



CITY OF
HAYWARD
HEART OF THE BAY

SPECIAL CITY COUNCIL AGENDA
FEBRUARY 10, 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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SPECIAL CITY COUNCIL MEETING FOR FEBRUARY 10, 2015
777 B STREET, HAYWARD CA 94541
WWW.HAYWARD-CA.GOV

SPECIAL CLOSED SESSION
Closed Session Room 2B – 4:30 PM

1. **PUBLIC COMMENTS (Limited to items on the agenda)**
 2. 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 WhitmoreUnder Negotiation: All Groups
 3. Adjourn to Planning Commission Interviews
-

PLANNING COMMISSION INTERVIEWS
ROOM 2B – 5:00 PM

COUNCIL ACTION

1. Planning Commission Vacancy Discussion and Interviews
[Staff Report](#)
2. Selection of Planning Commission Member

Adjourn to a Special Joint City Council/Redevelopment Successor Agency Meeting

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

CALL TO ORDER Pledge of Allegiance Mayor Halliday

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 the Recognized Obligation Payment Schedule (ROPS 15-16A) and Administrative Budget for the Period July 1, 2015 through December 31, 2015
[Staff Report](#)
[Attachment I Redevelopment Successor Agency Resolution](#)
[Attachment II ROPS 15 16A](#)
[Attachment III FY 2016 Administrative Budget](#)
2. Adoption of Ordinance Amending Chapter 10, Article 17, of the Hayward Municipal Code Regarding Affordable Housing Requirements for New Housing Developments
[Staff Report](#)
[Attachment I Summary of Ordinance](#)
[Attachment II Revised Ordinance](#)
3. Adoption of 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 October of 2019
[Staff Report](#)
[Attachment I Summary of Ordinance](#)
[Attachment II Revised Resolution Approved 020315](#)



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*
-

LEGISLATIVE BUSINESS

4. Adoption of 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

[Staff Report](#)

[Attachment I Summary of 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 REGULAR MEETING – 7:00 PM, Tuesday, February 17, 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.

***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.





DATE: February 10, 2015
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Planning Commission Vacancy

The special Planning Commission recruitment closed at noon on February 6, 2015, and twenty-one applications were received by the deadline. The following seventeen City of Hayward residents and registered voters qualified to be considered for an interview with the City Council, per the process established at the [City Council meeting on January 20, 2015](#).

No.	First Name	Last name
1	Aisha	Wahab
2	Arti	Garg
3	Brian	Schott
4	Daniel	Goldstein
5	Gwendolyn	McClain
6	Julius	Willis
7	Kindle	Barkus
8	Larry	Jackson
9	Laurie	Price
10	Michele	Koning
11	Moses	Sullivan
12	Philip	McDonald
13	Phillip	Gallegos
14	Rachel	Sagapolu
15	Rosalee	Ojeda
16	Shunsuke	Shimada
17	Veronica	Sandoval

Copies of the applications were forwarded to the City Council and are available for public review upon request in the Office of the City Clerk.

Per the previously agreed upon process, each Council Member will select up to five applicants they wish to interview and will individually notify the City Clerk of their selections by noon on February 9, 2015. Applicants who were selected by three or more Council members will be invited

to interview with the City Council on February 10, 2015. A full report of all applicants and the associated votes by Council will be available to Council and the public at the February 10, 2015 meeting of the Council. The interviews will begin at 5:00 p.m. as noted on the Council agenda.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

DATE: February 10, 2015

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Approval of the Recognized Obligation Payment Schedule (ROPS 15-16A) and Administrative Budget for the Period July 1, 2015 through December 31, 2015

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) approving the Recognized Obligation Payment Schedule (ROPS 15_16A) and the Successor Agency Administrative Budget for the period July 1, 2015 through December 31, 2015 and authorizes staff to take other administrative actions and execute contracts and such other documents as are appropriate to effectuate the intent of the resolution and all actions necessary to effectuate associated requirements of the Dissolution Act and AB 1484.

BACKGROUND

The California State Legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law in June of 2011. The California Supreme Court in its decision in *California Redevelopment Association v. Matosantos*, issued December 29, 2011, declared the Dissolution Act to be constitutional. Under the Dissolution Act, all California redevelopment agencies were dissolved effective February 1, 2012, and various actions are now required by successor agencies to unwind the affairs of all former redevelopment agencies.

On June 27, 2012, as part of the state budget package, the California legislature passed AB 1484. As a budget trailer bill, AB 1484 became effective immediately upon signature by the Governor, which occurred that same day. The main objective of AB 1484 was to amend the 2011 Redevelopment Dissolution Act (AB1x 26) based on experience in implementing the Act at the state and local level during the past year. AB 1484 imposes significant new obligations on the successor agencies and oversight boards of dissolving redevelopment agencies, which staff has been implementing over the past two years.

Update on Compliance with Provisions of AB 1484

In addition to the significant obligations associated with AB 1484, the legislation also provided some additional benefits to Successor Agencies. As part of the AB 1484 requirements, the

Successor Agency was required to complete due diligence reviews of both the housing and non-housing funds and submit these reviews (audits) to the Department of Finance for approval. The intent of the due diligence reviews (DDRs) was to review any unauthorized transfers or transactions made by the former Redevelopment Agency between January and June 2011 and claw back these funds for the taxing entities. The Hayward Successor Agency completed and submitted the Housing DDR on February 5, 2013 and received a final determination from DOF (after a meet and confer session) on April 6, 2013. The Agency remitted \$483,154 that was distributed among the taxing entities. The Agency then completed the non-housing funds DDR and submitted it on May 24, 2013. The DOF sent the Agency a final determination (after a meet and confer session) on September 9, 2013 and the Agency remitted \$5,856,617 for distribution to the taxing entities.

Once these DDRs were complete, the Agency was eligible to receive a Finding of Completion, which the DOF issued on November 8, 2013. The receipt of the Finding of Completion enabled a couple things to happen. The Agency was able to place loan agreements between the former redevelopment agency and the City on the ROPS as enforceable obligations eligible for repayment. The first loan to be repaid was the SERAF loan to the Housing Authority. The Agency has been making repayments on this loan since June 2014. With the submittal of this ROPS 15_16A, the SERAF loan will be completely repaid and the Agency will begin making repayments on the loan from the City's General Fund. The Agency was also able to submit the Long Range Property Management Plan to facilitate the disposition of former Agency properties. Staff submitted this plan to DOF on May 5, 2014. The plan is still currently under review by DOF.

DISCUSSION

The intent of this report is to recommend approval of the next Recognized Obligation Payment Schedule (ROPS 15_16A) and Administrative Budget for the period July 1, 2015 through December 31, 2015 (Attachments II and III). Every six months, the Successor Agency is required to prepare and submit a ROPS that outlines the required payments the Successor Agency must make to meet required obligations and to wind down the affairs of the former Redevelopment Agency. Once the Oversight Board approves these items, staff will submit them to the Department of Finance by the March 1, 2015 deadline.

One of the few positive aspects of the passage of AB 1484 is the opportunity to seek repayment of interagency loans, such as the one Hayward's General Fund provided to the former RDA in 1975 to cover a variety of start-up expenses. The current balance on this loan is approximately \$8 million. In addition, there is an outstanding loan due from the Successor Agency to the Housing Authority (the SERAF loan) totaling approximately \$3.8 million and outstanding loans due to the City's Sewer and Water Enterprise Funds (totaling approximately \$2 million). Since the Successor Agency has received its Finding of Completion, staff began the process to request repayment of these loans with the submittal of the prior ROPS in March 2014. The SERAF loan receives first priority for payoff under AB1484, followed by the General Fund loan and then the Enterprise Fund loans. Pending Department of Finance approval of ROPS 15_16A, the Successor Agency anticipates making the final payment toward the SERAF loan of \$1,736,807. Additionally during this ROPS period, the Successor Agency will make the first repayment toward the General Fund Loan totaling \$72,853. There are specific repayment formulas outlined in AB1484 and the amount of repayment requested on the ROPS 15_16A is consistent with these formulas.

One other addition to the ROPS 15_16A is the request of payment of the outstanding PERS and OPEB liabilities for former Redevelopment Agency employees. The Agency had previously placed these items on a ROPS and received a distribution of RPTTF to cover these costs. However, staff did not transfer these funds immediately to a liability fund and they remained in the Successor Agency fund balance. During the ROPS 14_15A period (for the period beginning July 1, 2014), these previously disbursed funds held in reserve for the PERS and OPEB liabilities were mistakenly recategorized by the DOF as available cash balance and the Agency had to use these funds to pay other obligations. As such, there are currently no funds on hand to cover these liabilities. Staff is requesting a new distribution of RPTTF to replace the funds available for these liability costs, which will be immediately transferred out of the Successor Agency fund balance and into a separate fund maintained for this purpose.

Implementation Actions: The accompanying resolution authorizes and directs staff to take all administrative steps on behalf of the Successor Agency to implement upcoming requirements under the Dissolution Act and AB 1484, including providing necessary notices, transmittals, and postings regarding the ROPS and Successor Agency administrative budget.

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

ECONOMIC AND FISCAL IMPACT

Approval of the ROPS 15_16A will facilitate the ability of the City as Successor Agency to continue payment of the enforceable obligations of the former Redevelopment Agency and is among the measures required to be taken to avoid triggering an event of default under any enforceable obligations. Approval of the Successor Agency administrative budget will facilitate the Successor Agency's receipt of the funds to which it is entitled under the Dissolution Act and AB 1484 to implement its administrative responsibilities.

NEXT STEPS

Following approval of the ROPS 15_16A and the Administrative Budget by the Oversight Board, staff will submit these to the Department of Finance (DOF) by March 1 for final approval. The DOF then has an opportunity to review and object to any items on the ROPS and/or request additional documentation. The Successor Agency then has an opportunity to request a meet and confer session if staff disagrees with any of the DOF determinations. All DOF meet and confer determinations must be made prior to July 1, 2015, which is when the funds for the ROPS 15_16A period will be disbursed to the Successor Agency.

Prepared by: John Stefanski, Management Fellow

Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachment I: Resolution

Attachment II: ROPS 15_16A

Attachment III: Successor Agency Administrative Budget

REDEVELOPMENT SUCCESSOR AGENCY OF THE CITY OF HAYWARD
RESOLUTION NO. RSA 14-

Introduced by Agency Member ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, ACTING AS THE GOVERNING BOARD OF THE HAYWARD SUCCESSOR AGENCY, A SEPARATE LEGAL ENTITY, APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD JULY THROUGH DECEMBER 2015 (“ROPS 15-16A”) AND THE ADMINISTRATIVE BUDGET FOR THE 2015-16 FISCAL YEAR, AND DIRECTING THE CITY MANAGER TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE REQUIREMENTS ASSOCIATED WITH THIS APPROVAL

WHEREAS, pursuant to ABx1 26 (as amended by AB 1484, the “Dissolution Act”), the separate legal entity known as the Hayward Successor Agency (the “Successor Agency”) must prepare “Recognized Obligation Payment Schedules” (“ROPS”) that enumerate the enforceable obligations and expenses of the Successor Agency for each successive six-month fiscal period until the wind down and disposition of assets of the dissolved Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) has been completed; and

WHEREAS, the Successor Agency staff has prepared a ROPS for the six-month fiscal period commencing on July 1, 2015 and continuing through December 31, 2015 (“ROPS 15-16A”); and

WHEREAS, the Successor Agency staff has prepared an administrative budget for the fiscal period commencing on July 1, 2015 and continuing through June 30, 2016 (“FY 15-16 Administrative Budget”); and

WHEREAS, the Successor Agency is entitled to an administrative cost allowance (the “Administrative Cost Allowance”) pursuant to Health and Safety Code Sections 34171(b) and 34183(a)(3) in the approximate amount of \$250,000 for the 2015-16 fiscal year of which approximately \$125,000 will be disbursed during the ROPS 15-16A period; and

WHEREAS, under the Dissolution Act, ROPS 15-16A and the FY 15-16 Administrative Budget must be approved by the Successor Agency's oversight board (the “Oversight Board”) to enable the Successor Agency to continue to make payments on enforceable obligations and to pay for administrative costs of the Successor Agency; and

WHEREAS, the City Council, acting as the Governing Board of the Successor Agency, has considered and desires to approve the following documents, copies of which are on file with the City Clerk (acting as the Secretary of the Successor Agency):

1. The ROPS 15-16A; and
2. The FY 15-16 Administrative Budget; and

WHEREAS, the ROPS 15-16A and the FY 15-16 Administrative Budget will be submitted by the Successor Agency to the Oversight Board for the Oversight Board's approval in accordance with Health and Safety Code Sections 34177 and 34180(g); and

WHEREAS, the ROPS 15-16A and the FY 15-16 Administrative Budget will also be submitted by the Successor Agency to the Alameda County Administrative Officer, the Alameda County Auditor-Controller, and the State Department of Finance in accordance with Health and Safety Code Section 34179.6; and

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

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

BE IT FURTHER RESOLVED that the City Council hereby approves the ROPS 15-16A and the FY 15-16 Administrative Budget, in the respective forms on file with the City Clerk (acting as the Secretary of the Successor Agency).

BE IT FURTHER RESOLVED that the Successor Agency is authorized and directed to enter into any agreements and amendments to agreements consistent with the Dissolution Act and necessary to memorialize and implement the agreements and obligations in ROPS 15-16A and the FY 15-16 Administrative Budget as herein approved by the Successor Agency.

BE IT FURTHER RESOLVED that the City Council hereby authorizes and directs the City Manager, acting on behalf of the Successor Agency, to file, post, mail or otherwise deliver via electronic mail, internet posting, and/or hardcopy, all notices and transmittals necessary or convenient in connection with the approval of the ROPS 15-16A and the FY 15-16 Administrative Budget, and to take any other administrative actions necessary to ensure the validity of the ROPS 15-16A and the validity of any enforceable obligation listed thereon and the validity of the FY 15-16 Administrative Budget and corresponding Administrative Cost Allowance. In addition, the City Council authorizes and directs the Successor Agency staff to make such non-substantive revisions to ROPS 15-16A as may be necessary to submit ROPS 15-16A in any modified form required by the DOF, and ROPS 15-16A as so modified shall thereupon constitute ROPS 15-16A as approved by the City Council pursuant to this Resolution.

BE IT FURTHER RESOLVED that, subject to the Oversight Board approval, the City Council hereby authorizes and directs the City Manager, acting on behalf of the Successor Agency, to execute the documents and instruments as are appropriate, in consultation with the City Attorney, acting in the capacity of counsel to the Successor Agency, to effectuate and implement the terms of this Resolution.

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

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

HAYWARD, CALIFORNIA, February __, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES:	BOARD MEMBERS:
NOES:	BOARD MEMBERS:
ABSTAIN:	BOARD MEMBERS:
ABSENT:	BOARD MEMBERS:

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

Recognized Obligation Payment Schedule (ROPS 15-16A) - Summary

Filed for the July 1, 2015 through December 31, 2015 Period

Name of Successor Agency: Hayward
Name of County: Alameda

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding Sources (B+C+D):		\$ 294,664
A	Bond Proceeds Funding (ROPS Detail)	-
C	Reserve Balance Funding (ROPS Detail)	294,664
D	Other Funding (ROPS Detail)	-
E Enforceable Obligations Funded with RPTTF Funding (F+G):		\$ 3,946,252
F	Non-Administrative Costs (ROPS Detail)	3,821,252
G	Administrative Costs (ROPS Detail)	125,000
H Current Period Enforceable Obligations (A+E):		\$ 4,240,916

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
I	Enforceable Obligations funded with RPTTF (E):	3,946,252
J	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	(21,132)
K Adjusted Current Period RPTTF Requested Funding (I-J)		\$ 3,925,120

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
L	Enforceable Obligations funded with RPTTF (E):	3,946,252
M	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
N Adjusted Current Period RPTTF Requested Funding (L-M)		3,946,252

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

Name Title
/s/ _____
Signature Date

Recognized Obligation Payment Schedule (ROPS 15-16A) - ROPS Detail
July 1, 2015 through December 31, 2015
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K					P	
										M						Six-Month Total
										Funding Source			RPTTF			
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin		
								\$ 77,898,414		\$ -	\$ 294,664	\$ -	\$ 3,821,252	\$ 125,000	\$ 4,240,916	
1	2004 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	5/1/2004	5/1/2034	Wells Fargo	Bond issue to fund non-housing projects	Hayward Downtown	46,267,169	N				813,662		\$ 813,662	
6	2006 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	6/1/2006	6/1/2036	Wells Fargo	Bond issue to fund non-housing projects	Hayward Downtown	19,896,947	N				273,303		\$ 273,303	
14	Foothill Façade Loans	Improvement/Infrastructure	3/9/2011	1/1/2050	Multiple Property Owners	Matching loan funds for property owners along Foothill Blvd for façade improvement program	Hayward Downtown	200,000	N		200,000				\$ 200,000	
15	Foothill Façade Loan Project Delivery Costs (Staff Costs/Legal Fees)	Project Management Costs	1/1/2014	6/30/2014	Successor Agency	Project Delivery Costs to Implement Foothill Façade Loan Project	Hayward Downtown	13,735	N				6,868		\$ 6,868	
21	Successor Agency Admin Allowance	Admin Costs	2/1/2012	1/1/2050	City of Hayward	Per ABx1 26, to cover administrative costs of Successor Agency	Hayward Downtown	250,000	N					125,000	\$ 125,000	
23	Contract for Security Alarm	Property Maintenance	7/11/2012	1/1/2050	ADT Security Services	Alarm Service for Cinema Place garage	Hayward Downtown	1,066	N				1,066		\$ 1,066	
25	Contract for Elevator Maint and Repair	Property Maintenance	7/11/2012	1/1/2050	Mitsubishi Electric	Cinema Place Elevator	Hayward Downtown	3,900	N				3,900		\$ 3,900	
27	Contract for Sweeping	Property Maintenance	7/11/2012	1/1/2050	Montgomery Sweeping Service	Cinema Place Garage Sweeping	Hayward Downtown	5,200	N				5,200		\$ 5,200	
29	Utilities	Property Maintenance	7/11/2012	1/1/2050	PGE	Cinema Place Garage Utilities	Hayward Downtown	13,260	N				13,260		\$ 13,260	
31	Utilities	Property Maintenance	7/11/2012	1/1/2050	City of Hayward	Cinema Place Water Utilities	Hayward Downtown	500	N				500		\$ 500	
35	Contract for Env Remediation Work	Remediation	8/5/2011	9/9/2013	TRC	Residual Burbank Site - Removal Action Work	Hayward Downtown	52,528	Y						\$ -	
36	Project Delivery Costs - Burbank Residual Site	Project Management Costs	1/1/2014	6/30/2014	City of Hayward (Successor Agency)	Finalize negotiation and execution of Purchase and Sale Agreement - staff project mgmt costs/legal fees	Hayward Downtown	9,878	N				4,436		\$ 4,436	
37	Property Disposition Costs - former Agency-held properties	Property Dispositions	1/1/2014	6/30/2014	City of Hayward (Successor Agency)	Staff project mgmt costs; legal fees; property mgmt costs; appraisal costs; other associated costs for property disposition	Hayward Downtown	73,882	N				36,941		\$ 36,941	
38	Contract for Env Remediation	Remediation	6/25/2009	8/30/2012	AMEC Geomatrix Inc	Env Remediation - Cinema Place	Hayward Downtown	70,130	N		70,130		-		\$ 70,130	
40	Contract for Water Testing	Remediation	6/15/2012	1/1/2050	SWRCB	Water testing at Cinema Place - monitoring of site	Hayward Downtown	923	Y		923				\$ 923	
48	Repayment Agreement with City of Hayward	City/County Loans On or Before 6/27/11	9/23/1975	1/1/2050	City of Hayward	To fund start-up costs of Hayward Redevelopment Project Area	Hayward Downtown	8,426,422	N				72,853		\$ 72,853	
49	SERAF	SERAF/ERAF	8/3/2011	1/1/2050	Hayward Housing Authority	Loan for SERAF FY10 and FY11 payments	Hayward Downtown	1,736,807	N				1,736,807		\$ 1,736,807	
50	Contract for Environmental Remediation (New Burbank School site)	Remediation	1/1/2014	6/30/2014	TRC	Payment for removal of environmental monitoring wells following DTSC clearance on new Burbank Elementary School site	Hayward Downtown	13,401	N		13,401				\$ 13,401	
53	Environmental Monitoring Expenses	Remediation	1/1/2014	6/30/2014	DTSC	Regulatory monitoring fee associated with clean up work at new Burbank School construction	Hayward Downtown	1,494	N				1,494		\$ 1,494	
60	2004 TAB Admin Fee FY 2015	Fees	5/1/2004	5/1/2034	Wells Fargo	Annual administrative fee for bond issuance		2,000	N		2,000				\$ 2,000	
61	2004 TAB Admin Fee FY 2015	Fees	5/1/2004	5/1/2034	Willdan	Annual administrative fee for bond issuance		3,000	N		3,000				\$ 3,000	
62	2006 TAB Admin Fee FY 2015	Fees	6/1/2006	6/1/2036	Wells Fargo	Annual administrative fee for bond issuance		1,800	N		1,800				\$ 1,800	
63	2006 TAB Admin Fee FY 2015	Fees	6/1/2006	6/1/2036	Willdan	Annual administrative fee for bond issuance		700	N		700				\$ 700	
64	Housing Authority Administrative Cost Allowance (Per AB 471)	Housing Entity Admin Cost	2/18/2014	7/1/2018	City of Hayward Housing Authority	Administrative cost allowance for Housing Authority pursuant to AB 471			N						\$ -	

Recognized Obligation Payment Schedule (ROPS 15-16A) - ROPS Detail
July 1, 2015 through December 31, 2015
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K					P
										Funding Source					
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)			RPTTF		
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total
65	Contract for New Burbank Elementary School Change Order Fees	Fees	10/20/2014	7/1/2015	Department of the State Architect	Burbank Elementary School construction change document fees	Hayward Downtown	2,710	N		2,710				\$ 2,710
66	2004 TAB Admin Fee FY 2016	Fees	5/1/2004	5/1/2034	Wells Fargo	Annual administrative fee for bond issuance		2,000	N				2,000		\$ 2,000
67	2004 TAB Admin Fee FY 2016	Fees	5/1/2004	5/1/2034	Willdan	Annual administrative fee for bond issuance		3,000	N				3,000		\$ 3,000
68	2006 TAB Admin Fee FY 2016	Fees	6/1/2006	6/1/2036	Wells Fargo	Annual administrative fee for bond issuance		1,800	N				1,800		\$ 1,800
69	2006 TAB Admin Fee FY 2016	Fees	6/1/2006	6/1/2036	Willdan	Annual administrative fee for bond issuance		700	N				700		\$ 700
70	PERS Liability	Unfunded Liabilities	2/1/2012		Liability Fund	Liability fund deposit for Agency employee PERS costs		666,235	N				666,235		\$ 666,235
71	OPEB Liability	Unfunded Liabilities	2/1/2012		Liability Fund	Liability fund deposit for Agency employee OPEB costs		177,227	N				177,227		\$ 177,227
72									N						\$ -
73									N						\$ -
74									N						\$ -
75									N						\$ -
76									N						\$ -
77									N						\$ -
78									N						\$ -
79									N						\$ -
80									N						\$ -
81									N						\$ -
82									N						\$ -
83									N						\$ -
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101									N						\$ -
102									N						\$ -
103									N						\$ -
104									N						\$ -
105									N						\$ -
106									N						\$ -
107									N						\$ -
108									N						\$ -
109									N						\$ -
110									N						\$ -
111									N						\$ -
112									N						\$ -
113									N						\$ -

Recognized Obligation Payment Schedule (ROPS 15-16A) - Report of Cash Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see https://rad.dof.ca.gov/rad-sa/pdf/Cash_Balance_Agency_Tips_Sheet.pdf .									
A	B	C	D	E	F	G	H	I	
Cash Balance Information by ROPS Period		Fund Sources						Comments	
		Bond Proceeds		Reserve Balance		Other	RPTTF		
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, Grants, Interest, Etc.	Non-Admin and Admin		
ROPS 14-15A Actuals (07/01/14 - 12/31/14)									
1	Beginning Available Cash Balance (Actual 07/01/14)			1,536,933					
2	Revenue/Income (Actual 12/31/14) RPTTF amounts should tie to the ROPS 14-15A distribution from the County Auditor-Controller during June 2014					34,168	1,317,415		
3	Expenditures for ROPS 14-15A Enforceable Obligations (Actual 12/31/14) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q			868,602		531,040	1,382,473		
4	Retention of Available Cash Balance (Actual 12/31/14) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)			668,331			-	* Need to retain PERS and OPEB liability amounts and leave liability	
5	ROPS 14-15A RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 14-15A PPA in the Report of PPA, Column S	No entry required						21,132	
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ -	\$ -	\$ (496,872)	\$ (86,190)		
ROPS 14-15B Estimate (01/01/15 - 06/30/15)									
7	Beginning Available Cash Balance (Actual 01/01/15) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ -	\$ -	\$ 668,331	\$ -	\$ (496,872)	\$ (65,058)		
8	Revenue/Income (Estimate 06/30/15) RPTTF amounts should tie to the ROPS 14-15B distribution from the County Auditor-Controller during January 2015						4,172,872		
9	Expenditures for ROPS 14-15B Enforceable Obligations (Estimate 06/30/15)			444,303			4,190,541		
10	Retention of Available Cash Balance (Estimate 06/30/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)						-		
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ -	\$ -	\$ 224,028	\$ -	\$ (496,872)	\$ (82,727)		

Recognized Obligation Payment Schedule (ROPS 15-16A) - Report of Prior Period Adjustments
 Reported for the ROPS 14-15A (July 1, 2014 through December 31, 2014) Period Pursuant to Health and Safety Code (HSC) section 34186 (a)
 (Report Amounts in Whole Dollars)

ROPS 14-15A Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 14-15A (July through December 2014) period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 15-16A (July through December 2015) period will be offset by the SA's self-reported ROPS 14-15A prior period adjustment. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.																			ROPS 14-15A CAC PPA: To be completed by the CAC upon submittal of the ROPS 15-16A by the SA to Finance and the CAC. Note that CACs will need to enter their own formulas at the line item level pursuant to the manner in which they calculate the PPA. Also note that the Admin amounts do not need to be listed at the line item level and may be entered as a lump sum.									
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	
Item #	Project Name / Debt Obligation	Non-RPTTF Expenditures						RPTTF Expenditures										SA Comments	RPTTF Expenditures						Net CAC Non-Admin and Admin PPA (Amount Used to Offset ROPS 15-16A Requested RPTTF)	CAC Comments		
		Bond Proceeds		Reserve Balance		Other Funds		Non-Admin					Admin						Non-Admin CAC			Admin CAC						
		Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF (ROPS 14-15A distributed + all other available as of 07/1/14)	Net Lesser of Authorized / Available	Actual	Difference (If K is less than L, the difference is zero)	Authorized	Available RPTTF (ROPS 14-15A distributed + all other available as of 07/1/14)	Net Lesser of Authorized / Available	Actual	Difference (If total actual exceeds total authorized, the total difference is zero)		Net Difference (M+R)	Net Lesser of Authorized / Available	Actual	Difference	Net Lesser of Authorized / Available	Actual			Difference	Net Difference
		\$ -	\$ -	\$ 869,025	\$ 868,602	\$ 747,589	\$ 531,040	\$ 1,278,605	\$ 1,278,605	\$ 1,278,605	\$ 1,257,473	\$ 21,132	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ -	\$ 21,132										
1	2004 Tax Allocation	-	-	-	-	-	-	851,791	851,791	851,791	851,560	231						231										
6	2006 Tax Allocation	-	-	-	-	275,003	274,944																					
11	Repayment Agreement with City of Hayward	-	-	-	-	-	-																					
12	SERAF	-	-	-	-	-	-																					
14	Foothill Façade Loans	-	-	-	-	400,000	200,000																					
15	Foothill Façade Loan Project Delivery Costs (Staff Costs/Legal Fees)	-	-	-	-	6,051	6,051																					
20	Contract for Mission Blvd Specific Plan	-	-	-	-	-	-																					
21	Successor Agency Admin Allowance	-	-	-	-	-	-																					
23	Contract for Security Alarm	-	-	-	-	1,066	-																					
25	Contract for Elevator Maint and Repair	-	-	-	-	3,900	1,811																					
27	Contract for Sweeping	-	-	-	-	5,200	2,340																					
29	Utilities	-	-	-	-	13,260	2,747																					
31	Utilities	-	-	-	-	416	454																					
35	Contract for Env Remediation Work	-	-	-	-	-	-																					
36	Project Delivery Costs - Burbank Residual Site	-	-	-	-	3,804	3,804																					
37	Property Disposition Costs - former Agency-held properties	-	-	-	-	38,889	38,889	46,459	46,459	46,459	46,459																	
38	Contract for Env Remediation	-	-	-	-	-	-																					
40	Contract for Water Testing	-	-	-	-	-	-																					
46	2004 TAB Admin Fee FY 2014	-	-	-	-	-	-																					
47	2004 TAB Admin Fee FY 2014	-	-	-	-	-	-																					
48	Repayment Agreement with City of Hayward	-	-	-	-	-	-																					
49	SERAF	-	-	720,000	720,000	-	-	349,855	349,855	349,855	349,855																	
50	Contract for Environmental Remediation (New Burbank School site)	-	-	-	-	-	-	23,000	23,000	23,000	9,599	13,401																
51	2006 TAB Admin Fee FY 2014	-	-	-	-	-	-																					
52	2006 TAB Admin Fee FY 2014	-	-	-	-	-	-																					
53	Environmental Monitoring Expenses	-	-	2,917	2,494	-	-																					
55	South Hayward BART Project Management Expenses	-	-	-	-	-	-																					
56	South Hayward BART Project Management Expenses	-	-	-	-	-	-																					
57	South Hayward BART Project Management Expenses	-	-	-	-	-	-																					
58	Tennyson Preservation Maintenance	-	-	145,000	145,000	-	-																					
59	Cinema Place Pressure Washing	-	-	1,108	1,108	-	-																					
60	2004 TAB Admin Fee FY 2015	-	-	-	-	-	-	2,000	2,000	2,000	2,000																	
61	2004 TAB Admin Fee FY 2015	-	-	-	-	-	-	3,000	3,000	3,000	3,000																	
62	2006 TAB Admin Fee FY 2015	-	-	-	-	-	-	1,800	1,800	1,800	1,800																	
63	2006 TAB Admin Fee FY 2014	-	-	-	-	-	-	700	700	700	700																	
64	Housing Authority Administrative Cost Allowance (Per AB 471)	-	-	-	-	-	-																					

Successor Agency Administrative Allowance - Proposed FY 2016 Budget (Based on \$250,000)			
Annual Admin Allowance	\$250,000		
Salaries and Benefits	(\$138,206)		
Balance Remaining	\$111,794		
Legal Expenses	\$5,000		
Supplies and Services	\$106,794		
Balance Remaining	\$0		

DATE: February 10, 2015

TO: Mayor and City Council

FROM: City Clerk and Assistant City Manager

SUBJECT: Adoption of Ordinance Amending Chapter 10, Article 17, of the Hayward Municipal Code Regarding Affordable Housing Requirements for New Housing Developments

RECOMMENDATION

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

BACKGROUND

The Ordinance was introduced by Council Member Zermeño 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 Ordinance was approved with four modifications:

- 1) Modification to Section 10-17.600 (b) regarding changes to the Affordable Housing Ordinance provisions regarding exemptions.
The Section would read as follows:
Section 10-17.600 EXEMPTIONS (b), Development agreements adopted and executed by the City Council prior to January 1, 2014 and any extensions or modifications of those development agreements that did not modify the affordable housing requirements.
- 2) Modification to Section 10-17.310 to require an equal split of the units between low and very low-income units if the developer chooses this mode of compliance.
The Section would read as follows:
Section 10-17.310 RENTAL AFFORDABLE UNITS PERMITTED IF CONSISTENT WITH COSTA HAWKINS ACT. As an alternative to paying affordable housing impact fees for Rental Residential Projects or providing for-sale Affordable Units for Ownership Residential Projects, an Applicant may propose to provide 7.5 percent of attached Dwelling Units and 10 percent of detached Dwelling Units as rental Affordable Units, 50 percent of which shall be made available at Affordable Rent for Low Income Households and 50

percent of which shall be made available at Affordable Rent for Very Low Income Households for a minimum of 55 years from the date of approval of a final inspection or issuance of an occupancy permit. Any fraction of a unit shall be rounded to the next whole number unit and that unit shall be subject to the affordability requirements for Very Low Income Households. To ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code), the City may only approve such a proposal if the Applicant agrees in a rent regulatory agreement with the City to limit rents in consideration for a direct financial contribution or a form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. Rental Affordable Units shall otherwise conform to the standards in Section 10-17.215 of this Article.

- 3) Modification to Section 10-17.1010 by adding “extremely low income” and language to allow the use of affordable housing fee for the provision of other residential facilities, including emergency shelters and transitional housing provided that those facilities mitigate the impact of new market rate housing on the need for affordable housing.

The Section would read as follows:

Section 10-17.1010 PURPOSE, LIMITATIONS AND ADMINISTRATION. Monies deposited in the Fund must be used to increase the supply of housing affordable to Moderate-, Low-, Very Low-, or Extremely Low-Income households in the City, through new construction, acquisition of affordability covenants and substantial rehabilitation of existing housing, or provision of other residential facilities, including emergency shelters and transitional housing, if those facilities mitigate the impact of market-rate housing on the need for affordable housing. Up to ten percent of revenue may be used to cover reasonable administrative costs associated with the administration and implementation of this Article.

The Fund shall be administered by the City Manager or designee, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this Article and any adopted budget of the City.

- 4) Modification to Section 10-17.215 (a) by adding the following language: “The Affordable Units must be at least equal in size and amenities as the on-site market rate units, and any comparative deficiency in size or amenities must be compensated for by additional units, larger units, or affordability to households with lower incomes” to be consistent with Section 10-17.225 OFF-SITE CONSTRUCTION (3).

The Section would read as follows:

Section 10-17.215 DESIGN, DISTRIBUTION AND TIMING OF AFFORDABLE UNITS (a) The Affordable Units should be integrated with the project as a whole. Affordable Units may be smaller in aggregate size and have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The Affordable Units must be at least equal in size and amenities as the on-site market rate units, and any comparative deficiency in size or amenities must be compensated for by additional units, larger units, or affordability to households with lower incomes.

Staff requests approval of the Ordinance with an additional change. In order to be consistent with the Attachment III to the January 27, 2015 staff report (the Resolution Establishing the

Housing Fees), the Ordinance should be effective March 31, 2015 – not thirty (30) days after adoption by the City Council. Therefore, Section 3 would read as follows:

SECTION 3. This Ordinance shall become effective March 31, 2015.

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, February 7, 2015. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk
Kelly McAdoo, Assistant City Manager
Omar Cortez, Housing Development Specialist

Approved by:



Fran David, City Manager

Attachment:

Attachment I	Summary of Ordinance Published on 2/7/15
Attachment II	Revised Ordinance

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

AN ORDINANCE OF THE CITY OF HAYWARD AMENDING CHAPTER 10, ARTICLE 17,
OF THE HAYWARD MUNICIPAL CODE REGARDING AFFORDABLE HOUSING
REQUIREMENTS FOR NEW HOUSING DEVELOPMENTS

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

SECTION 1. Chapter 10, Article 17 of the Hayward Municipal Code is amended to read in full
as follows:

ARTICLE 17
AFFORDABLE HOUSING ORDINANCE

Section	Subject Matter
10-17.100	GENERAL PROVISIONS
10-17.105	TITLE
10-17.110	PURPOSE
10-17.115	FINDINGS
10-17.120	DEFINITIONS
10-17.200	OWNERSHIP RESIDENTIAL PROJECTS
10-17.205	UNIT THRESHOLD AND BASIC REQUIREMENTS
10-17.210	AFFORDABILITY LEVELS
10-17.215	DESIGN, DISTRIBUTION AND TIMING OF AFFORDABLE UNITS
10-17.220	DURATION OF AFFORDABILITY REQUIREMENT
10-17.225	OFF-SITE CONSTRUCTION
10-17.230	ADDITIONAL ALTERNATIVES
10-17.300	RENTAL RESIDENTIAL PROJECTS AND RENTAL AFFORDABLE UNITS
10-17.305	UNIT THRESHOLD FOR AFFORDABLE HOUSING IMPACT FEE
10-17.310	RENTAL AFFORDABLE UNITS PERMITTED IF CONSISTENT WITH COSTA HAWKINS ACT
10-17.400	AFFORDABLE HOUSING IMPACT FEE
10-17.405	ADOPTION OF AFFORDABLE HOUSING IMPACT FEE
10-17.410	PAYMENT OF AFFORDABLE HOUSING IMPACT FEE
10-17.415	USE OF AFFORDABLE HOUSING IMPACT FEE
10-17.500	IMPLEMENTATION OF AFFORDABLE HOUSING PLAN
10-17.505	GENERAL
10-17.510	AFFORDABLE HOUSING PLAN
10-17.515	AFFORDABLE HOUSING AGREEMENT
10-17.520	TERM OF AGREEMENT
10-17.525	RECORDING OF AGREEMENT
10-17.600	EXEMPTIONS
10-17.700	DEVELOPMENT INCENTIVES
10-17.800	ADMINISTRATION OF AFFORDABLE UNITS
10-17.805	SELECTION CRITERIA
10-17.810	CONFLICT OF INTEREST

10-17.815	OCCUPANCY
10-17.820	OWNER-OCCUPIED UNITS
10-17.825	OPTION TO PURCHASE FOR OWNER-OCCUPIED UNITS
10-17.830	RENTAL UNITS
10-17.835	MARKETING PLAN
10-17.840	COMPLIANCE REPORTS
10-17.845	SUBSEQUENT RENTAL TO INCOME-ELIGIBLE TENANT
10-17.850	CHANGES IN TENANT INCOME
10-17.900	ADJUSTMENTS AND WAIVERS
10-17.905	APPLICATION FOR ADJUSTMENTS AND WAIVERS
10-17.910	CONSIDERATIONS
10-17.915	ACTION ON ADJUSTMENT OR WAIVER
10-17.1000	AFFORDABLE HOUSING TRUST FUND
10-17.1005	TRUST FUND
10-17.1010	PURPOSE, LIMITATIONS AND ADMINISTRATION
10-17.1100	ENFORCEMENT
10-17.1105	MISDEMEANOR
10-17.1110	CITY ACTIONS

SECTION 2. If any section, subsection, paragraph, or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective March 31, 2015.

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

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on February 10, 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: February 7, 2015
Miriam Lens, City Clerk
City of Hayward

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HAYWARD AMENDING CHAPTER 10, ARTICLE 17, OF THE HAYWARD MUNICIPAL CODE REGARDING AFFORDABLE HOUSING REQUIREMENTS FOR NEW HOUSING DEVELOPMENTS

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

SECTION 1. Chapter 10, Article 17 of the Hayward Municipal Code is amended to read in full as follows:

ARTICLE 17

AFFORDABLE HOUSING ORDINANCE

Section	Subject Matter
10-17.100	GENERAL PROVISIONS
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10-17.110	PURPOSE
10-17.115	FINDINGS
10-17.120	DEFINITIONS
10-17.200	OWNERSHIP RESIDENTIAL PROJECTS
10-17.205	UNIT THRESHOLD AND BASIC REQUIREMENTS
10-17.210	AFFORDABILITY LEVELS
10-17.215	DESIGN, DISTRIBUTION AND TIMING OF AFFORDABLE UNITS
10-17.220	DURATION OF AFFORDABILITY REQUIREMENT
10-17.225	OFF-SITE CONSTRUCTION
10-17.230	ADDITIONAL ALTERNATIVES

ATTACHMENT II

10-17.300	RENTAL RESIDENTIAL PROJECTS AND RENTAL AFFORDABLE UNITS
10-17.305	UNIT THRESHOLD FOR AFFORDABLE HOUSING IMPACT FEE
10-17.310	RENTAL AFFORDABLE UNITS PERMITTED IF CONSISTENT WITH COSTA HAWKINS ACT
10-17.400	AFFORDABLE HOUSING IMPACT FEE
10-17.405	ADOPTION OF AFFORDABLE HOUSING IMPACT FEE
10-17.410	PAYMENT OF AFFORDABLE HOUSING IMPACT FEE
10-17.415	USE OF AFFORDABLE HOUSING IMPACT FEE
10-17.500	IMPLEMENTATION OF AFFORDABLE HOUSING PLAN
10-17.505	GENERAL
10-17.510	AFFORDABLE HOUSING PLAN
10-17.515	AFFORDABLE HOUSING AGREEMENT
10-17.520	TERM OF AGREEMENT
10-17.525	RECORDING OF AGREEMENT
10-17.600	EXEMPTIONS
10-17.700	DEVELOPMENT INCENTIVES
10-17.800	ADMINISTRATION OF AFFORDABLE UNITS
10-17.805	SELECTION CRITERIA
10-17.810	CONFLICT OF INTEREST
10-17.815	OCCUPANCY
10-17.820	OWNER-OCCUPIED UNITS

ATTACHMENT II

10-17.825	OPTION TO PURCHASE FOR OWNER-OCCUPIED UNITS
10-17.830	RENTAL UNITS
10-17.835	MARKETING PLAN
10-17.840	COMPLIANCE REPORTS
10-17.845	SUBSEQUENT RENTAL TO INCOME-ELIGIBLE TENANT
10-17.850	CHANGES IN TENANT INCOME
10-17.900	ADJUSTMENTS AND WAIVERS
10-17.905	APPLICATION FOR ADJUSTMENTS AND WAIVERS
10-17.910	CONSIDERATIONS
10-17.915	ACTION ON ADJUSTMENT OR WAIVER
10-17.1000	AFFORDABLE HOUSING TRUST FUND
10-17.1005	TRUST FUND
10-17.1010	PURPOSE, LIMITATIONS AND ADMINISTRATION
10-17.1100	ENFORCEMENT
10-17.1105	MISDEMEANOR
10-17.1110	CITY ACTIONS

ARTICLE 17

AFFORDABLE HOUSING ORDINANCE

SEC. 10-17.100 GENERAL PROVISIONS

SEC. 10-17.105 TITLE. This title shall be known and may be cited and referred to as the “Hayward Affordable Housing Ordinance.”

SEC. 10-17.110 PURPOSE. The purpose of this Article is to:

- a. Enhance the public welfare by ensuring that future Residential Development Projects contribute to the attainment of the affordable housing goals set forth in the 2015-2023 Housing Element of the General Plan of the City of Hayward.
- b. Require that future Residential Development Projects mitigate their impact on the need for affordable housing in Hayward by contributing to the production of residences in Hayward that are affordable to extremely low, very low, low-and moderate-income households.
- c. Increase the production of residences in Hayward that are affordable to extremely low, very low, low, and moderate-income households.
- d. Ensure that residences affordable to extremely low, very low, low- and moderate-income households are distributed throughout the City’s various neighborhoods.
- e. Support the housing objectives contained in State law.

SEC. 10-17.115 FINDINGS. The City Council finds and determines that lack of access to affordable housing has a direct impact upon the health, safety and welfare of the residents of the City of Hayward. The housing problem affects a broad range of income groups, including many who would not need public assistance or intervention in the housing market if they lived outside of the San Francisco Bay Area.

- a. According to the 2015-2023 Housing Element, 48 percent of Hayward households pay more than 30 percent of their income for housing. Over 68 percent of lower income households overpay, and among very low-income households, 89 percent of renters overpay for housing.
- b. The 2015-2023 Housing Element also shows that most lower income households cannot afford any available housing in Hayward and that moderate-income households can afford to rent but not purchase housing in Hayward.
- c. Because all forms of housing are expensive to build, rent, and buy, a variety of housing programs and resources are required to help meet the need for affordable housing.

- d. The California Legislature has required each local government agency to develop a comprehensive, long-term plan establishing policies for future development. As specified in Government Code Section 65583(c), the plan must (1) encourage the development of a variety of types of housing for all income levels, including multifamily rental housing; and (2) “[a]ssist in the development of adequate housing to meet the needs of extremely low, very low, low- and moderate-income households.” The City is also charged by the Legislature to use the powers vested in it to make adequate provision for the housing needs of all economic segments of the community. (Section 65580(d).)
- e. Because of the high cost of both existing and newly constructed housing, the City will be limited in its ability to contribute to the attainment of State housing goals and to maintain a thriving mixed-income community without additional affordable housing.
- f. Rising land prices have been a key factor in preventing development of new affordable housing. New housing construction in the City that does not include affordable units aggravates the existing shortage of affordable housing by absorbing the supply of available residential land. This reduces the supply of land for affordable housing and increases the price of remaining residential land. At the same time new housing contributes to the demand for goods and services in the City, increasing local service employment at wage levels that do not often permit employees to afford housing in the City. Providing the affordable units or fees required by this ordinance will mitigate the impacts of market-rate development on the need for affordable housing and will help to ensure that part of the City’s remaining developable land is used to provide affordable housing.

SEC. 10-17.120 DEFINITIONS. As used in this Article, each of the following terms is defined as follows:

- a. “Affordable Unit” is defined as an ownership or rental Dwelling Unit whose price is set at an Affordable Ownership Cost or Affordable Rent as defined in this Article.
- b. “Affordable Ownership Cost” is defined as the maximum purchase price that will be affordable to a Moderate-Income Household at Presumed Occupancy Levels, based on a reasonable down payment and monthly housing payments (including mortgage principal and interest, property taxes, homeowner’s insurance, and homeowner/condominium association fees where applicable) that do not exceed one hundred ten percent of Area Median Income multiplied by thirty-five percent and divided by twelve.
- c. “Affordable Rent” is defined as the maximum monthly rent, including all fees for housing services and a utility allowance as determined by the Alameda County Housing Authority, that does not exceed the following, based on Presumed Occupancy Levels:

1. For Extremely Low Income Households: thirty percent of Area Median Income multiplied by thirty percent and divided by twelve.
 2. For Very Low Income Households: fifty percent of Area Median Income multiplied by thirty percent and divided by twelve.
 3. For Low Income Households: sixty percent of Area Median Income multiplied by thirty percent and divided by twelve.
- d. “Applicant” is defined as any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities that seeks discretionary or ministerial permits for a Residential Development Project from the City of Hayward.
 - e. “Area Median Income (AMI)” is defined as the median income for Alameda County, adjusted for household size, as published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development (HCD).
 - f. “Decision-Making Body” is defined as the body with the authority to approve an application for a Residential Development Project.
 - g. “Dwelling Unit” is defined as a dwelling designed and intended for residential occupancy by one household.
 - h. “Extremely Low, Very Low, Low, and Moderate-Income Households” are defined as households whose incomes do not exceed the extremely low, very low, low, or moderate-income limits, as applicable, established for Alameda County and adjusted for household size that are published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by HCD.
 - i. “Household Income” is defined as the gross annual household income, monetary benefits, and all other sources of household income, before deductions or exemptions, and includes the income of all members of the household 18 years of age or older.
 - j. “Ownership Residential Project” is defined as any Residential Development Project that creates new Dwelling Units that may be sold individually, including but not limited to condominiums, townhomes, stock cooperatives, community apartments, and attached or detached single-family homes. An Ownership Residential Project also includes any Residential Development Project with a recorded condominium plan or map and the conversion of residential property to common interest developments as described in Hayward Municipal Code Section 10-3.370.
 - k. “Presumed Occupancy Levels” as listed below shall be used to establish Affordable Ownership Cost and Affordable Rents, unless the Residential Development Project

is financed with federal tax credits, in which case the applicable federal regulations shall determine the Presumed Occupancy Levels:

- (1) One person for a studio unit;
- (2) Two people for a one bedroom unit;
- (3) Three people for a two bedroom unit; and
- (4) One additional person for each additional bedroom thereafter.

- l. "Rental Residential Project" is defined as any Residential Development Project that creates new Dwelling Units that cannot be sold individually.
- m. "Residential Development Project" is defined as any development for which a discretionary or ministerial permit is required that includes the creation of twenty (20) or more net new Dwelling Units or residential lots, or Dwelling Units and residential lots in combination. A conversion of residential property containing twenty (20) or more Dwelling Units to a common interest development, as defined in Hayward Municipal Code Section 10-3.370, is also a Residential Development Project. All development within a two-year period of twenty (20) or more Dwelling Units on a lot, or on contiguous lots for which there is evidence of common ownership or control, even though not covered by the same City discretionary or ministerial permit, shall be considered to be one Residential Development Project. The provisions of this section shall be interpreted broadly to effect the purposes of this chapter and to prevent evasion of its terms.

SEC. 10-17.200 OWNERSHIP RESIDENTIAL PROJECTS.

SEC. 10-17.205 UNIT THRESHOLD AND BASIC REQUIREMENTS. All Ownership Residential Projects consisting of twenty (20) or more Dwelling Units shall be subject to the affordable housing requirements of this Article. This Article shall be applied no more than once to an approved Ownership Residential Project, regardless of changes in the character or ownership of the development, provided that the total number of Dwelling Units does not change.

At the time an application for an Ownership Residential Project is submitted, the Applicant shall specify how the requirements of this Section shall be met. An Applicant for an Ownership Residential Project shall comply with the affordable housing requirements of this article by satisfying one of the following options:

- a. Pay an affordable housing impact fee under Section 10-17.410; or
- b. Include on-site for-sale Affordable Units equal to a minimum of 7.5 percent of the attached Dwelling Units and 10 percent of the detached Dwelling Units. Where the calculation of the required number of Affordable Units results in a fraction of a unit, one additional Affordable Unit shall be required. If a project

amendment results in a change in the total number of units, the number of Affordable Units required will be recalculated to coincide with the final approved Ownership Residential Project; or

- c. Construct for-sale Affordable Units not physically contiguous to the development (off-site) if approved by the Decision-Making Body under Section 10-17.225; or
- d. Propose additional alternatives not listed in this Article that would mitigate the affordable housing impact of a proposed Residential Development Project if approved by the Decision-Making Body under Section 10-17.230; or
- e. Provide rental Affordable Units if consistent with Section 10-17.310.

SEC. 10-17.210 AFFORDABILITY LEVELS. For-sale Affordable Units shall be made affordable to Moderate- Income Households at Affordable Ownership Cost.

SEC. 10-17.215 DESIGN, DISTRIBUTION AND TIMING OF AFFORDABLE UNITS. On-site Affordable Units shall be integrated with the proposed Ownership Residential Project and shall be comparable in infrastructure (including sewer, water and other utilities), construction quality, exposure to environmental conditions, access to amenities, and exterior design to the on-site market-rate units. Specifically:

- a. The Affordable Units should be integrated with the project as a whole. Affordable Units may be smaller in aggregate size and have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The Affordable Units must be at least equal in size and amenities as the on-site market rate units, and any comparative deficiency in size or amenities must be compensated for by additional units, larger units, or affordability to households with lower incomes.
- b. No building permits will be issued for any market-rate units in the Ownership Residential Project until permits for all Affordable Units have been obtained, unless Affordable Units are to be constructed in phases pursuant to a plan approved by City Council.
- c. Market-rate units in the Ownership Residential Project will not be inspected for occupancy until all Affordable Units have been constructed, unless Affordable Units are to be constructed in phases pursuant to a plan approved by City Council.

SEC. 10-17.220 DURATION OF AFFORDABILITY REQUIREMENT. For-sale Affordable Units must be legally restricted to occupancy by Moderate-Income Households for a minimum of 45 years from the date of approval of a final inspection or issuance of an occupancy permit.

SEC. 10-17.225 OFF-SITE CONSTRUCTION. As an alternative to on-site construction of for-sale Affordable Units, an Applicant may instead construct for-sale Affordable Units not physically contiguous to the development (off-site) if the Decision-Making Body determines that:

- (1) Off-site construction will further affordable housing opportunities in the City to a greater extent than construction of the required Affordable Units as part of the proposed Ownership Residential Project;
- (2) A schedule for completion of the off-site Affordable Units concurrently with completion of the related market-rate units is provided and agreed upon as a condition of approval for the project;
- (3) The off-site Affordable Units are at least equal in size and amenities to the Affordable Units that would be provided on-site, or any comparative deficiency in size or amenities is compensated for by additional units, larger units, or affordability to households with lower incomes.

Except as approved by the Decision-Making Body, off-site Affordable Units shall conform with all other requirements in this Article that are applicable to on-site for-sale Affordable Units.

SEC. 10-17.230 ADDITIONAL ALTERNATIVES. An Applicant may also propose additional alternatives not listed in this Article that would mitigate the affordable housing impact of a proposed Residential Development Project if the Decision-Making Body finds that such an alternative would provide a greater benefit to the City than the other options explicitly described in this Article. An Applicant may also choose to propose any combination of on-site construction, off-site construction, affordable housing impact fee, rental housing, or other alternative that conforms to the provisions of this Article and would at least equal the benefit to the City as the other options explicitly described in this Article. Except as approved by the Decision-Making Body, off-site Affordable Units shall conform with all other requirements in this Article that are applicable to on-site for-sale Affordable Units.

SEC. 10-17.300 RENTAL RESIDENTIAL PROJECTS AND RENTAL AFFORDABLE UNITS.

SEC. 10-17.305 UNIT THRESHOLD FOR AFFORDABLE HOUSING IMPACT FEE. No Affordable Units are required to be included in a Rental Residential Project which does not receive City assistance as described in Section 10-17.310. All Rental Residential Projects consisting of twenty (20) or more Dwelling Units shall pay affordable housing impact fees as described in Sections 10-17.400-415, unless the Applicant elects to provide rental Affordable Units in conformance with Section 10-17.310. The affordable housing impact fee shall be paid no more than once for an approved Rental Residential Project, regardless of changes in the character or ownership of the development, provided that the total number of Dwelling Units does not change.

SEC. 10-17.310 RENTAL AFFORDABLE UNITS PERMITTED IF CONSISTENT WITH COSTA HAWKINS ACT. As an alternative to paying affordable housing impact fees for Rental Residential Projects or providing for-sale Affordable Units for Ownership Residential Projects, an Applicant may propose to provide 7.5 percent of attached Dwelling Units and 10 percent of detached Dwelling Units as rental Affordable Units, 50 percent of which shall be made available at Affordable Rent for Low Income Households and 50 percent of which shall be made available at Affordable Rent for Very Low Income Households for a minimum of 55 years from the date of approval of a final inspection or issuance of an occupancy permit. Any fraction of a unit shall be rounded to the next whole number unit and that unit shall be subject to the affordability requirements for Very Low Income Households. To ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code), the City may only approve such a proposal if the Applicant agrees in a rent regulatory agreement with the City to limit rents in consideration for a direct financial contribution or a form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. Rental Affordable Units shall otherwise conform to the standards in Section 10-17.215 of this Article.

SEC. 10-17.400 AFFORDABLE HOUSING IMPACT FEE.

SEC. 10-17.405 ADOPTION OF AFFORDABLE HOUSING IMPACT FEE.

Affordable housing impact fees for Residential Development Projects may be established by resolution of the City Council and amended from time to time as appropriate. Any such fees shall be part of the City's Master Fee Schedule. The fees shall not exceed the cost of mitigating the impact of market rate housing on the need for affordable housing in the City.

SEC. 10-17.410 PAYMENT OF AFFORDABLE HOUSING IMPACT FEE.

Affordable housing impact fees shall be paid either prior to issuance of a building permit for a Dwelling Unit or prior to approval of a final inspection or issuance of an occupancy permit for a Dwelling Unit. Regardless of the option chosen, no final inspection will be approved and no occupancy permit will be issued for any Dwelling Unit unless all required affordable housing impact fees have been paid in full.

SEC. 10-17.415 USE OF AFFORDABLE HOUSING IMPACT FEE. The affordable housing impact fee shall be placed in the Affordable Housing Trust Fund and used as described in Sections 10-17.1000-1010.

SEC. 10-17.500 IMPLEMENTATION OF AFFORDABLE HOUSING PLAN.

SEC. 10-17.505 GENERAL. The provisions of this Article shall apply to all agents, successors and assignees of an Applicant or property owner proposing a Residential Development Project governed by this Article. No discretionary or ministerial permit shall be issued for any Residential Development Project unless in compliance with the terms of this Article.

SEC. 10-17.510 AFFORDABLE HOUSING PLAN. Unless the Applicant proposes to pay affordable housing impact fees consistent with Section 10-17.400-415, an Applicant shall submit an Affordable Housing Plan (AHP) as part of the earliest application for a Residential Development Project. In accordance with the Permit Streamlining Act, the planning director shall determine whether the AHP is complete. The elements of a complete AHP are described below. If the AHP is incomplete, the AHP will be returned to the Applicant with a list of the deficiencies or the information required. No application for a discretionary or ministerial permit to which this Article applies shall be deemed complete until the AHP is deemed complete by the planning director. At any time during the review process, the planning director may require from the Applicant additional information reasonably necessary to clarify and supplement the application or to determine the consistency of the proposed AHP with the requirements of this Article.

A complete AHP shall include, at a minimum:

- a. The location, structure (attached or detached), proposed tenure (for-sale or rental), and size of the proposed market-rate units and Affordable Units and the basis for calculating the number of Affordable Units provided;
- b. A floor or site plan depicting the location of the Affordable Units;
- c. The income levels to which each Affordable Unit will be made affordable;
- d. For phased Residential Development Projects, a phasing plan that provides for the timely development of the number of Affordable Units proportionate to each proposed phase of development as required by this Article;
- e. A description of any incentives that are requested by the Applicant;
- f. If off-site units, rental units, or other alternatives are proposed under Sections 10-17.225, 10-17.230, or 10-17.310, the information necessary to support the findings required for approval of such alternatives;
- g. A marketing plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Units;
- h. A written statement demonstrating compliance with the requirements of Section 10-17.215 for on-site Affordable Units; and
- i. Any other information reasonably requested by the Planning Director to assist with evaluation of the AHP under the standards of this Article.

Affordable Housing Plans that meet all of the requirements of this Article shall be approved by Decision-Making Body. An Affordable Housing Plan that requests a waiver of any of the requirements set forth in this Article shall require approval of the City Council.

SEC. 10-17.515 AFFORDABLE HOUSING AGREEMENT. An approved Affordable Housing Plan shall be memorialized by an Affordable Housing Agreement (AHA) between the City and the Applicant. The form of the AHA will vary, depending on the manner in which the provisions of this Article are satisfied for a particular Residential Development Project. An AHA must include, at minimum, the following:

- a. Description of the development, including whether the Affordable Units will be rented or owner-occupied;
- b. The number, size and location of any Very Low-, Low- or Moderate-Income Units;
- c. Affordability incentives provided by the City (if any), including the nature and amount of any local public funding;
- d. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions;
- e. The marketing plan for sale or rental of the Affordable Units;
- f. Provisions for monitoring the ongoing affordability of the units, and the process for qualifying prospective resident households for income eligibility; and
- g. Any additional obligations relevant to the compliance with this Article.

The form of the AHA resale and rental restrictions, deeds of trust, option agreements and other documents authorized by this subsection must be approved by the City Manager or designee prior to being executed with respect to any Residential Development Project.

Approval of an AHA is a condition of any discretionary or ministerial permit for any Residential Development Project for which this Article applies, unless the Applicant has proposed to pay affordable housing mitigation fees consistent with Section 10-17.400.

SEC. 10-17.520 TERM OF AGREEMENT. All for-sale Affordable Units provided under this Article must be legally restricted to occupancy by Moderate, Low, Very Low, or Extremely Low-Income Households, as applicable, for a minimum of 45 years from the date of approval of a final inspection or issuance of an occupancy permit. All rental Affordable Units provided under this Article must be legally restricted to occupancy by Low, Very Low, or Extremely Low-Income Households, as applicable, for a minimum of 55 years from the date of approval of a final inspection or issuance of an occupancy permit.

SEC. 10-17.525 RECORDING OF AGREEMENT. An approved Affordable Housing Agreement must be recorded against the property included in the Residential Development Project prior to approval of any parcel or final map or issuance of any building permit, whichever occurs first. Additional rental or resale restrictions, deeds of trust, option

agreements and/or other documents acceptable to the City Manager or designee may also be recorded. In cases where the requirements of this Article are satisfied through the development of off-site units, the Affordable Housing Agreement must simultaneously be recorded against the Residential Development Project site and the property where the off-site units are to be developed.

SEC. 10-17.600 EXEMPTIONS.

The requirements of this Article do not apply to the following:

- a. The reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature; provided, however, that this Article shall apply to net new Dwelling Units added to a site if the reconstruction of the site increases the total number of Dwelling Units by 20 or more.
- b. Development agreements originally adopted and executed by the City Council prior to January 1, 2004 and any extensions or modifications of those development agreements that did not modify the affordable housing requirements.

SEC. 10-17.700 DEVELOPMENT INCENTIVES.

This Article confers economic and land use benefits on Residential Development Projects that provide on-site Affordable Units, as set forth below.

- a. Density Bonus. The City Council, upon request, may approve an increase in the number of units per acre permitted in a proposed Residential Development Project governed by this Article, when such an increase in density is consistent with state density bonus law as set forth in Section 65915 of the State Government Code. In calculating the number of affordable units required by this Article, any additional units authorized as a density bonus pursuant to state law shall not be counted as part of the Residential Development Project.
- b. Modified Development Standards to Increase Density.
 - (1) In a residential project which contains single family detached homes, Affordable Units may be attached Dwelling Units rather than detached homes. In a residential project that includes attached multi-story Dwelling Units, Affordable Units may contain only one story;
 - (2) When a Residential Development Project is on a major transportation route, the Applicant may request that the Decision-Making Body reduce the number of parking spaces required for the development based on the assumption that some households will take public transportation to their jobs. This will allow for increased density within the development.

- c. Expedited Processing. Expedited processing of development approvals and permits will be available for Residential Development Projects with on-site Affordable Units.
- d. Technical and Financial Assistance. Upon request, information shall be provided to Applicants regarding design guidelines and financial subsidy programs for Residential Development Projects.

SEC. 10-17.800 ADMINISTRATION OF AFFORDABLE UNITS.

SEC. 10-17.805 SELECTION CRITERIA. No household shall be permitted to occupy an Affordable Unit unless the City Manager or designee has first approved the household's eligibility as a Moderate-, Low-, Very Low, or Extremely Low-Income Household, as applicable. The Applicant, property owner or property manager shall use an equitable selection method established in compliance with the terms of this Article and approved by the City Manager or designee. If qualified, persons shall be selected for occupancy of an Affordable Unit based on the following criteria:

- a. First Priority: Persons who live or work within the City of Hayward.
- b. Second Priority: All other eligible households.

SEC. 10-17.810 CONFLICT OF INTEREST. The following individuals are ineligible to purchase or rent an Affordable Unit: City employees and officials (and their immediate family members) who have policy-making authority or influence regarding City housing programs and do not qualify as having a remote interest as provided by California Government Code; the Applicant and its officers and employees (and their immediate family members); and the property owner and its officers and employees (and their immediate family members).

SEC. 10-17.815 OCCUPANCY. Any household who occupies an Affordable Unit must occupy that unit as the household's principal residence. Should the household cease to occupy the Affordable Unit as its principal residence, the household will be in default of its resale restriction or lease. The City may, in its sole discretion, grant a temporary waiver of this occupancy requirement for hardship.

SEC. 10-17.820 OWNER-OCCUPIED UNITS. The initial and subsequent sales prices of the Affordable Unit must be set at Affordable Ownership Cost.

- a. Transfer of Restrictions. When the ownership of a for-sale Affordable Unit is transferred prior to the expiration of the 45-year affordability period, each new owner must sign an Affordable Housing Agreement to complete the 45-year term.

- b. Resale. The maximum sales price permitted on resale of a for-sale Affordable Unit shall be the lower of (1) fair market value or (2) the seller's lawful purchase price, increased by the lesser of (a) the rate of increase of Area Median Income during the seller's ownership or (b) the rate at which the consumer price index increased during the seller's ownership. To the extent authorized in the resale restrictions or Affordable Housing Agreement recorded against the property, seller may recover, at time of sale, the value of capital improvements made by the seller (for which there are receipts) and the seller's necessary and usual costs of sale. The City Manager or designee may authorize an increase in the maximum allowable sales price to achieve such recovery. Capital improvements are limited to new construction. Repairs of any type, including but not limited to roofs, bathrooms and kitchens, are not considered capital improvements.

SEC. 10-17.825 OPTION TO PURCHASE FOR OWNER-OCCUPIED UNITS. In the event of a default under the resale restrictions, the City shall have the option to purchase the unit following the default by the owner under the terms of the resale restrictions.

It is the responsibility of the seller of an Affordable Unit that is subject to this Article to select a purchaser that meets the income requirements of this Article. Information regarding potential purchasers who may meet the income criteria may be obtained from the City of Hayward or from similar programs offered by other municipalities, lenders or local housing organizations. The City may establish procedures to review the prospective purchaser's eligibility to purchase an Affordable Unit. If the seller is unable to find an eligible purchaser, the City shall have the option to purchase the unit.

In either event, the option price for the Affordable Unit shall equal the price that could be charged to an income-eligible purchaser.

SEC. 10-17.830 RENTAL UNITS. If for-rent Affordable Units are provided in accordance with Section 10-17.310, the Affordable Units shall be offered to eligible households at an Affordable Rental Cost. The owner of rental Affordable Units shall certify each tenant's Household Income to the City Manager or designee at the time of initial rental and annually thereafter. The owner must obtain and review documents that demonstrate the prospective tenant's Household Income and submit such information on a form approved by the City Manager or designee. The City Manager or designee shall review the prospective tenant's eligibility to rent an Affordable Unit. No tenant may move into an Affordable Unit prior to authorization by the City Manager or designee.

SEC. 10-17.835 MARKETING PLAN. Owners of rental Affordable Units may fill vacant units by selecting income-eligible households in accordance with the approved marketing plan contained in the Affordable Housing Agreement.

SEC. 10-17.840 COMPLIANCE REPORTS. Owners of rental Affordable Units shall submit annual compliance reports summarizing the occupancy of each Affordable Unit. Annually, the owner shall re-certify all tenants for income-eligibility and submit an

annual report. The forms and format used will be the same as those specified for the Tax Exempt Multifamily Mortgage Bond Program or other State or federal housing subsidy program approved by the City.

SEC. 10-17.845 SUBSEQUENT RENTAL TO INCOME-ELIGIBLE TENANT. The owner shall apply the same rental terms and conditions to tenants of Affordable Units as are applied to all other tenants, except as required to comply with this Article (e.g., rent levels, occupancy restrictions and income requirements) or with other applicable government subsidy programs. The owner shall manage and operate the Affordable Units in compliance with federal and state fair housing laws.

SEC. 10-17.850 CHANGES IN TENANT INCOME. If, after moving into an Affordable Unit, a tenant's Household Income exceeds the income limit for that Affordable Unit, the following shall apply:

- a. If the tenant's Household Income does not exceed the income limits of other Affordable Units in the Residential Development Project, the owner may, at the owner's option, allow the tenant to remain in the original Affordable Unit and re-designate the Affordable Unit as affordable to households of a higher income level, as long so the next vacant Affordable Unit is re-designated for the income category previously applicable to the tenant's household.
- b. If there are no Affordable Units available at the tenant's increased income level, the tenant's rent shall be raised to 30 percent of the tenant's actual monthly Household Income or fair market rent, whichever is lower. If the tenant is paying fair market rent, the next vacant Dwelling Unit that is comparable in size (number of bedrooms, bathrooms, square footage, etc.) to the original Affordable Unit shall be designated as an Affordable Unit at the income level previously applicable to the Dwelling Unit converted to market rate. However, if the Affordable Units are financed with federal tax credits, the following shall apply: if, upon recertification, a tenant's Household Income exceeds 70 percent of AMI, the owner shall charge the existing tenant rent equal to the amount permitted under the rules and regulations of the Internal Revenue Service and the California Tax Credit Allocation Committee, and the owner shall rent the next available Dwelling Unit to a Very Low Income Household for Affordable Rent.

SEC. 10-17.900 ADJUSTMENTS AND WAIVERS.

SEC. 10-17.905 APPLICATION FOR ADJUSTMENTS AND WAIVERS. As part of an application for the first approval of a Residential Development Project, an Applicant may apply for a reduction, adjustment, or waiver of the requirements of this Article based upon a showing that applying the requirements of this chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result. The Applicant shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation.

SEC. 10-17.910 CONSIDERATIONS. In making a determination on an application to adjust or waive the requirements of this Article, the City Council may assume each of the following when applicable: (a) the Applicant will benefit from any incentives included in this Article; (b) the Applicant will be obligated to provide the most economical Affordable Units feasible in terms of construction, design, location and tenure; and (c) that the Applicant is likely obtain other housing subsidies where such funds are reasonably available.

SEC. 10-17.915 ACTION ON ADJUSTMENT OR WAIVER. The City Council, based upon legal advice provided by or at the behest of the City Attorney, may approve a reduction, adjustment, or waiver if it determines that applying the requirements of this chapter would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property. The reduction, adjustment, or waiver shall be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings and based on legal analysis and the evidence. If a reduction, adjustment, or waiver is granted, any change in the residential or nonresidential project shall invalidate the reduction, adjustment, or waiver, and a new application shall be required for a reduction, adjustment, or waiver pursuant to this Section. If the City Council determines no violation of the United States or California Constitutions would occur through application of this Article, the requirements of this Article shall remain applicable.

SEC. 10-17.1000 AFFORDABLE HOUSING TRUST FUND.

SEC. 10-17.1005 TRUST FUND. There is hereby established a separate Affordable Housing Trust Fund (“Fund”). This Fund shall receive all affordable housing impact fees and may also receive monies from other sources.

SEC. 10-17.1010 PURPOSE, LIMITATIONS AND ADMINISTRATION. Monies deposited in the Fund must be used to increase the supply of housing affordable to Moderate-, Low-, Very Low-, or Extremely Low-Income households in the City, through new construction, acquisition of affordability covenants and substantial rehabilitation of existing housing, or provision of other residential facilities, including emergency shelters and transitional housing, if those facilities mitigate the impact of market-rate housing on the need for affordable housing. Up to ten percent of revenue may be used to cover reasonable administrative costs associated with the administration and implementation of this Article.

The Fund shall be administered by the City Manager or designee, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this Article and any adopted budget of the City.

SEC. 10-17.1100 ENFORCEMENT.

SEC. 10-17.1105 MISDEMEANOR. It shall be a misdemeanor for any person to sell or rent an Affordable Unit at a sales price or rent exceeding Affordable Rent or Affordable Ownership Cost or otherwise to violate any of the provisions of this Article.

SEC. 10-17.1110 CITY ACTIONS. The City may institute actions in law or equity for violations of this Article and may suspend or revoke any discretionary or ministerial permit upon finding a violation of any of the provisions of this Article, an approved Affordable Housing Agreement, or any documents, such as resale restrictions and rent regulatory agreements, entered into by the City to implement the requirements of this Article.

SECTION 2. If any section, subsection, paragraph, or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective March 31, 2015.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 27th day of January, 2015 by Council Member _____

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

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: February 10, 2015

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of 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 October of 2019

RECOMMENDATION

That the City Council adopts the Ordinance introduced on February 3, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the February 3, 2015 meeting of the City Council with the following vote:

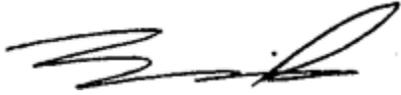
AYES:	Council Members:	Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez Mayor Halliday
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The Ordinance and the Amendment to the Mount Even Sports Park and Community Development Agreement relating to Legacy Eden Shores, Exhibit A to the resolution approved by Council on February 3, 2015, was updated to reflect the new expiration date of the Agreement to be October 28, 2019.

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, February 7, 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 2/7/15
Attachment II	Revised Resolution – Approved 2/3/15

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

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 OCTOBER 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.

Section 2. Authorization to Execute Amendment to Development 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 the meeting of the Hayward City Council held February 3, 2015, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on February 10, 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: February 7, 2015
Miriam Lens, City Clerk
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Councilmember _____

RESOLUTION AUTHORIZING AMENDMENT OF THE MOUNT EDEN BUSINESS AND SPORTS PARK COMMUNITY DEVELOPMENT AGREEMENT RELATING TO LEGACY EDEN SHORES, A PORTION OF THE OLIVER EAST PROPERTY

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 ____, 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 Legacy Partners, 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 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. 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 ~~October~~September 28, 2014.

K. The Amendment is being entered into by Legacy Partners, LLC and the City to extend the term of the Agreement, as authorized in the Agreement and by applicable local and state law.

L. 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.

M. City has adopted Ordinance No. _____ 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.

N. 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 ~~October~~September 28, 2019.

2. Except as expressly amended herein, the Agreement shall remain in full force and effect.

[SIGNATURES ON NEXT PAGE]

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: _____
Francis 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 managing member

Approved As To Form:

By: _____
Name: _____
Title: _____

Michael Lawson
City Attorney

DATE: February 10, 2015
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of 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

RECOMMENDATION

That the City Council adopts the Ordinance introduced on February 3, 2015.

BACKGROUND

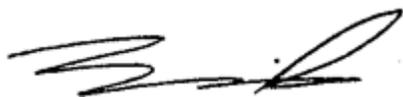
The Ordinance was introduced by Council Member Jones at the February 3, 2015 meeting of the City Council with the following vote:

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

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, February 7, 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 2/7/15

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

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.

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 the meeting of the Hayward City Council held February 3, 2015, the above-entitled Ordinance was introduced by Council Member Jones.

This Ordinance will be considered for adoption at a special meeting of the Hayward City Council, to be held on February 10, 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: February 7, 2015
Miriam Lens, City Clerk
City of Hayward