension of the Mount Eden Business and Sports Park Community Development Agreement Relating to Legacy Eden Shores (the Amendment to the Development Agreement) for the project now known as Legacy Eden Shores (“the Project”); and

WHEREAS, the Development Agreement provides that the term of the agreement may be extended for an additional five years upon written agreement of the parties, and the delays in the construction of the Project creating the need for the extension were caused by national and regional economic conditions; and

WHEREAS, the City Council certified the Environmental Impact Report (EIR) for the Project in 1998, and thereafter approved an Initial Study/Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program, and Technical Memorandum adopted on October 23, 2007 in conjunction with approval of a General Plan Amendment, Specific Plan Amendment, Development Guidelines revisions, Zone Change application, Zoning Text amendment, an amendment to the Mount Eden Business and Sports Park Community Development Agreement (Development Agreement), and Partial Assignment of the Development Agreement associated with the Project; and

WHEREAS, there has been no substantial change proposed in the Project or circumstances under which the Project is being undertaken, nor is there any new information, which would require additional environmental review; and

WHEREAS, on December 18, 2014, the Planning Commission found that the requested Amendment to the Development Agreement is consistent with the General Plan and recommended approval of the Amendment to the Development Agreement; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on February 3, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Hayward hereby approves the Amendment to the Development Agreement attached hereto as Exhibit A, subject to the adoption of the companion ordinance.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Exhibit A

RECORDING REQUESTED BY
CITY OF HAYWARD
AND WHEN RECORDED MAIL TO:

┌ City Clerk ┐
City of Hayward
777 "B" Street
└ Hayward CA 94541-5007 ┘

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantor hereby declares: This instrument exempt from Recording Fees (Govt. Code §27383)
and from
Documentary Transfer Tax (Rev. and Taxation Code § 11922).

This Amendment to the Mount Eden Sports Park and Community Development Agreement Relating to Legacy Eden Shores, A Portion of Oliver East Property (the "Amendment") is entered into as of February __, 2015 by and between **EDEN SHORES ASSOCIATES I, LLC.**, ("Legacy Eden Shores") and the **CITY OF HAYWARD**, a municipal corporation, organized and existing under the Hayward City Charter and laws of the State of California ("City").

RECITALS

A. On or about December 1999, the City and Duc Housing Partners, Inc. ("**Duc Housing**"), a predecessor-in-interest to Owner, entered into that certain Mount Eden Business and Sports Community Development Agreement, which was recorded December 13, 1999 as instrument number 1999443129 in the Official Records of Alameda County (herein referred to as the "**Original Development Agreement**"). This Amendment amends the Agreement.

B. Duc Housing assigned its rights under and with respect to the Original Development Agreement to Hayward Oliver Owners LLC ("**Hayward Oliver**") pursuant to an Assumption Agreement recorded October 15, 2001 as an instrument number 2001392229 in the Official Records of Alameda County.

C. On or about February 3, 2006, the Original Development Agreement was amended by Hayward Oliver and the City pursuant to that certain Amendment to Mount Eden Business Sports Park Community Development Agreement Relating to Development of Eden Shores East, a Portion of the Oliver East Property, as approved by the City Council of the City of Hayward on November 22, 2005 by Ordinance No. 15-17, and recorded February 7, 2006 as instrument number 2006048043 in the Official Records of Alameda County ("**the 2006 Amendment**") The 2006 Amendment related only to development of Eden Shores East Residential a portion of the Oliver East Property, as approved by the City for development in November, 2005.

D. The property comprising Eden Shores East Residential and subject to the 2006 Amendment was subsequently transferred to Standard Pacific Corporation. The remaining property within the Oliver East portion of the Specific Plan area was transferred by Hayward Oliver to Owner and to Eden Shores Associates II, LLC (“**Eden Shores II**”) and an Assignment and Assumption of Development Agreement relating to such transfer was recorded on May 1, 2008 as instrument number 2008146156 in the Official Records of Alameda.

E. The remaining portions of the Property were originally approved and planned for construction of Light Manufacturing, Commercial Retail and Business Park uses. Owner applied for General Plan and Specific Plan amendments and rezoning in connection with such remaining portions of the Property (as defined in the Development Agreement) in order to allow for a mix of residential office and retail development on certain parcels within the “Oliver East” portion of the Property. The Project as defined in the Development Agreement modifications authorized the mix of uses comprising the development known as Legacy Eden Shores (referred to herein as the “**Legacy Eden Shores Development**”). The legal description of the Legacy Eden Shores Development is attached hereto as Exhibit A-1 and incorporated herein by this reference.

F. On or about April 2008, Owner and the City entered into that certain Amendment to Mount Eden Business and Sports Park Community Development Agreement Relating to Development of Legacy Eden Shores, a Portion of Oliver East Property, as approved by the City Council of the City of Hayward on November 6, 2007 by Ordinance No. 07-04, which was recorded April 14, 2008 as instrument number 2008128384 in the Official Records of Alameda County (the “**2008 Amendment**”). The 2008 Amendment addressed certain modifications relating to development of Legacy Eden Shores, including authorization to extend the Agreement, which amendment extended the Agreement to September 28, 2014.

G. On or about June 30, 2009, Owner and Eden Shores II transferred approximately 16.32 acres of land within the Legacy Eden Shores Development, more particularly designated as the “Costco Parcel” to Costco Wholesale Corporation (“Costco”). In connection with the transfer of the Costco Parcel, Owner, Eden Shores II and Costco entered into that certain Partial (Costco Parcel) Assignment and Assumption of Development Agreement dated June 9, 2009 and recorded June 30, 2009 as instrument number 2009206115 in the Official Records of Alameda County.

H. On or about November 2010, Owner and the City entered into that certain Amendment to Mount Eden Business and Sports Park Community Development Agreement Relating to Development of Legacy Eden Shores, a Portion of Oliver East Property, as approved by the City Council of the City of Hayward on September 28, 2010 by Ordinance No. 10-11, which was recorded November 12, 2010 as instrument number 2010333042 in the Official Records of Alameda County (the “**2010 Amendment**”). The 2010 Amendment addressed certain modifications related to the Proportionate Release of Residential Parcels from the Building Permit Conditions. The

Original Development Agreement, as amended by the 2006 Amendment, the 2008 Amendment, the 2010 Amendment and by this Legacy Eden Shores Amendment, is hereinafter referred to as the “Development Agreement”.

I. On or about May 2014, the City approved Zone Change Application and Vesting Tentative Tract Map 8148 (“Vesting Tentative Map”) for 118 detached single-family homes, to be constructed in two phases, to complete the residential component per the Specific Plan.

J. On or about December 2014, the City approved a Minor Modification to the approved Planned Development for the 118 single-family homes to modify the phasing line between Phases I and II to address potential wetlands on the site.

K. Due to the impact of the economic recession, the project will not be fully constructed within the existing term of the Development Agreement. Thus, while the Costco site has been completed and 118 residential units have been entitled and marketing for the development of the Project is ongoing, the Project will not be completed by September 28, 2014.

L. The Amendment is being entered into by Eden Shores Associates I, LLC and the City to extend the term of the Agreement, as authorized in the Agreement and by applicable local and state law.

M. City staff has reviewed this Amendment, deemed it to be complete, and prepared a report to the Planning Commission pursuant to Chapter 10, Article 9 of the City Municipal Code. The Planning Commission adopted findings regarding the Amendment and recommended that the City Council authorize execution of the Amendment. The City Council has held a public hearing on the Amendment, and has determined that the Amendment is consistent with the City's General Plan and the Specific Plan; (ii) is in the best interests of the health, safety and general welfare of the City, its residents, and the public; (iii) is executed pursuant to, and as authorized under the Agreement and the requirements of the Development Agreement Legislation and Development Agreement Ordinance.

N. City has adopted Ordinance No. 15-_____ on February __, 2015 approving this Amendment and its execution in accordance with the provisions of the Agreement and as authorized under the Development Agreement Legislation and Development Agreement Ordinance.

O. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, Owner and City hereby agree as follows:

1. The initial term of the Agreement, as set forth in Section 7.1 of the Agreement, is hereby extended for an additional five (5) years from the date of expiration. Pursuant to this extension, the Agreement is extended to September 28, 2019.
2. Except as expressly amended herein, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to the Mount Eden Business and Sports Park Community Development Agreement, relating to Development of Legacy Eden Shores, A Portion of Oliver East Properties. The signatories to this Amendment represent that they are duly authorized to execute this amendment and to bind the Parties hereto.

EDEN SHORES ASSOCIATES I, LLC,
a Delaware limited partnership company

CITY OF HAYWARD

By: Legacy Partners II Hayward I, LLC
a Delaware limited partnership company,
its Administrative Partner

By: _____
Frances David
City Manager

By: _____
Legacy Partners Realty Fund II, LLC
a Delaware limited partnership company,
its managing member

Attest: _____
Miriam Lens
City Clerk

By: Legacy Partners Investment Management
Services, LLC, a Delaware limited liability
Company, its administrative member

Approved As To Form:

By: _____
Name: _____
Title: _____

Michael Lawson
City Attorney

ORDINANCE NO. 15-

AN ORDINANCE AUTHORIZING EXECUTION OF AMENDMENT TO THE MOUNT EDEN BUSINESS AND SPORTS PARK COMMUNITY DEVELOPMENT AGREEMENT RELATING TO LEGACY EDEN SHORES TO EXTEND THE TERMS OF THE AGREEMENT BY FIVE YEARS TO SEPTEMBER OF 2019

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

Section 1. Findings. This ordinance authorizes the execution of an amendment to the existing Mount Eden Business and Sports Park Community Development Agreement ("Amendment to Development Agreement") related to Legacy Eden Shores, generally located West of Hesperian Boulevard and East of Marina Drive, Between Industrial Boulevard and Eden Park Place. The findings and determinations contained in the resolution approving the extension of the Amendment to the Development Agreement are incorporated herein by reference. The following additional findings also support the adoption of this ordinance authorizing the execution of the Amendment to Development Agreement.

A. This ordinance is adopted pursuant to the enabling provisions of Article 9, Chapter 10 of the Hayward Municipal Code, the City's Development Agreement Ordinance, and the provisions of state law which authorize the City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of their property, contained in Government Code sections 65864 through 65869.5.

B. The proposed Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, the City's Zoning Ordinance, and any applicable specific plan.

C. The proposed Amendment to the Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located, in that the amendment extends the term of the Development Agreement but will not change any of the existing General Plan or zoning designations.

D. The proposed Amendment to the Development Agreement is in conformity with public convenience, general welfare, and good land use practice, in that it will extend the term of the Development Agreement in order for the applicant to complete the residential, commercial and business park development as per the Specific Plan.

E. Existing or proposed public facilities have sufficient capacity to accommodate the proposed development.

F. The public health, safety, and general welfare will be promoted and advanced by the Amendment to the Development Agreement, in that mitigation measures previously

required as a part of the development approvals will continue to be an obligation of the developer.

G. The orderly development of property or the preservation of the property values will be promoted and advanced by the Amendment to the Development Agreement, in that high-quality residential, commercial and business park development will be constructed as contemplated by the original Development Agreement.

Section 2. Authorization to Execute Amendment to Development Agreement. Based on the findings set forth in this ordinance and in Resolution No. 15-____, as well as a review of the proposed Amendment to the Development Agreement relating to the Mount Eden Business and Sports Park Community project submitted to the City Council at the February 3, 2015 meeting, the City Council hereby takes the following actions:

A. The City Manager is authorized to execute the Amendment to Development Agreement, regarding the Legacy Eden Shores project, substantially in the form of the proposed Amendment to Development Agreement presented to the City Council on February 3, 2015, together with such minor clarifying changes as may be necessary upon approval by the City Manager after consultation with the City Attorney.

B. The City Manager is also authorized to take such further actions which he or she deems necessary and proper to carry out and or monitor performance of the terms of the executed Amendment to Development Agreement pursuant to applicable law and regulation. This authority includes but is not limited to execution of any further agreement which the City Manager deems necessary to implement the Amendment to Development Agreement ("Implementation Agreement").

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 4. Effective Date. This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the 3rd day of February 2015, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of February, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 18, 2014, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair McDermott.

ROLL CALL

Present: COMMISSIONERS: Loché, Enders, Faria, Parso
CHAIRPERSON: McDermott
Absent: COMMISSIONER: Trivedi, Lavelle
Commissioner Lavelle arrived at 7:11 p.m.

Chair McDermott announced that Commissioner Trivedi was absent due to an unforeseen family emergency.

Commissioner Enders led in the Pledge of Allegiance.

Staff Members Present: Ajello, Camire, Cortez, Lawson, Madhukansh-Singh, Nguyen, Rizk

General Public Present: 20

PUBLIC COMMENTS

None

PUBLIC HEARING

1. Legacy Eden Shores Development Agreement – Request to amend the Development Agreement by extending its term for five years. The project is generally located west of Hesperian Boulevard and east of Marina Drive, between Industrial Boulevard and Eden Park Place and south of Industrial Boulevard between the Alameda County Flood Control floodway and Marina Drive, Steve Dunn of Legacy Partners (Applicant/Owner)

Associate Planner Ajello provided a synopsis of the staff report. She confirmed for Commissioner Faria that the initial development agreement was signed in 1999 and the term of the agreement was ten years. She noted that a five year term extension was approved in 2008 and that the applicant was seeking another five year extension to this agreement.

Development Services Director Rizk shared that the initial agreement for the South of Route 92 General Plan and Specific Plan included the development of a larger area than what was currently being proposed, noting that some areas had already been developed by other developers aside from Legacy Eden Shores. He added that Legacy Eden Shores obtained entitlements for the site in 2007 and that this did not include the Bridgeport or The Crossings projects.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, December 18, 2014, 7:00 p.m.
777 B Street, Hayward, CA94541**

Chair McDermott opened the public hearing at 7:08 p.m.

Mr. Michael Olson, project applicant, provided an update on the activities for the proposed site: there has been significant interest in the residential parcels; the Neighborhood Commercial parcel was in contract to sell to a developer; fourteen acres of the Business Park was ready to go into contract; a local school was interested in operating two parcels that were a part of the Costco parcel. He shared that if all of these projects come to fruition, then it was anticipated to have development commence by spring of 2015.

In response to Commissioner McDermott's question about the estimated completion date for the proposed development site, Mr. Olson stated that he expected the project site to be fully developed within five years.

Chair McDermott closed the public hearing at 7:10 p.m.

Commissioner Loché supported granting a five-year extension to the developer, noting that the project that was being phased in was an expensive one and also highlighted that the economic recession had hindered development plans in recent years. Commissioner Loché offered a motion to recommend that the City Council approve the amendment to the agreement, seconded by Commissioner Parso.

The motion passed with the following vote:

AYES:	Commissioners Loché, Faria, Parso Chair McDermott
NOES:	Enders
ABSENT:	Commissioner Trivedi
ABSTAIN:	Lavelle

2. Proposed subdivision and construction of 10 townhomes and common areas on a 0.73-acre site at 123-197 A Street, requiring adoption of a Resolution and Introduction of an Ordinance for a Zone Change from Medium Density Residential to Planned Development, Vesting Tentative Tract Map 8104 and a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Natalie Monk, Habitat for Humanity East Bay/Silicon Valley (Applicant), the Housing Authority of the City of Hayward (Owner)

Associate Planner Ajello provided a synopsis of the staff report. She indicated that although the zoning requirements were to provide 1.0 covered parking space per unit and 1.10 uncovered parking spaces per unit, staff supported the project proposal to have 2.0 uncovered parking spaces per unit and 8 bicycle parking spaces. She shared that the two projects that Habitat for Humanity had in Oakland, Kinsell Commons and Brookfield Court, both provided uncovered parking spaces for residents and noted that the organization had not experienced any problems with this so far. Ms. Ajello mentioned that due to the irregular shape of the project site, it would be difficult to construct

DATE: February 3, 2015

TO: Mayor and City Council

FROM: Director of Development Services

SUBJECT: Introduction of an Ordinance to amend the Hayward Plumbing Code to allow Plastic Pipe as allowed by the 2013 California Plumbing Code

RECOMMENDATION

That Council introduces the attached ordinance, which would align Hayward's local plumbing code with the most recent (2013) State Plumbing Code.

BACKGROUND

Council continued this item from the January 20, 2015 Council meeting.

Out of the nearly 100 cities and towns that constitute the Bay Area, only a small handful of jurisdictions, including Hayward, prohibit the use of plastic pipe (e.g., San Leandro, County of San Mateo). Based on customer requests to use plastic and a lack of evidence to support the City's continued prohibition of this class of construction material, staff is recommending removing Hayward's amendments to the 2013 State Plumbing Code that were [adopted in December of 2013](#), and simply enforce that State Code without amendments. Such action will bring Hayward in line with almost all other jurisdictions and help provide consistency for contractors.

Plastic plumbing pipe includes materials such as: Acrylonitrile butadiene styrene (ABS), polyvinyl chloride (PVC), cross-linked polyethylene (PEX) and chlorinated polyvinyl chloride (CPVC). All of these materials are approved for use throughout the United States and are certified by national testing agencies such as IAMPPO and ASTM. The California Building Standards Commission has further approved all of these materials, as evidenced by their inclusion in the California Plumbing Code. Plastic piping is widely used as an alternative to copper and cast iron due to its light-weight, chemical resistance, durability, corrosion resistance, and ease of assembly. Plastic pipe is used for both private buildings' plumbing systems and for municipal applications, such as drinking water distribution and wastewater mains in the public right of way.

Different plastic pipe materials are designed and certified for specific and varied applications, including those for drainage, waste lines, vents, potable water supply, non-potable water supply, and underground sewage discharge. ABS pipe is approved for use in drain, waste and vent installations. For water supply lines, PVC, PEX and CPVC are all plastic piping alternatives to copper and galvanized steel.

Current Allowed Use of Plastic Plumbing Pipe in Hayward – Plastic plumbing pipe is currently allowed within the City of Hayward as indicated below.

1. Public Works Department (Utilities) allows PVC piping for both sewer and water piping.
2. Public Works Department (Streets) allows PVC piping for storm drains.
3. Fire Department allows PVC piping for residential fire sprinkler systems¹.

Also, the Building Division in the Development Services Department allows plastic piping in certain applications, based on code requirements, approved laboratories' safety listings (e.g., UL listed materials, as shown below), and or design criteria submitted for review by a licensed architect or registered mechanical engineer.

1. UL listed high efficiency condensing tank water heaters require plastic flue.
2. UL listed high efficiency tankless water heaters require plastic flue.
3. UL listed high efficiency forced air furnaces require plastic flue.

In all three of the above situations, the condensate is acidic and would corrode metallic pipe.

The Building Division also allows the installation of certain types of plastic pipe in industrial, pharmaceutical, clinical and research lab applications. This is process piping² and is typically installed by pipefitters. (Domestic plumbing is water supply piping and sewer piping and is typically installed by plumbers.)

DISCUSSION

The origin of our plumbing code amendment dates back more than thirty years when some manufacturing problems with ABS led to class action litigation between 1984 and 1990. This situation led to a loss of confidence in the product and various jurisdictions modified their plumbing codes to prohibit the use of ABS. The City of Hayward was included in this group. After 1990, manufacturing improvements resolved the problems. Currently, all forms of plastic pipe, including ABS, PVC, CPVC and PEX, are in widespread use without reported failures.

All City departments have reviewed the use of plastic pipe and are in agreement with the recommended changes in this report. This includes Development Services (Building Inspection and Planning), Code Enforcement, Hayward Fire, Environment & Utilities, and Engineering & Transportation.

¹ Based on recent updates to the California Fire Code, all new single-family and multifamily homes built in Hayward are required to be sprinkled. All of these residential sprinkler installations are plumbed with PVC. Since the existing Hayward Fire Code is not similarly amended to prohibit plastic pipe, as is the case with our local Plumbing Code, Hayward operates with a confusing contradiction: plastic is allowed in some parts of a building, but not in others. This leads to difficult conversations with the public and further justification for the recommended change.

² Process piping is a piping system designed by a mechanical engineer to perform a specific function. The materials being conveyed within the process piping systems may include caustics, acids or corrosive liquids or gasses that would cause metallic pipe to fail. In these circumstances, the City allows the design professional to design a system that meets all of the design criteria for both function and safety.

ECONOMIC IMPACT

Plastic pipe is less expensive than metal as a material and it is also less expensive from a labor standpoint with regard to installation costs. The total cost of construction will be reduced for homeowners, businesses, and developers, if the City of Hayward allows the use of plastic pipe. For example, a recent survey of local Home Depot store costs for piping is as follows: 4” x 10’ cast iron pipe is \$ 101.41; and 4” x 10’ ABS pipe is \$24.64.

Also, staff surveyed Standard Pacific Homes (a major residential developer with numerous projects in Hayward) to determine the impact of our ordinance on their construction costs. According to Standard Pacific’s purchasing manager, Standard Pacific spends 56% more on plumbing materials to build in Hayward than a jurisdiction that does not prohibit plastic pipe. Standard Pacific also estimates a 5% labor cost premium for installing metal instead of plastic. These costs are typically passed on to new homebuyers, so the developer will not be adversely affected. For construction projects that are not for immediate sale, these costs are an additional burden that must be absorbed/carried by the project proponent.

FISCAL IMPACT

There are no fiscal impacts to the General Fund related to this proposed code amendment.

PUBLIC CONTACT

In addition to the discussions with the representative from the development community, staff notified the local plumbers union (Local 342) of this recommended change. Their representative did not oppose the recommended action at time of initial contact, but later expressed concern with such amendments. At the January 20 meeting, Obray Van Buren, a Hayward resident and an associate of Local 342, expressed concern with the proposed changes. In response, Council continued this item to allow time for Mr. Van Buren to gather and present information to support his opposition to the proposed changes.

NEXT STEPS

Should Council introduce the ordinance, staff will bring it back to Council on February 10 for adoption. Staff will inform the development community of such change once the ordinance is introduced.

*Prepared by: Steve Osborne, Supervising Plan Checker/Expediter
Dennis Zafiratos, Senior Building Plumbing-Mechanical Inspector*

Reviewed by: David Rizk, AICP, Development Services Director

Approved by:



Fran David
City Manager

Attachments

Attachment I: Draft Ordinance

ORDINANCE NO. 15-___

AN ORDINANCE REPEALING ORDINANCE NO. 13-24 AND ASSOCIATED AMENDMENTS TO THE 2013 CALIFORNIA PLUMBING CODE AND ESTABLISHING A PLUMBING CODE FOR THE CITY OF HAYWARD, REGULATING THE CONSTRUCTION, ALTERATION, REPAIR, AND MAINTENANCE OF PLUMBING; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES

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

Section 1. Provisions.

Ordinance No. 13-24, and all amendments thereto, is repealed and in substitution thereof, a new Plumbing Code for the City of Hayward is hereby enacted to read as follows:

PLUMBING CODE
OF THE CITY OF HAYWARD

SECTION 1.00 2013 CALIFORNIA PLUMBING CODE, ADOPTION BY REFERENCE. The *2013 California Plumbing Code*, based on the *2012 Uniform Plumbing Code*, and Appendices thereto, published by the International Association of Plumbing and Mechanical Officials, as modified by the California Building Standards Commission, is hereby adopted as the Plumbing Code of the City of Hayward.

A copy of such Plumbing Code is on file in the office of the City Clerk, to which reference is hereby made for further particulars. Reference is also made to the State's Matrix Adoption Tables, which identify local Building Official's responsibilities to enforce certain amendments.

Section 2. Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 3rd day of February, 2015, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 10th day of February, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward