

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, March 7, 2023

7:00 PM

Council Chamber and Virtual Platform (Zoom)

City Council

CITY COUNCIL MEETING

NOTICE: The City Council will hold a hybrid meeting in Council Chambers and virtually via Zoom.

PUBLIC PARTICIPATION

How to observe the Meeting:

1. Comcast TV Channel 15
2. Live stream <https://hayward.legistar.com/Calendar.aspx>
3. YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

1. Use eComment on the City's Meeting & Agenda Center webpage at: <https://hayward.legistar.com/Calendar.aspx>. eComments are directly sent to the iLegislate application used by City Council and City staff. Comments received before 3:00 p.m. the day of the meeting will be exported into a report, distributed to the City Council and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda.

2. Send an email to List-Mayor-Council@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the City Council and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Documents received after 3:00 p.m. through the adjournment of the meeting will be included as part of the meeting record and published the following day.

How to provide live Public Comment during the City Council Meeting:

Participate in the Council Chambers or click link below to join the meeting:

<https://hayward.zoom.us/j/85125536468?pwd=azZUMm9UTm1LUnNQZzhXWjUvcCtodz09>

Meeting ID: 851 2553 6468

Password: CCm3/7@7pm

or

Dial: +1 669 900 6833 or +1 646 931 3860

Meeting ID: 851 2553 6468

Password: 8762538884

CALL TO ORDER: Mayor Salinas

Pledge of Allegiance: Council Member Márquez

AB 2449 TELECONFERENCE NOTIFICATIONS AND CONSIDERATION

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION

American Red Cross Month Proclamation

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Information Items. The Council welcomes 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, items will be taken under consideration and may be referred to staff.

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.

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. [MIN 23-028](#) Approve the City Council Minutes of the City Council Meeting on February 21, 2023

Attachments: [Attachment I Draft Minutes of 2/21/2023](#)

2. [CONS 23-131](#) Adopt an Ordinance Amending Article 14, Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses by Amending Section 6-14.13(d) Relating to Commercial Cannabis Permit Application, Amending Section 6-14.14 Relating to Operating and Performance Standards and Adding Section 6-14.18 Relating to Enforcement

Attachments: [Attachment I Staff Report](#)
 [Attachment II Summary of Ordinance Published](#)

3. [CONS 23-124](#) Adopt a Resolution Approving Addendum No. 1, Awarding a Construction Contract to Bear Construction, Inc., for the FY23 Median Landscape Improvement - Phase 1, Project No. 05281 in the Amount of \$935,620, and Authorizing a Construction Contingency Change Order Budget of \$189,380, for a Not-to-Exceed Contract Amount of \$1,125,000

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Project Location Map](#)

4. [CONS 23-134](#) Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with First Shield Security and Patrol, Inc. to Provide Unarmed Security Services at Various City Locations For a Term of Three Years With Two One-Year Options to Extend in a Contract Amount of \$4,600,900 and a Contingency Amount of \$225,000, for a Total Not-to-Exceed Amount of \$4,825,900

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)

5. [CONS 23-144](#) Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with AEI Consultants for Environmental Investigation Services to Support the Stack Center Project by Increasing the Not-to-Exceed Amount of the Agreement from \$59,950 to \$200,000

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)

PUBLIC HEARING

6. [PH 23-013](#) Alcoholic Beverage Regulations Update: Adopt a Resolution Amending Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code to Make Updates to the Regulations Governing Alcoholic Beverage Outlets Throughout the City, and Finding that the Action is Exempt from CEQA Review and Introducing an Ordinance Codifying the Amendments (Report from Acting Development Services Director Buizer)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Draft Ordinance](#)
[Attachment IV Draft PC Minutes 2/9/23](#)

LEGISLATIVE BUSINESS

7. [LB 23-011](#) FY 2023 Mid-Year Budget: Adopt a Resolution Approving the FY 2023 Mid-Year Budget Update and Five-Year General Fund Update (Report from Finance Director Gonzalez)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution Amending Operating Budget](#)
[Attachment IIA Exhibit A and B FY23 Mid-Year Adjustments](#)
[Attachment III Resolution Amending FY23 CI Budget](#)
[Attachment IIIA Exhibit A and B FY23 CIP Adjustments](#)
[Attachment IV FY23 Mid-Year Budget Adjustments](#)
[Attachment V Measure C 20-Year Forecast Update](#)

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Members can provide oral reports on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events to comply with AB 1234 requirements (reimbursable expenses for official activities).

COUNCIL REFERRALS

Council Members may bring forward a Council Referral Memorandum (Memo) on any topic to be considered by the entire Council. The intent of this Council Referrals section of the agenda is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible direction by the Council to the appropriate Council Appointed Officers for action by the applicable City staff.

ADJOURNMENT**NEXT MEETING, March 21, 2023, 7:00 PM****PUBLIC COMMENT RULES**

Any member of the public desiring to address the Council shall limit their address to three (3) minutes unless less or further time has been granted by the Presiding Officer or in accordance with the section under Public Hearings. The Presiding Officer has the discretion to shorten or lengthen the maximum time members may speak. Speakers will be asked for their name before speaking and are expected to honor the allotted time.

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 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 City website, Cable Channel 15 - KHRT, and YouTube. ****

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 cityclerk@hayward-ca.gov.

Assistance will be provided to those requiring language assistance. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400.



CITY OF HAYWARD

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File #: MIN 23-028

DATE: March 7, 2023

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve the City Council Minutes of the City Council Meeting on February 21, 2023

RECOMMENDATION

That the Council approves the City Council meeting minutes of February 21, 2023.

SUMMARY

The City Council held a meeting on February 21, 2023.

ATTACHMENTS

Attachment I Draft Minutes of February 21, 2023



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541

Virtual Platform (Zoom)

<https://hayward.zoom.us/j/81518963688?pwd=YTJrT2xET3U2N2pPcEk4cW1WY3pwZz09>

Tuesday, February 21, 2023, 7:00 p.m.

The City Council meeting was called to order by Mayor Salinas at 7:00 p.m. The City Council held a virtual meeting via the Zoom platform.

Pledge of Allegiance: Council Member Andrews

Present: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño
MAYOR Salinas

Absent: None

PRESENTATION

Mayor Salinas and Mayor Pro Tempore Andrews read a proclamation acknowledging February 2023 as Black History Month in the City of Hayward and urged its recognition and support by all residents. Black Women Organized for Political Action (BWOPA) Hayward South County Chapter President Rita Duncan accepted the proclamation on behalf of BWOPA. Ms. Rahima Walker accepted the proclamation on behalf of Hayward/South Alameda County NAACP (National Association for the Advancement of Colored People). CEO of Urban League of the Bay Area Kenneth Maxey accepted the proclamation on behalf of Urban League of the Greater San Francisco Bay Area.

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:30 p.m., with all members present and no public comment, regarding three items: (1) conference with legal counsel pursuant to Government Code section 54956 regarding Lynch v. City of Hayward, et al. Alameda County Superior Court, Case No. RG19035236; (2) conference with property negotiators pursuant to Government Code section 54956.8 regarding Master Lease Renewal-Hayward Area Recreation and Park District; 28846 Bay Heights Rd, N Third St at Crescent Ave, 27020 Fielding Dr, 19501 Hesperian Blvd, 26780 Chiplay Ave, 22325 N 3rd St, 30504 Vanderbilt St, 27182 Patrick Ave, 275 Industrial Parkway West, Farm Hill Dr and Daisy Ct, N 3rd St and Crescent Ave, Colette St & Luvena Dr, Ward Creek Canyon, Eden Ave & Middle Ln, 27600 Decatur Way, Dickens Ave and Folsom Ave, 25610 Spring Dr, Stratford Rd & Canterbury Ln, Hamrick Ln and Rieger Ave, E 10th and Jefferson St, 301 Arrowhead Way, Santa Clara St and Winton Ave, 275 Goodwin St, 2580 Eden Park Pl, Tahoe Ave and Morningside Dr, 27798 Ross Pl, Panjon St and Huntwood Ave, 24176 Mission Blvd, Leonardo Way and Reed Way, 2841 Seahaven Ct, 22737 Main St, Bush Ln, 25625 Cypress Ave; and (3) conference with legal counsel pursuant to Government Code section 54956.9 regarding anticipated litigation.

City Attorney Lawson reported that Council unanimously approved, with Council Member Zermeño moving and Council Member Márquez seconding, settlement of Lynch v. City of Hayward in the amount of \$525,000, with the City contributing \$250,000 from the risk fund budget; noted that Council discussed one anticipated matter and took no reportable action;

and indicated that Council continued the conference with property negotiators to February 28, 2023. The closed session adjourned at 6:32 p.m.

PUBLIC COMMENTS

Ms. Susanne Gehlke expressed feral cats are overpopulating the city despite all efforts and hoped the problem could be prioritized.

Mr. Gabriel Altamirano, South Hayward Now/Ahora representative, alleged there have been issues and abuses at the navigation center that have not been resolved and asked the City to investigate the matter and report accordingly.

CITY MANAGER'S COMMENTS

There were none.

CONSENT

Council Member Syrop removed Consent Item No. 11 from the Consent Calendar to allow for comment and separate vote. Council Member Márquez removed Consent Item No. 8 from the Consent Calendar for comment. Consent Item No. 9 was pulled for public comment.

1. Approve the City Council Minutes of the City Council Meeting on February 7, 2023 **MIN 23-020**

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council Meeting on February 7, 2023.

2. Adopt a Resolution Accepting the Resignation of Ms. Katlin Turner from the Keep Hayward Clean and Green Task Force, Effective Immediately **CONS 23-080**

Staff report submitted by City Clerk Lens, dated February 21, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES:	COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño MAYOR Salinas
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution 23-035, "Resolution Accepting the Resignation of Ms. Katlin Turner from the Keep Hayward Clean and Green Task Force"



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Virtual Platform (Zoom)

<https://hayward.zoom.us/j/81518963688?pwd=YTIrT2xET3U2N2pPcEk4cW1WY3pwZz09>

Tuesday, February 21, 2023, 7:00 p.m.

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3. Adopt a Resolution Accepting the Resignation of Mr. Pekon Gupta from the Keep Hayward Clean and Green Task Force, Effective Immediately **CONS 23-092**

Staff report submitted by City Clerk Lens, dated February 21, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-036, "Resolution Accepting the Resignation of Mr. Pekin Gupta from the Keep Hayward Clean and Green Task Force"

4. Adopt a Resolution Approving Final Map of Tract 8556, a 10 Lot Subdivision for Condominium Purposes at 27177 and 27283 Mission Boulevard (Assessor Parcel Nos. 452-0056-007 and 452-0056-008), Hayward to Allow the Construction of Nine (9) Live/Work Lofts Fronting Mission Boulevard and 46 Townhome Units Totaling 55 Condominium Units, Open Space Areas, and Related Site Improvements; Applicant/Owner: Moreau JV Owner, LLC., Application No. 202202272; and Authorizing the City Manager to Negotiate and Execute a Subdivision Improvement Agreement and Related Documents **CONS 23-087**

Staff report submitted by Acting Director of Development Services Buizer, dated February 21, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-037, “Resolution Approving the Final Map of Tract 8556, Accepting the Easements Dedicated Thereon for Public Use and Authorizing the City Manager to Negotiate and Execute the Subdivision Improvement Agreement and Related other Documents”

5. Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$35,984.70 in Grant Funding from the Alameda County Sheriff’s Office for the Fiscal Year 2020 Byrne Justice Assistance Grant for Hayward Police Department Operations **CONS 23-083**

Staff report submitted by Acting Chief of Police Matthews, dated February 21, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-038, “Resolution Authorizing the City Manager to Accept and Appropriate \$35,984.70 in Grant Funding from the Alameda County Sheriff’s Office for the Fiscal Year 2020 Byrne Justice Assistance Grant for Hayward Police Department Operations”

6. Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$40,217.40 in Grant Funding from the Alameda County Sheriff’s Office for the Fiscal Year 2021 Byrne Justice Assistance Grant For Hayward Police Department Operations **CONS 23-084**

Staff report submitted by Acting Chief of Police Matthews, dated February 21, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None



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<https://hayward.zoom.us/j/81518963688?pwd=YTJrT2xET3U2N2pPcEk4cW1WY3pwZz09>

Tuesday, February 21, 2023, 7:00 p.m.

Resolution 23-039, “Resolution Authorizing the City Manager to Accept and Appropriate \$40,217.40 in Grant Funding from the Alameda County Sheriff’s Office for the Fiscal Year 2021 Byrne Justice Assistance Grant for Hayward Police Department Operations”

7. Adopt a Resolution 1) Appropriating \$15,000 from the Rent Stabilization Fund Balance and 2) Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with Project Sentinel for Administration of the Rent Increase Dispute Resolution Process in the Amount of \$45,000 for a Total Not-to-Exceed Contract Amount of \$120,000 **CONS 23-088**

Staff report submitted by Assistant City Manager Claussen and Housing Division Manager Morales, dated February 21, 2023, was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-040, “Resolution Appropriating \$15,000 from the Rent Stabilization Fund Balance and Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with Project Sentinel for the Administration of the City’s Rent Increase Dispute Resolution Process in the Amount of \$45,000 for a Total Not-to-Exceed Amount of \$120,000”

8. Adopt a Resolution Authorizing Hayward’s Participation in East Bay Community Energy’s Community Solar Program **CONS 23-089**

Staff report submitted by Director of Public Works Ameri, dated February 21, 2023, was filed.

Council Member Márquez noted the Council Infrastructure Committee voted unanimously to recommend providing solar to low-income households, considered disadvantaged

communities, through census tracts; and appreciated the partnership with East Bay Community Energy.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried by the following roll call vote, to adopt the resolution.

AYES:	COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño MAYOR Salinas
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution 23-041, “Resolution Approving the City of Hayward’s Participation in East Bay Community Energy’s Community Solar Program”

9. Adopt a Resolution Amending Resolution 22-225 to Award up to \$627,554 in Community Development Block Grant (CDBG) Funds to Bay Area Community Services (BACS) for the St. Regis Multi-Service Campus Project **CONS 23-096**

Staff report submitted by Community Services Manager Lobedan and Assistant Manager Youngblood, dated February 21, 2023, was filed.

Ms. TJ, Hayward Concerned Citizens member, noted that public comments made at the December 6, 2022 meeting were not captured in the minutes, asked when was BACS expected to pay back the funds, asked for the type of rehabilitation needed at the site, and recommended early engagement of residents who interact with homeless and mentally challenged individuals in a public hearing setting including representatives from BACS, and a dashboard on the City’s website.

Mr. Gabriel Altamirano, South Hayward Now/Ahora representative, asked the City to address the CEQA determination, was concerned the facility did not have proper management and oversight of mentally challenged individuals, asked for discretionary review and public meetings to voice concerns, and asked for project conditions to address concerns raised.

Following the meeting, staff confirmed the December 6, 2022, Council minutes captured comments made by public members.

It was moved by Council Member Syrop, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.



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Tuesday, February 21, 2023, 7:00 p.m.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas

NOES: None

ABSENT: None

ABSTAIN: None

Resolution 23-044, "Resolution Amending Resolution 22-225 to
1) Change the Appropriation of a \$627,554 Community
Development Block Grant (CDBG) Award to Bay Area
Community Services (BACS) from Acquisition of the St. Regis
Multi-Service Campus to Rehabilitation of the St. Regis Multi-
Service Campus and 2) Authorize the City Manager to Negotiate
and Execute an Agreement with BACS for an Amount Not to
Exceed \$627,554 for Rehabilitation of the St. Regis Multi-Service
Campus"

10. Adopt a Resolution Approving an Amendment to the City of Hayward Salary Plan for
Fiscal Year 2023 **CONS 23-097**

Staff report submitted by Director of Human Resources Brye and
Assistant City Manager Youngblood, dated February 21, 2023,
was filed.

It was moved by Council Member Syrop, seconded by Council Member Márquez, and carried
by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas

NOES: None

ABSENT: None

ABSTAIN: None

Resolution 23-042, "Resolution Approving the Amended Fiscal
Year 2023 Salary Plan Designating Positions of Employment in
the City of Hayward and Salary Range; and Superseding
Resolution No. 23-034 and all Amendments Thereto"

11. Adopt a Resolution Ending the Local Emergency Due to the Spread of a Severe Acute
Respiratory Illness Caused by Novel (New) Coronavirus (COVID-19) **CONS 23-105**

Staff report submitted by Assistant City Manager Claussen, Senior Assistant City Attorney Vigilia, and City Clerk Lens, dated February 21, 2023, was filed.

In response to Council Member Syrop’s request for clarification on what it means to end the local emergency and any impact to the city, City Manager McAdoo indicated that while the Alameda County community COVID-19 level is low, the city has to continue to report case counts to Cal/OSHA, the City continues to have a prevention and protection plan for employees, noted the residential eviction moratorium will end 60 days after the public health emergency ends, and added that vaccinations are available through different clinics and pharmacies.

It was moved by Council Member Zermeño, seconded by Council Member Goldstein, and carried by the following roll call vote, to adopt the resolution.

AYES: COUNCIL MEMBERS Andrews, Goldstein, Márquez, Roche,
Syrop, Zermeño
MAYOR Salinas
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 23-043, “Resolution Ending the Proclamation of Local Emergency”

WORK SESSION

12. Affordable Housing Ordinance: Discuss Findings from Affordable Housing Ordinance Feasibility Study and Proposed Modifications of the Affordable Housing Ordinance **WS 23-004**

Staff report submitted by Assistant City Manager Claussen, dated February 21, 2023, was filed.

Assistant City Manager Claussen introduced Housing Manager Morales who provided a synopsis of the staff report and Mr. Derek Braun with Strategic Economics who shared the findings of the Affordable Housing Ordinance Feasibility Study.

Mayor Salinas opened the public comment section at 8:08 p.m.

Mr. Jesse Gunn, Hayward resident and teacher, urged staff to evaluate how many individual families the Affordable Housing Ordinance (AHO) modifications would affect/help, and explore what else the City could do with regards to increasing housing costs.



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Virtual Platform (Zoom)

<https://hayward.zoom.us/j/81518963688?pwd=YTJrT2xET3U2N2pPcEk4cW1WY3pwZz09>

Tuesday, February 21, 2023, 7:00 p.m.

Mr. Tom Ferreira, Hayward resident, supported eliminating in-lieu fees and having onsite inclusionary housing so residents can live and shop in Hayward.

Ms. Ro Aguilar urged the Council to initiate a new housing policy to meet diverse needs or keep the status quo, underscored that the bar for inclusionary housing was low, and suggested designing a monitoring procedure to be implemented immediately after adoption of the proposed affordable housing plan to determine accountability.

Mayor Salinas closed the public comment period at 8:16 p.m.

Members of the City Council thanked City staff for their work done around the Affordable Housing Ordinance (AHO), especially Housing Manager Morales and her team; thanked housing advocates and public participants; and the Planning Commission.

Discussion ensued among members of the City Council, City staff, and Mr. Derek Braun with Strategic Economics regarding: the composition of Technical Advisory Committee (TAC) members comprising Eden Housing, D.R. Horton, AMCAL Housing, Taylor Morrison and Dollinger Properties which represented a sampling of housing products that are being developed in Hayward with experience doing the inclusionary units or paying in-lieu fees; soft costs are indirect costs such as architecture and engineering and do not include labor or materials; a recommended change included that if the project is approved by the Planning Commission, then the Planning Commission could also approve the Affordable Unit Phasing Plan to streamline the approval process; a type of City activity displacing residents would be a unit that is not safe for human habitation and needs to be brought up to Code and affordable housing agreements would give preference to people displaced by City activity; requirements would be increased on development projects that are built at 35 dwelling units per acre or below for lower density single-family and townhomes and building heights were common; the analysis was based on products built in the Bay Area and Hayward; Hayward's requirements were lower than other communities and the City was able to produce more inclusionary units with lower requirements; Fremont's Warm Springs BART station area has been planned for 4,000 units; the suggestion of exploring a mixture of 12% inclusionary requirements for onsite units and 8% in-lieu fees, in an effort to get to 20%, would not be financially viable; building onsite inclusionary units was a tool for providing moderate income ownership units and modifications to include low-income would provide limited equity ownership units; staff works with developers to ensure that City's rents do not impact their development budgets and to properly align rents with the affordable rents under tax credits; the decision-making body is whichever level of authority is required to approve the entitlement application, which could be administrative, Planning Commission or City Council; the proposed increase, currently undergoing review for any state law limitation, from 10% to 15% of affordable housing in-lieu fees to cover administrative costs is based on current activity levels and to offset the amount of revenue produced through the affordable housing ordinance; a majority of community responses

came from a homeownership fair and a bulk of respondents were from residents looking for ownership housing and other respondents from two fair housing workshops who were primarily renters; the study was a broad starting point for understanding development feasibility recognizing that circumstances can change depending on each individual development project; the analysis performed is a static financial feasibility analysis which translates the revenues into a current overall project value based on earned capitalization rates, current market expectations, and the value of return for a given investment; the demand for various income levels was calculated as a part of the displacement study and noted that it looked at demographics of the city and what people could afford; and in-lieu fees have not been used to build below market rate ownership units but additional funding had been provided to a Habitat for Humanity project to provide ten affordable ownership units and there was direction from Council to include affordable ownership when issuing the next notice of funding availability.

Council Member Márquez supported increasing the ownership inclusionary requirement for lower-density housing products to 6% low-income and 6% moderate-income and increasing the in-lieu fee closer to \$30; appreciated staff making administrative changes that included priority preference to Hayward residents and tracking marketing and outreach plans; noted she did not support requiring full onsite development because in-lieu fees were important to leverage funding and requested that the information provided by Housing Manager Morales about the benefits be captured before adoption of AHO modifications.

Council Member Zermeño agreed with the recommendations but preferred increasing the inclusionary requirement from the proposed 12% to 15% of the total units as the City was able to build 350 low-income housing units from in-lieu fees; and stated that implementing changes should only apply to new applications.

Council Member Andrews disclosed she attended graduate school with Mr. Braun and shared he was a Planning Commissioner for the City of San Francisco. Council Member Andrews indicated that Fremont had increased its inclusionary requirements to 20% and requested more information; noted she wanted to see a 20% inclusionary requirement achieved but the numbers were not allowing for this to happen; recommended explaining to housing advocates such as Ms. Ro Aguilar what developers are experiencing when they bring a project to the City and how the percentages are derived; asked for consideration of the Affordable Unit Phasing Plan to include affordable housing first, then retail, followed by market rate units to ensure retail is established when housing developments are being built; favored increasing the inclusionary requirements to 12% recognizing it could not be increased beyond that; and supported increasing the in-lieu fee for low-density ownership products to \$26 per square foot.

Council Member Syrop appreciated that the ordinance makes recommendations streamlining certain administrative processes to lower the costs of the development; liked that it prioritizes workers and residents and serves the purpose of furthering climate and sustainability goals; agreed with increasing in-lieu fees for lower-density products; hoped the Budget and Finance Committee makes a point of prioritizing the City's involvement in



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777 B Street, Hayward, CA 94541

Virtual Platform (Zoom)

<https://hayward.zoom.us/j/81518963688?pwd=YTJrT2xET3U2N2pPcEk4cW1WY3pwZz09>

Tuesday, February 21, 2023, 7:00 p.m.

securing funds to provide low interest financing for affordable housing developments; suggested that parts of the outdated ordinance that streamline processes be applied to applications in the pipeline and other changes applied to new applications; preferred to make in-lieu fees the City's choice to maintain leverage; noted that raising the percentage of required inclusionary housing is reasonable even for rental units as Council could suspend it for a fixed period of time or on a per project basis; and did not want the City to feel dissuaded from giving itself the power to set a higher number and use it as leverage in development negotiations.

Council Member Roche noted there was a climate in Hayward that allows encouragement to support the affordable housing ordinance; understood the need for in-lieu fees if the market is demonstrating that it was not feasible to build market rate rental units and the City would have to leverage its in-lieu fees in order to build affordable housing; agreed to continue to explore in-lieu fees for affordable ownership units; asked to explore stronger language that makes clear the City's preference for developers to build onsite affordable housing acknowledging that there are other means of compliance; agreed to maintain the existing inclusionary requirement for rental products and higher-density ownership products; agreed to increase ownership inclusionary requirement for lower-density housing products to 6% low-income and 6% moderate-income; agreed to increase the in-lieu fee for ownership products at less than 35 dwelling units per acre, agreed to maintain the existing in-lieu fee for condos at 35 dwelling units per acre or higher and concurred with administrative changes for streamlining purposes.

Council Member Goldstein pointed out the report was about housing production and shared that it would be useful to have information about other aspects of housing affordability such as housing choice vouchers, grants, down payment assistance or private housing programs that became available in the high-tech sector; stressed that data used in the study was from completed projects around the Bay Area and therefore was informed data from real and recent projects; commented that the in-lieu fees are needed in order to qualify for loans and state and federal grants; added that increasing means of affordability, such as transfer payments, down payment assistance, public banking, and other mechanisms, could make housing production cheaper and potentially give the City the opportunity to underwrite loans for workforce housing, giving people access to quality homes in the neighborhoods they want and not restricting them to deed-restricted properties, or properties where they could build inter-generational wealth through property investments; supported maintaining existing inclusionary requirement for rental products and higher-density ownership products; agreed to increase ownership inclusionary requirement for lower-density housing products to 6% low-income and 6% moderate-income; agreed to increase in-lieu fee for ownership products at less than 35 dwelling units per acre; agreed to maintain the existing in-lieu fee for condos at 35 dwelling units per acre or higher having a model in place for fluctuating costs, agreed with

administrative changes; and added that if there was an existing development that could implement changes, they should not be precluded.

Council Member Syrop stated that the conversation was about incentivizing new development and slightly changing variables; added that the ordinance was not the only tool at the City's disposal to increase affordable housing stock; noted that the affordable housing stock can be increased by incentivizing vacant units to be leased sooner, and ease demand for lower-income units by helping families afford the units they live in right now; and added that if developing dense-rental units is not going to become feasible in the coming years, the City needs to look at new tools beyond the ordinance.

Mayor Salinas stated that Hayward, in comparison to other cities, was doing well in addressing the number of inclusionary units and building housing for all income levels; added that in looking at the developments built over the last few years, the City has preserved ground-level commercial sites; commented that developments were open to negotiation and underscored the importance of the City Council and Planning Commission preserving flexibility; noted that in-lieu fees were important in the absence of redevelopment funds; supported maintaining existing inclusionary requirements for rental products and higher-density ownership products; agreed to increase ownership inclusionary requirement for lower-density housing products to 6% low-income and 6% moderate-income; agreed to increase in-lieu fees for ownership products at less than 35 dwelling units per acre; agreed to maintain the existing in-lieu fee for condos at 35 dwelling units per acre or higher; and noted he would not want to apply proposed changes to current projects in the pipeline.

13. Police Department Annual Report: Receive and Review the Hayward Police Department's Annual Report for Calendar Year 2022 **WS 23-007**

Staff report submitted by Acting Chief of Police Matthews, dated February 21, 2023, was filed.

Acting Police Chief Matthews provided a synopsis of the staff report.

The City Council took a recess at 9:43 p.m., and reconvened the meeting at 9:48 p.m.

Mayor Salinas opened the public comment section at 9:48 p.m.

Ms. TJ, Hayward Concerned Citizens member, expressed appreciation for the Hayward Police Department (HPD) and its ability to make the best use of staffing and resources and the continued collaboration with the community to address public safety; appreciated the approval of drones, dash cams, license plate readers; and acknowledged the social media engagement regarding crime trends.

Mayor Salinas closed the public comment section at 9:50 p.m.



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541

Virtual Platform (Zoom)

<https://hayward.zoom.us/j/81518963688?pwd=YTJrT2xET3U2N2pPcEk4cW1WY3pwZz09>

Tuesday, February 21, 2023, 7:00 p.m.

Members of the City Council appreciated the Hayward Police Department for their work putting together a comprehensive annual report.

Discussion ensued among members of the City Council and City staff regarding: crime types that would be included in the National Incident Based Reporting System (NIBRS); there has been an increase in residential burglaries and HPD was pursuing technological solutions in the area of fingerprint analysis to enhance solvability rates with property crimes; improvements to HPD's social media were noted; a protocol for Council to follow when to re-post or remove posts regarding missing children/adults would be helpful; appreciated that HPD was doing outreach to the youth using baseball and basketball as these sports helped with engagement of different demographics; programs that could be explored including partnerships with local businesses to address catalytic converter identification and paper plates and solutions would be presented to Council; it usually takes a calendar year for officers to get trained before they are released to solo patrol; coordination between HPD and Caltrans with abatement and dangerous on-ramp and off-ramp situations; certain aspects of NIBRS would be available on the website with an external facing portal for crime data, and HPD could explore ways to publish routine updates; placement of unhoused community members with the navigation center is by referral only and allegations about the navigation center which would need to be investigated; efforts to prioritize and incentivize local recruits including conversations with CSUEB and Chabot College to develop pipelines was noted; it was acknowledged that crime trends which depend on variables and are consistent with neighboring cities and many crime-related issues are regional; access to Youth and Family Services and how removing the School Resource Officers (SROs) from schools has impacted access to these services and referrals; downtown dedicated units is impacted by vacancies; implementation of dash cams for patrol cars; HPD partners with agencies and advocates that provide resources to victims; complaint information is shared through the CALEA process, the year-end report provided to the Chief and Command Staff from Internal Affairs include external complaints and vehicle pursuits to identify training needs or policy needs, and HPD staff could strategize a way to incorporate other stakeholders in this process; use of salary savings toward innovation projects, to pay retired annuitants, for training and equipment purchases and consultant services; FTOs attend a 40-hour training which does address physical disabilities; the STEP grant had specific uses such as DUI, seatbelt enforcement, distracted driving related issues, and the traffic unit works with City engineers addressing speeding issues through environmental or street design; duties performed by sworn traffic officers which include community tow hearings, taxicab approval and inspections, commercial truck permitting and enforcement could be performed by a Community Services Officer, however, there was specialized training that would fall to a sworn officer; YFSB could expand counseling services offered through HUSD; and the issue with retail thefts with growing concern reflected by related legislation was noted.

Council Member Andrews indicating that calls for service and use of force were two different data points and requested that these be separated by year to show a historical trend for the next annual report; and requested that the topic of traffic stops and consideration for non-sworn personnel to make traffic stops be discussed at a future Council meeting.

Council Member Goldstein offered to lead a class for the public on how to make use of crime data noting that he has used data in the past that led to the arrest and prosecution of people and reduction in home burglaries and auto theft over a three year period; supported considering a replacement vehicle that had performance and safety for officers but did not have a militaristic look; hoped that St. Regis, as a new BACS operated service center, would provide an additional resource and treatment center for unhoused community members; and stated that given staffing challenges, it was commendable that the department was able to pull together in a way that had a positive impact on the community.

Council Member Roche suggested paid internships to incentivize local recruits; and agreed that social media posts are great at informing the public about the work being done by HPD and to explain crime trends.

Council Member Zermeño noted that moving the District Command office from Tennyson Road to Palma Ceia Baptist Church, represented a loss of police presence on the retail center along Tennyson Road; expressed the use of the military equipment was visualized by the community as tanks, grenades which were not used locally and preferred the use of safety equipment; liked the basketball clinic initiated by HPD and advocated for a soccer sport as well, as these were good ways to get kids involved with the public safety community.

Council Member Márquez shared that she had an opportunity to participate in three ride alongs with HPD personnel and her observations were that members care and understand the demographics and dynamics in Hayward, exhibit respect, have great communication, and hoped that this could be consistently achieved; felt that Council was being heard with the AB 481 (military equipment) request and the report in six months; appreciated Acting Chief Matthews making announcements to the public following critical incidents; appreciated the input that HPD incorporated on crime reports published every week; asked that NIBRS reporting include gender preferences for all incidents particularly rape and domestic violence; recommended that personnel who work intimately with victims share ideas with the City's Community Services Manager when looking at RFPs; concurred about Caltrans property, encampments and people's safety and requested that a letter be written to new state legislators about the matter; mentioned that a mechanism for tracking when missing children or adults are found would be useful when sharing information; appreciated the sensitivity and rapport interacting and connecting unhoused community members to resources; and asked to explore how the Council could be informed regarding external complaints; and added she advocated for incentives for dispatch referrals in addition to sworn personnel, in order to be fair and consistent.



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541

Virtual Platform (Zoom)

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Tuesday, February 21, 2023, 7:00 p.m.

Council Member Syrop asked staff to provide the status of third-party complaints outside of the Police Department and the timeline of the project; was curious to know what percent of calls for service translate to an officer being dispatched to a scene; asked how many of the three complaints filed against HPD employees related to use of force were unfounded or pending investigation; appreciated the tour of HPD and was surprised at how understaffed the traffic division was given the amount of service they provide to the city; appreciated the data broken down by demographics and requested information by location and which communities could use support; commended HPD for its Delinquency Prevention Network, as individuals were diverted away from the criminal justice system; and appreciated HPD's standard of not sharing collected data with any federal law enforcement agencies.

Mayor Salinas noted that many of the questions and comments asked by the Council were reflected in the annual report; asked staff to include service calls to school (K-12 to College/University) data in future reports to review trends; commended the diversity represented in HPD promotions; was glad the department was trying to reimplement the Neighborhood Alert Program because it builds community and support for HPD and City Hall; acknowledged the work done on community engagement which included online activities for Junior Giants and outdoors at a park; acknowledged the work of dispatchers; and expressed the Council's support for HPD.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Andrews thanked City staff for their work on Campus Drive. Council Member Zermeño indicated that he received some email complaints about the improvements on Campus Drive. Council Member Syrop acknowledged the efforts of Ms. Velda Goe and her neighbors for organizing to ensure that the improvements were made and thanked staff for responding to the community.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Salinas adjourned the City Council meeting at 10:57 p.m.

APPROVED

Mark Salinas
Mayor, City of Hayward

ATTEST

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: CONS 23-131

DATE: March 7, 2023

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt an Ordinance Amending Article 14, Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses by Amending Section 6-14.13(d) Relating to Commercial Cannabis Permit Application, Amending Section 6-14.14 Relating to Operating and Performance Standards and Adding Section 6-14.18 Relating to Enforcement

RECOMMENDATION

That the Council adopts the Ordinance introduced on February 28, 2023.

SUMMARY

This item entails adoption of an Ordinance amending Article 14, Chapter 6 of the Hayward Municipal Code, introduced on February 28, 2023, by Council Member Márquez.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Summary of Ordinance Published



DATE: March 7, 2023
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adopt an Ordinance Amending Article 14, Chapter 6 of the Hayward Municipal Code Regarding Commercial Cannabis Businesses by Amending Section 6-14.13(d) Relating to Commercial Cannabis Permit Application, Amending Section 6-14.14 Relating to Operating and Performance Standards and Adding Section 6-14.18 Relating to Enforcement

RECOMMENDATION

That the Council adopts the Ordinance introduced on February 28, 2023.

SUMMARY

This item entails adoption of an Ordinance amending Article 14, Chapter 6 of the Hayward Municipal Code, introduced on February 28, 2023, by Council Member Márquez.

BACKGROUND

The Ordinance was introduced by Council Member Márquez at the February 28, 2023, meeting of the City Council with the following vote:

AYES:	COUNCIL MEMBERS: Andrews, Goldstein, Márquez, Roche, Syrop, Zermeño MAYOR Salinas
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

The motion included a friendly amendment for staff to consider a review of restorative justice elements as alternative responses to violations and to consider working with the Economic Development Division to create an infographic on how to submit a permit application; and return to Council in six months with updates.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to one of the priorities outlined in the Council's Strategic Roadmap.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Daily Review c/o Bay Area News Group-East Bay on Friday, March 3, 2023. Adoption, at this time, is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by:

Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

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

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA AMENDING ARTICLE 14, CHAPTER 6 OF THE HAYWARD MUNICIPAL CODE REGARDING COMMERCIAL CANNABIS BUSINESSES BY AMENDING SECTION 6-14.13(d) RELATING TO COMMERCIAL CANNABIS PERMIT APPLICATION, AMENDING SECTION 6-14.14 RELATING TO OPERATING AND PERFORMANCE STANDARDS AND ADDING SECTION 6-14.18 RELATING TO ENFORCEMENT

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Section 6-14.13(d) of the Hayward Municipal Code is amended.

Section 2. Section 6-14.14 of the Hayward Municipal Code is amended.

Section 3. Section 6.-14.18 is added to Article 14, Chapter 6 of the Hayward Municipal Code to read as follows:

SEC. 6-14.18 ENFORCEMENT.

Section 4. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 5. 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 6. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

Introduced at a meeting of the City Council of the City of Hayward, held the 28th day of February, 2023, by Council Member Márquez.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on March 7, 2023, at 7:00 p.m. Please note the City Council will hold a hybrid meeting which will allow for participation in the Council Chamber and virtually via the Zoom platform. The full text of this Ordinance is available for examination by the public by contacting the City Clerk's office at cityclerk@hayward-ca.gov or (510) 583-4400.

Dated: March 3, 2023
Miriam Lens, City Clerk
City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: CONS 23-124

DATE: March 7, 2023

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Approving Addendum No. 1, Awarding a Construction Contract to Bear Construction, Inc., for the FY23 Median Landscape Improvement - Phase 1, Project No. 05281 in the Amount of \$935,620, and Authorizing a Construction Contingency Change Order Budget of \$189,380, for a Not-to-Exceed Contract Amount of \$1,125,000

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving Addendum No. 1 providing clarification to bidder questions and awarding the construction contract to Bear Construction, Inc., (Bear Construction) in the amount of \$935,620 for the FY23 Median Landscape Improvement - Phase 1 Project 05281, and authorizing a construction contingency change order budget of \$189,380 for a total not-to-exceed (NTE) contract amount of \$1,125,000.

SUMMARY

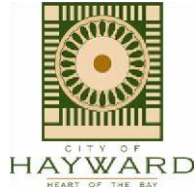
On February 14, 2023, six bids were received for the FY23 Median Landscape Improvement - Phase 1 Project. Bear Construction, a local contractor of Hayward CA, submitted the low bid in the amount of \$935,620, which is 3.6% lower than the Engineer's Estimate of \$970,401. Cato's General Engineering, Inc., another local contractor of Hayward CA, submitted the second lowest bid in the amount of \$964,394, which is 0.6% lower than the Engineer's Estimate. Kerex Engineering, Inc., of Martinez CA submitted, the third bid in the amount of \$999,170, which is 3.0% higher than the Engineer's Estimate.

This project is categorically exempt from environmental review under Section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance or minor alteration of existing facilities.

ATTACHMENTS

- Attachment I Staff Report
- Attachment II Resolution
- Attachment III Project Location Map

File #: CONS 23-124



DATE: March 7, 2023

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Approving Addendum No. 1, Awarding a Construction Contract to Bear Construction, Inc., for the FY23 Median Landscape Improvement – Phase 1, Project No. 05281 in the Amount of \$935,620, and Authorizing a Construction Contingency Change Order Budget of \$189,380, for a Not-to-Exceed Contract Amount of \$1,125,000

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving Addendum No. 1 providing clarification to bidder questions and awarding the construction contract to Bear Construction, Inc., (Bear Construction) in the amount of \$935,620 for the FY23 Median Landscape Improvement – Phase 1 Project 05281, and authorizing a construction contingency change order budget of \$189,380 for a total not-to-exceed (NTE) contract amount of \$1,125,000.

SUMMARY

On February 14, 2023, six bids were received for the FY23 Median Landscape Improvement – Phase 1 Project. Bear Construction, a local contractor of Hayward CA, submitted the low bid in the amount of \$935,620, which is 3.6% lower than the Engineer’s Estimate of \$970,401. Cato’s General Engineering, Inc., another local contractor of Hayward CA, submitted the second lowest bid in the amount of \$964,394, which is 0.6% lower than the Engineer’s Estimate. Kerex Engineering, Inc., of Martinez CA submitted, the third bid in the amount of \$999,170, which is 3.0% higher than the Engineer’s Estimate.

This project is categorically exempt from environmental review under Section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance or minor alteration of existing facilities.

BACKGROUND

The FY23 Median Landscape Improvement – Phase 1 Project along Hesperian Boulevard from Sueirro Street to Philipps Way is the continuation of the seventh project from the Master Plan for Landscape and Irrigation Improvement for key corridors that was

developed and to be implemented in an effort to improve the corridors throughout the City. The first project improved the roundabout in the Fairway Park neighborhood. The second through the sixth improved the landscape medians along: Industrial Parkway West, from Ruus Road to Mission Boulevard; on West Winton Avenue, from Southland Drive to Southland Place; on Industrial Boulevard, from Clawiter Road to 659 feet South of Depot Road; on Industrial Parkway West, from Hesperian Boulevard to I-880; and a portion of Hesperian Boulevard from Chabot Court to La Playa Drive and continuing on Hesperian Boulevard from La Playa Drive to W Winton Avenue.

DISCUSSION

On February 14, 2023, six bids were received. Bear Construction Inc., a local contractor of Hayward CA, submitted the low bid in the amount of \$935,620, which is 3.6% lower than the Engineer's Estimate of \$970,401. Cato's General Engineering, Inc., another local contractor of Hayward CA submitted the second lowest bid in the amount of \$964,394, which is 0.6% lower than the Engineer's Estimate. Kerex Engineering, Inc. submitted the third bid in the amount of \$999,170, which is 3.0% higher than the Engineer's Estimate. The bids ranged from \$935,620 to \$1,267,497.

Staff verified that all bid documents and licenses are in order. Staff recommends the award of the construction contract to the low bidder Bear Construction in the amount of \$935,620.

On November 15, 2016, Council adopted a resolution authorizing a Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC), which applies to City projects with construction costs of \$1,000,000 or more. This agreement requires contractors to use local union hiring halls, encourages contractors to employ Hayward residents or Hayward Unified School District graduates, and requires hired workers to pay union dues and other benefit trust fund contributions, etc. Because the construction cost estimate for the FY23 Median Landscape Improvement Project 05315 is less than \$1,000,000, the CWA agreement does not apply to this project.

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

The project conforms to Bay-Friendly landscape practices and complies with the City's Bay-Friendly Landscape and Water Efficient Landscape Ordinance.

ECONOMIC IMPACTS

Replacing and improving median landscaping increases safety, enhances the visual appearance of the medians, increases weed control, and reduces the amount of irrigation required. The additional curb improvements increase the longevity of these enhancements resulting in cost savings over time.

FISCAL IMPACT

The estimated project costs are as follows:

Construction Contract	\$935,620
Construction Contingencies	189,380
Planting and Irrigation Landscaping – City Staff	50,000
Design and Administration	50,000
Construction Survey, Inspection and Testing	50,000
TOTAL	\$1,275,000

The Adopted FY23 Capital Improvement Program (CIP) includes \$1,696,000 for the FY23 Median Landscape Improvement Project in the Street System Improvements – Fund 450.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priorities to Confront Climate Crisis & Champion Environmental Justice. Specifically, this item relates to the implementation of the following project:

Reduce green house gases and dependency on fossil fuels

Project C6: Plant 1,000 trees annually (500 trees per year by City staff; 500 additional trees, by other partners (HARD, CSU, Chabot, and private developers)

SUSTAINABILITY FEATURES

This project includes the installation of drought tolerant plants to reduce the amount of water usage including installation of a new irrigation system and controller. The project will implement Bay-Friendly techniques to use native and climate appropriate plants for median islands. All material generated during construction and demolition be sent to designated facilities for recycling.

This project is anticipated to add eighty-one trees.

PUBLIC CONTACT

Because of the temporary inconvenience that is expected to be caused by the work in the center median, immediately after the construction contract is awarded, a preliminary notice explaining the project will be distributed to the businesses adjacent to the limit of work. After the construction work has been scheduled, businesses will be notified at least seventy-two hours prior to commencement of work.

NEXT STEPS

Begin Construction	March 20, 2023
Complete Construction	May 22, 2023

Prepared by: Hector Leuterio, Assistant Civil Engineer
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDUM NO. 1 FOR THE FY23 MEDIAN LANDSCAPE IMPROVEMENT – PHASE 1 PROJECT NO. 05281, AND AWARDING THE CONSTRUCTION CONTRACT TO BEAR CONSTRUCTION, INC.

WHEREAS, by Resolution No. 23-005 on January 17, 2023, the City Council approved the plans and specifications for the FY23 Median Landscape Improvement – Phase 1, Project No. 05281, and called for bids to be received on February 14, 2023;

WHEREAS, Addendum No. 1 was issued to clarify bidder questions;

WHEREAS, Four (4) bids including Two (2) local contractors of Hayward were received, ranging from \$935,620 to \$1,267,497; Bear Construction Inc., of Hayward, California submitted the low bid in the amount of \$935,620, which is 3.6% lower than the Engineer's Estimate of \$970,401.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Hayward that the City Manager is authorized to award Bear Construction Inc., a construction contract for the FY23 Median Landscape Improvement – Phase 1, Project No. 05281 in the amount of \$935,620 with a contract change order budget of \$189,380, for a total not-to-exceed contract amount of \$1,125,000, in accordance with the plans and specifications adopted therefore and on file in the office of the City Clerk of the City of Hayward at and for the price named and stated in the bid of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the contract with Bear Construction, Inc., in the name of and for and on behalf of the City of Hayward, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA March 7, 2023.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 Mayor

NOES: COUNCIL MEMBERS:

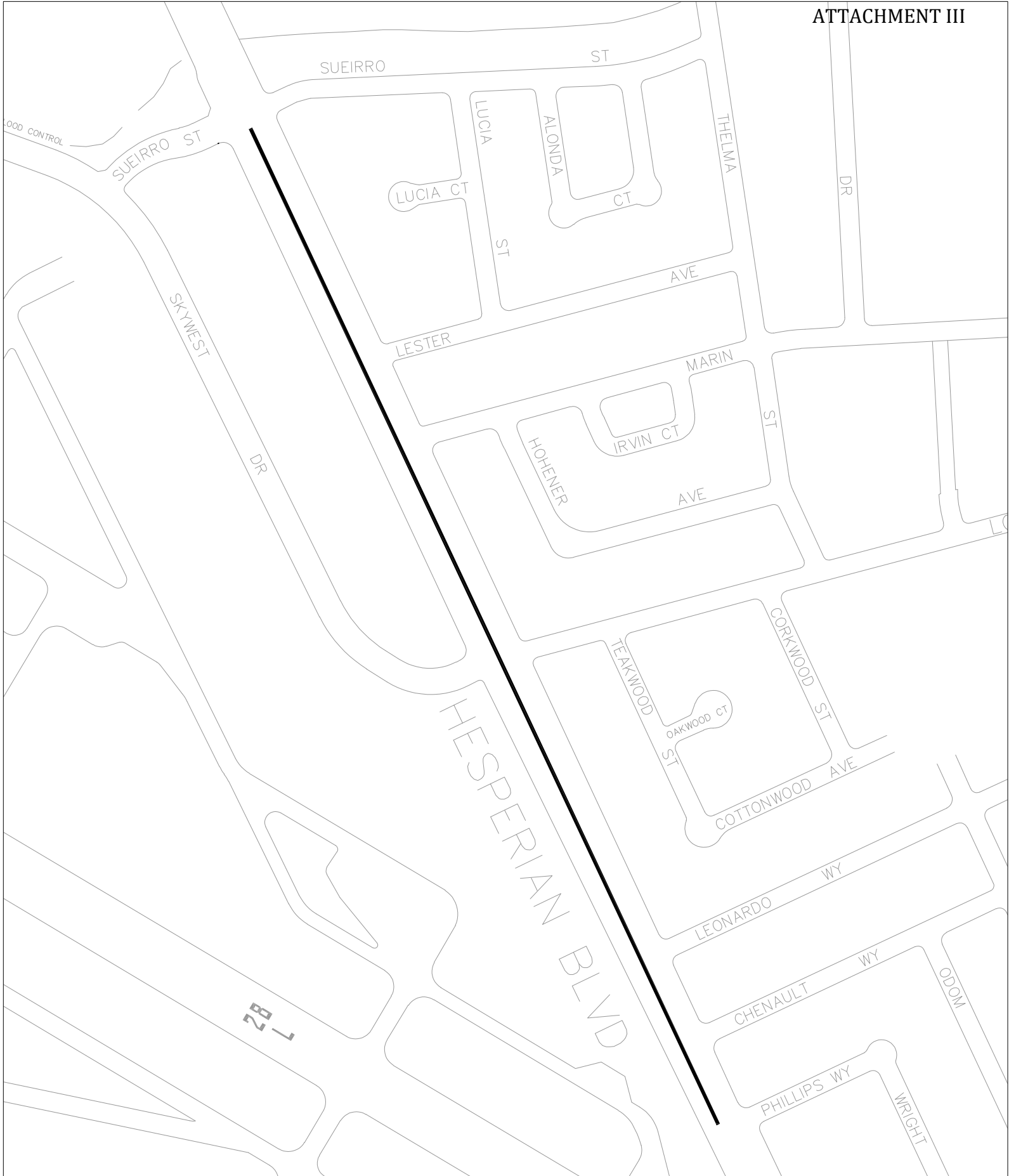
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



LOCATION MAP

FY 23 MEDIAN LANDSCAPE IMPROVEMENT - PHASE 1 PROJECT

PROJECT NO. 05281



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: CONS 23-134

DATE: March 7, 2023

TO: Mayor and City Council

FROM: Director of Maintenance Services

SUBJECT

Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with First Shield Security and Patrol, Inc. to Provide Unarmed Security Services at Various City Locations For a Term of Three Years With Two One-Year Options to Extend in a Contract Amount of \$4,600,900 and a Contingency Amount of \$225,000, for a Total Not-to-Exceed Amount of \$4,825,900

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute a three-year agreement with two one-year options to extend with First Shield Security and Patrol, Inc (First Shield) to provide security services at various City locations in a total not-to-exceed amount of \$4,825,900.

SUMMARY

Contacted security services are utilized at various City-owned locations, specifically at Hayward City Hall, Watkins and Cinema Place Parking Garages, Heritage Plaza, 21st Century Library and Learning Center, Weekes Branch Library, and the Hayward Executive Airport, to protect City property and the property of residents and visitors, monitor access, and support a safe environment both within and surrounding these City facilities. Staff released a request for proposals (RFP) in September 2022 to seek a qualified contractor. Staff recommends awarding the contract to First Shield in a total not-to-exceed amount of \$4,825,900, which includes a \$225,000 contingency budget, and three-year term, as well as two one-year options to extend.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: March 7, 2023

TO: Mayor and City Council

FROM: Director of Maintenance Services

SUBJECT: Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with First Shield Security and Patrol, Inc. to Provide Unarmed Security Services at Various City Locations For a Term of Three Years With Two One-Year Options to Extend in a Contract Amount of \$4,600,900 and a Contingency Amount of \$225,000, for a Total Not-to-Exceed Amount of \$4,825,900

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SUMMARY

Contacted security services are utilized at various City-owned locations, specifically at Hayward City Hall, Watkins and Cinema Place Parking Garages, Heritage Plaza, 21st Century Library and Learning Center, Weekes Branch Library, and the Hayward Executive Airport, to protect City property and the property of residents and visitors, monitor access, and support a safe environment both within and surrounding these City facilities. Staff released a request for proposals (RFP) in September 2022 to seek a qualified contractor. Staff recommends awarding the contract to First Shield in a total not-to-exceed amount of \$4,825,900, which includes a \$225,000 contingency budget, and three-year term, as well as two, one-year options to extend.

BACKGROUND AND DISCUSSION

Previously, the City contracted with ABC Security Services from 2009 – 2016 and with National Security Industries from 2016 – 2022. Per the City's purchasing and procurement policies, it is prudent to regularly solicit new bids to receive competitive pricing, compare services, and evaluate knowledge and experience. On September 6, 2022, staff released RFP #2305-090522 to seek a qualified contractor to provide much needed security services. The awarded contract will be for three years with two, one-year extensions. If the City chooses to

exercise the options, the base annual base contract will be subject to a CPI increase each extension. The CPI, usually verified with the U.S. Bureau of Labor Statistics (BLR), will be reported in all reports and/or contract extensions. Additionally, an annual contingency of \$45,000 is necessary to support additional security time related to special events. The table below outlines the expected contract costs by department requiring these services, assuming a 3% CPI.

Staff received and reviewed ten proposals and recommends awarding the contract to First Shield based on their experience, competitive rates, customer service, and performance during the interview process. As an enhancement from the current contract, First Shield will supply golf carts or vehicles for their outdoor-based assignments, which will allow security guards to cover more areas more often, providing a regular presence of on-site security to the public and our employees.

Department	FY24	FY25	FY26	FY27	FY28	5-Year Sum	5-Year Contingency	Contract Total
Maintenance Services	524,160	539,885	556,081	572,764	589,947	2,782,837	125,000	2,907,837
Library	203,840	209,955	216,254	222,741	229,424	1,082,214	50,000	1,132,214
Hayward Executive Airport	138,600	142,758	147,041	151,452	155,996	735,846	50,000	785,846
Total	866,600	892,598	919,376	946,957	975,366	4,600,897	225,000	4,825,897

FISCAL AND ECONOMIC IMPACT

The adopted annual operating budgets for the Maintenance Services Department and Library Department will fund the contract for services provided at each location. The Hayward Executive Airport’s portion of the contract will be funded by the Airport’s Enterprise Fund and will not impact the City’s General Fund.

This item will provide a positive economic impact to the City by sustaining safe environments at various City locations for all residents, visitors, and employees.

STRATEGIC ROADMAP

While this item does not directly support a Strategic Priority, security services will help promote a safe and collaborative work environment at the locations noted previously.

SUSTAINABILITY FEATURES

This item has no direct sustainability features.

PUBLIC CONTACT

The RFP was publicized on the City's website in September 2022. In November 2022, staff invited three bidders to interview.

NEXT STEPS

If Council approves this request, the City Manager will be authorized to execute the agreement with First Shield in a total not-to-exceed amount of \$4,825,900, which includes a \$225,000 contingency, and a three-year term, as well as two one-year options to extend.

Prepared by: Manny Grewal, Management Analyst II
Liz Sanchez, Management Analyst II

Recommended by: Todd Rullman, Director of Maintenance Services

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH FIRST SHIELD SECURITY AND PATROL, INC., TO PROVIDE UNARMED SECURITY SERVICES AT VARIOUS CITY LOCATIONS FOR A TERM OF THREE YEARS WITH TWO ONE-YEAR OPTIONS TO EXTEND AND A CONTRACT AMOUNT OF \$4,600,900 AND A CONTINGENCY AMOUNT OF \$225,000, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$4,825,900

WHEREAS, RFP 2305-090522 was published by the City of Hayward Finance Department to solicit proposals for unarmed security services at various City locations, including Hayward City Hall, Watkins and Cinema Place Parking Garages, Heritage Plaza, 21st Century Library and Learning Center, Weekes Branch Library, and the Hayward Executive Airport; and,

WHEREAS, the Maintenance Services Department, Library Department, and the Hayward Executive Airport have sufficient funds in its respective operating and/or capital budgets; and,

WHEREAS, staff received and evaluated ten proposals; and

WHEREAS, First Shield Security and Patrol, Inc. (First Shield), was selected as the most qualified bidder due to its competitive pricing, customer service, experience, and availability of golf carts.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a contract, in a form approved by the City Attorney, with First Shield for unarmed security services at various City locations for a term of three years with two one-year options to extend in a total not-to-exceed amount of \$4,825,900, which includes a \$225,000 contingency budget.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: CONS 23-144

DATE: March 7, 2023

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with AEI Consultants for Environmental Investigation Services to Support the Stack Center Project by Increasing the Not-to-Exceed Amount of the Agreement from \$59,950 to \$200,000

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute an amendment to the agreement with AEI Consultants for environmental investigation services to support the Stack Center project by increasing the not-to-exceed amount of the agreement from \$59,950 to \$200,000.

SUMMARY

The City is making progress toward Phase 1 construction of the Stack Center Project. As part of the design and construction process, environmental studies, such as soil testing, need to be completed. During this investigation, it was determined that soil needed further investigation to alleviate environmental concerns. Staff previously worked with AEI Consultants (AEI) in the first phase of the environmental study. Staff is now recommending an amendment to the existing agreement with AEI that increases the total not-to-exceed amount of the contract from \$59,950 to \$200,000 for continued testing and to provide mitigation response.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: March 7, 2023

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with AEI Consultants for Environmental Investigation Services to Support the Stack Center Project by Increasing the Not-to-Exceed Amount of the Agreement from \$59,950 to \$200,000

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute an amendment to the agreement with AEI Consultants for environmental investigation services to support the Stack Center project by increasing the not-to-exceed amount of the agreement from \$59,950 to \$200,000.

SUMMARY

The City is making progress toward Phase 1 construction of the Stack Center Project. As part of the design and construction process, environmental studies, such as soil testing, need to be completed. During this investigation, it was determined that soil needed further investigation to alleviate environmental concerns. Staff previously worked with AEI Consultants (AEI) in the first phase of the environmental study. Staff is now recommending an amendment to the existing agreement with AEI that increases the total not-to-exceed amount of the contract from \$59,950 to \$200,000 for continued testing and to provide mitigation response.

BACKGROUND AND DISCUSSION

On July 28, 2021, AEI prepared a Phase I Environmental Assessment that did not identify evidence of a recognized environmental condition at the project site. However, during discussions with Alameda County Department of Environmental Health (ACDEH), due to a nearby site with impacted soil, soil gas, and groundwater, ACDEH requested a sub-slab soil gas sampling. In August 2022, the City executed an agreement with AEI to conduct the necessary subsurface environmental investigations and sampling in the amount of \$59,950. The soil results came back within the allowable limit for commercial properties but above the allowable limit for residential properties. Since this building is a community center, the

County is taking a cautious approach and has asked the City to work with AEI to design some mitigation measures to ensure that vapor is not an issue at the updated center.

Staff recommends amending the agreement with AEI to provide continuing and additional environmental investigation services including completing needed tests, possible future tests, and proposing and implementing mitigation solutions. To account for the continued and additional scope of work, staff recommends increasing the not-to-exceed amount of the agreement from \$59,950 to \$200,000.

ECONOMIC IMPACT

This item will provide a positive economic impact by ensuring public health and safety through completing environmental studies and implementing mitigation strategies.

FISCAL IMPACT

The Adopted FY 2023 CIP Budget appropriated sufficient funds in the STACK Center Project, Project No. 06960. There will be no impact to the General Fund.

STRATEGIC ROADMAP

This agenda item supports the City's Strategic Roadmap Priority "Invest in Infrastructure:"
N13: Oversee the rebuilding of the South Hayward Youth and Family Center (the Stack)

PUBLIC CONTACT

This item requires no public contact.

NEXT STEPS

If Council approves this item, the City Manager will execute an amendment to the agreement with AEI for continued and additional environmental services to support the Stack Center Project.

Prepared by: Irene Perez, Management Analyst I

Recommended by: Regina Youngblood, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE AGREEMENT WITH AEI CONSULTANTS FOR ENVIRONMENTAL INVESTIGATION SERVICES TO SUPPORT THE STACK CENTER PROJECT BY INCREASING THE NOT-TO-EXCEED AMOUNT OF THE AGREEMENT FROM \$59,950 TO \$200,000.

WHEREAS, in July 2021, AEI Consultants completed the Phase 1 Environmental Staff Assessment for the Stack Center project; and

WHEREAS, the Alameda County Department of Environmental Health (ACDEH) requested additional sub-soil gas sampling due to neighboring properties having environmental concerns; and

WHEREAS, in August 2022, the City executed an agreement with AEI Consultants to conduct the additional environmental investigations in the amount of \$59,950; and

WHEREAS, soils results came back with environmental concerns requiring more testing and mitigation solutions; and,

WHEREAS, staff recommends amending the agreement with AEI to provide continuing and additional environmental investigation services including completing needed tests, conducting future tests, and proposing and implementing mitigation solutions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized to negotiate and execute an amendment to the agreement with AEI Consultants for continued and additional environmental investigation services to support the Stack Center by increasing the not-to-exceed amount of the agreement from \$59,950 to \$200,000, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: PH 23-013

DATE: March 7, 2023

TO: Mayor and City Council

FROM: Acting Development Services Director

SUBJECT

Alcoholic Beverage Regulations Update: Adopt a Resolution Amending Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code to Make Updates to the Regulations Governing Alcoholic Beverage Outlets Throughout the City, and Finding that the Action is Exempt from CEQA Review and Introducing an Ordinance Codifying the Amendments

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) supporting the proposed Zoning Text Amendments to Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code updating the regulations governing alcoholic beverage outlets and finding the Amendments to be exempt from the California Environmental Quality Act (CEQA), and introduces an ordinance codifying the Amendments (Attachment III).

SUMMARY

The City's Strategic Roadmap contains various priorities identified by the City Council, one of which is to "Grow the Economy" by investing in programs that support Hayward businesses and workers. One of the projects listed in the Strategic Roadmap calls for implementing revisions to the City's Alcoholic Beverage Outlets (ABO) Ordinance contained in Hayward Municipal Code Section 10-1.2750 to better support existing full-service restaurants and encourage more new full-service restaurants to locate in the city.

Currently, the ABO Ordinance requires all full-service restaurants to maintain a minimum of 60 percent of gross revenues from food sales with a maximum of 40 percent allowed to be derived from alcohol sales. The ABO Ordinance also does not currently allow for arrangements wherein different entities own the food service and alcohol service components of an establishment, and it currently limits the time when restaurants can offer discount ("happy hour") pricing on alcoholic beverages from 4:00 to 9:00 PM.

The proposed Amendments would modify the ABO Ordinance to include the following revisions:

- Change the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50 to enable such restaurants to earn higher revenues overall from the resulting increase in allowable revenues from alcohol sales;

- Update the definition of a “full-service restaurant” to include various types of arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment;
- Allow kitchens to be built within freestanding structures on an establishment’s premises to provide operators with additional flexibility when considering establishment layouts/arrangements;
- Modify the hours when alcohol serving establishments can offer happy hour discount pricing; and
- Require establishments that sell alcohol for on-site consumption to provide patrons with information on safe alternatives for getting home in the event they are too intoxicated to drive themselves.

Staff believes the proposed Amendments will help to improve business at the City’s full-service restaurants by allowing them to increase total revenues from alcohol sales and provide additional flexibility for new and existing restaurants wanting to establish in Hayward while creating an updated regulatory framework that will ensure a significant amount of revenue is still derived from food sales. It will also enhance public safety and welfare by requiring all alcohol-serving establishments to provide information for patrons on ways to get home safely in the event they are too intoxicated to drive.

ATTACHMENTS

- | | |
|----------------|--|
| Attachment I | Staff Report |
| Attachment II | Resolution |
| Attachment III | Draft Ordinance |
| Attachment IV | Planning Commission Draft Minutes of 2/9/23 Alcoholic Beverage Regulations |



DATE: March 7, 2023

TO: Mayor and City Council

FROM: Acting Development Services Director

SUBJECT: Alcoholic Beverage Regulations Update: Adopt a Resolution Amending Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code to Make Updates to the Regulations Governing Alcoholic Beverage Outlets Throughout the City, and Finding that the Action is Exempt from CEQA Review and Introducing an Ordinance Codifying the Amendments

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) supporting the proposed Zoning Text Amendments to Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code updating the regulations governing alcoholic beverage outlets and finding the Amendments to be exempt from the California Environmental Quality Act (CEQA), and introduces an ordinance codifying the Amendments (Attachment III).

SUMMARY

The City's Strategic Roadmap¹ contains various priorities identified by the City Council, one of which is to "Grow the Economy" by investing in programs that support Hayward businesses and workers. One of the projects listed in the Strategic Roadmap calls for implementing revisions to the City's Alcoholic Beverage Outlets (ABO) Ordinance (HMC Section 10-1.2750)² to better support existing full-service restaurants and encourage more new full-service restaurants to locate in the city.

Currently, the ABO Ordinance requires all full-service restaurants to maintain a minimum of 60 percent of gross revenues from food sales with a maximum of 40 percent allowed to be derived from alcohol sales. The ABO Ordinance also does not currently allow for arrangements wherein different entities own the food service and alcohol service components of an establishment, and it currently limits the time when restaurants can offer discount ("happy hour") pricing on alcoholic beverages from 4:00 to 9:00 PM.

¹ City of Hayward Strategic Roadmap FY2021 to FY2023:
<https://www.hayward-ca.gov/sites/default/files/Update%20Strategic%20Roadmap%204.26.22.pdf>

² Hayward Municipal Code Section 10-1.2750 (Alcoholic Beverage Outlets):
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.2750ALBEOU

The proposed Amendments would modify the ABO Ordinance to include the following revisions:

- Change the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50 to enable such restaurants to earn higher revenues overall from the resulting increase in allowable revenues from alcohol sales;
- Update the definition of a “full-service restaurant” to include various types of arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment;
- Allow kitchens to be built within freestanding structures on an establishment’s premises to provide operators with additional flexibility when considering establishment layouts/arrangements;
- Modify the hours when alcohol serving establishments can offer happy hour discount pricing; and
- Require establishments that sell alcohol for on-site consumption to provide patrons with information on safe alternatives for getting home in the event they are too intoxicated to drive themselves.

Staff believes the proposed Amendments will help to improve business at the City’s full-service restaurants by allowing them to increase total revenues from alcohol sales and provide additional flexibility for new and existing restaurants wanting to establish in Hayward while creating an updated regulatory framework that will ensure a significant amount of revenue is still derived from food sales. It will also enhance public safety and welfare by requiring all alcohol-serving establishments to provide information for patrons on ways to get home safely in the event they are too intoxicated to drive.

BACKGROUND

The current ABO Ordinance was adopted by the City Council on November 19, 2013, to address the proliferation of alcohol-selling establishments that existed in the City at that time, including the problems often associated with those establishments such as public intoxication, drunk driving, littering, and loitering. The Ordinance contains numerous stringent regulations that restrict the location and quantity of alcohol-selling establishment and requires Conditional Use Permits for most types of establishments. The Ordinance also establishes rigorous performance standards that they must adhere to and provides exceptions for full-service restaurants, but it strictly defines such restaurants and requires that at least 60% of their gross revenues be derived from food sales.

On January 28, 2020, the City Council adopted its FY 2021-23 Strategic Roadmap, which was subsequently updated in April 2022. The Roadmap identified six strategic priorities for staff to work on over its three-year lifespan, one of which was to “Grow the Economy.” Included as one of the five projects under this priority was to invest in programs that support Hayward’s businesses and workers. One of the projects listed in the Council’s Strategic Roadmap calls for “revising the alcohol use regulations to support existing and encourage more full-service restaurants.” This project was identified as a priority in response to concerns from local restaurants and bar owners who felt that the requirements to meet the definition of a full-service restaurant were too strict.

In early 2022, Planning Division staff began working with the Hayward Police Department and Economic Development Division to identify possible changes to the ABO Ordinance to support Council's vision. Concurrently, staff began conducting outreach to key stakeholders during Spring of 2022 to solicit feedback on the topic prior to drafting updates to the Ordinance, which are included as Attachment III.

Public Outreach. Over a four-month period between April-July 2022, Planning Division staff reached out to restaurant owners and several other stakeholders via multiple channels in an effort to solicit input on potential amendments to the current ABO Ordinance that could help to achieve the goal as listed in the Council's Strategic Roadmap. The outreach included collaborating with the Chamber of Commerce to circulate a flyer to all 1,200 of its members inviting anyone interested to offer opinions on the subject, and sending a separate email to a list of nearly 110 local restaurant owners maintained by the Economic Development Division inviting them to a meeting with the Council Economic Development Committee (CEDC) to discuss potential amendments. The results of these outreach efforts, which included interviews of several key stakeholders, yielded a number of potential amendments which staff ultimately presented to the CEDC in September. Those amendments were as follows:

- Relax the current requirement that full-service restaurants must maintain at least 60 percent of their gross revenues from the sale of food with only 40 percent allowed to be derived from the sale of alcohol;
- Allow alcohol-serving establishments that contain a full kitchen and lease/sublease it to a food service provider through a business partnership to be considered as full-service restaurants;
- Allow a restaurant's kitchen to either be constructed within the actual establishment or as a freestanding on-site structure that is constructed in compliance with the applicable development standards of the establishment's underlying zoning, permanently anchored to the ground, and connected to all necessary utilities such as water and sewer; and
- Allow restaurants to offer happy hours with earlier start times.

Many of the stakeholders who were interviewed felt that the City should revise the ABO Ordinance to relax the current requirement that full service restaurants must maintain at least 60 percent of their gross revenues from the sale of food with only 40 percent allowed to be derived from the sale of alcohol. They suggested that a ratio of 50:50 for revenues from food sales to alcohol sales was more reasonable, and more in line with other agencies' requirements, such as the State Department of Alcoholic Beverage Control (ABC). Historically, the ABC considered establishments that met the 50:50 ratio to be "bona fide eating places" and allowed families with children and minors to patronize them since they functioned as restaurants rather than bars by offering full food service in addition to alcohol service.

Some of the stakeholders also suggested revising the ABO Ordinance to allow alcohol-serving establishments that contain a full kitchen and lease/sublease it to a food service provider through a business partnership to be considered as full-service restaurants. Under such an arrangement, one individual could own the bar and kitchen but lease/sublease the kitchen to a chef who would run the food service component using a separate point of sale, thus enabling the establishment to operate like a full-service restaurant even though it would technically

house two separate businesses. This practice is currently allowed by ABC, as long as the kitchen remains open up until 30 minutes prior to the bar's closing time. It was further suggested that the kitchens of such establishments be allowed to be constructed separately from, but on the same premises as the alcohol-serving operation, such as in a freestanding structure – an arrangement that is also allowed by ABC. In addition, staff received feedback from one restaurant owner who believed that allowing restaurants to offer happy hours with earlier start times could further help increase business and cover operating expenses. Another member of the public expressed opposition to any amendments based on concern about the potential for them to result in an increase in alcohol consumption and associated problems, such as drunk driving and public intoxication.

Council Economic Development Committee. On September 22, 2022³, staff presented the list of proposed amendments to the Council Economic Development Committee for review and feedback. The CEDC generally expressed support for the proposed amendments and directed staff to proceed with presenting them to the Planning Commission and City Council for consideration. One CEDC member asked staff to look into the recent history of alcohol-related crimes such as drunk driving and public intoxication being committed by persons who may have overconsumed in one of the City's full-service restaurants, and to compare the regulations of neighboring municipalities to the City's to determine if they are more or less permissive. Another CEDC member asked staff to explore ways to require all establishments where alcohol can be sold for on-site consumption to offer information for patrons on ways to get home safely (for instance, via taxicab or ridesharing services such as Uber and Lyft). In response to these requests, staff surveyed the regulations of several neighboring municipalities to compare them with Hayward's and analyzed alcohol-related crime data in order to identify clear evidence that a significant amount of these crimes resulted from overconsumption of alcohol. The results of these efforts are discussed in greater detail in the Staff Analysis section below.

Planning Commission Recommendation. On February 9, 2023⁴, the Planning Commission held a public hearing to review and recommend the proposed amendments to the City Council. During the hearing, the same resident who opposed any amendments during the initial public outreach period spoke in opposition to the proposed amendments and asked the Commission to recommend no changes. One of the local restaurant owners who provided input during the outreach period also attended the hearing and spoke in support of the amendments. After asking several questions of staff aimed primarily at determining how the amendments would preclude bars from qualifying as full-service restaurants, the Commission ultimately voted 6-0 (with one Commissioner absent) to recommend approval of the amendments as proposed, but recommended the Council revise the time when happy hour discount pricing can be offered from 2:00-7:00 PM to 3:00-8:00 PM. The draft minutes from the Planning Commission meeting are included as Attachment IV to this staff report.

DISCUSSION

³ September 22, 2022 Council Economic Development Committee Meeting video recording: http://hayward.granicus.com/MediaPlayer.php?view_id=1&clip_id=1441

⁴ February 9, 2023 Planning Commission Meeting video recording: http://hayward.granicus.com/player/clip/1557?view_id=1&redirect=true&h=8095fbb8afed186e6ae63a1283d37eb2

The proposed amendments include a number of revisions to HMC Section 10.1-2750, as summarized below. Specifically, staff is recommending amendments to relax the required food sales to alcohol sales ratio, allow different owners/operators to operate on the same premises, modify happy hour times, and require alcohol service establishments provide information on alternatives for customers to get home safely when intoxicated. A summary of the proposed changes is included below with a full text of the proposed Amendments contained in Attachment III.

Relaxing the Required 60:40 Ratio of Food Sales to Alcohol Sales: Per HMC Section 10-1.2751(i), the current definition of “full-service restaurant” affords full-service restaurant operators many benefits by allowing them to offer a full bar on the premises, happy hour discount pricing, and live or recorded music until midnight without requiring discretionary approvals such as a use permit from City staff, the Planning Commission, or the City Council. However, the existing definition also requires that such restaurants maintain a minimum of 60 percent of gross receipts from food sales. As indicated in this report, staff proposes to amend and reduce the required ratio of food-to-alcohol sales from 60:40 to 50:50 in order to be consistent with how the California Department of Alcohol Beverage Control (ABC) has historically defined bona-fide eating places apart from bars and other drinking establishments. The proposed modification would also maintain that a significant amount of business activity continues to be derived from and support food sales.

Allow Different Bar/Restaurant Owner/Operators on Same Premises: This proposed Amendment to the definition of a “full-service restaurant” would allow the owner of an establishment that sells alcohol and has a full-service kitchen to lease the kitchen to a food service operator through a business partnership, and still allow this type of venture to be considered a full-service restaurant. To provide additional flexibility for prospective owner/operators, a further modification is proposed that would allow the restaurant’s kitchen to either be constructed within the actual establishment or as a freestanding on-site structure that is constructed in compliance with the applicable development standards of the establishment’s underlying zoning, permanently anchored to the ground, and connected to all necessary utilities such as water and sewer.

The proposed amendments include a provision requiring a hybrid business to operate under one of three ABC liquor license types (Type 41, Type 47, or Type 75) to ensure that an establishment with separate ownership maintains food service at all times while alcohol is being served. All three license types require the establishment to operate as a restaurant (or bona fide eating place) with meal service provided up until 30 minutes prior to closing time. A Type 41 license only allows for the sale of beer and wine with meals; a Type 47 license allows for the sale of beer, wine, and spirits with meals; and a Type 75 license allows for the sale of beer, wine, and spirits with meals as well as a limited amount of onsite beer brewing. If a holder of any of these license types is found to not be operating as a bona fide eating place, then ABC may take enforcement action to resolve the issue, including suspension or revocation.

Modify Happy Hour Discount Pricing Times: This proposed Amendment would change the hours when a full-service restaurant is allowed to offer happy hour discount pricing for alcoholic beverages. Currently, full-service restaurants are permitted to offer happy hour

pricing from 4:00 PM to 9:00 PM. The proposed Amendment would change the permissible hours to 3:00 PM to 8:00 PM. The current requirement in the definition that discounted appetizers and non-alcoholic beverages be offered at the same time as discounted alcoholic beverages would not change.

Require Alcohol-Serving Establishments to Provide Information on Safe Alternatives for Getting Home: The other proposed Amendments were added in response to feedback received at the CEDC to require alcohol-serving establishments offer information to patrons on alternative ways to get home safely in the event of intoxication. To achieve this, Planning staff worked in collaboration with the Hayward Police Department to propose amendments that assign updated performance standards for both new alcoholic beverage sales establishments and deemed approved establishments (i.e., those that were already operating legally prior to the adoption of the ordinance and now have legal nonconforming status). Specifically, the amendments would require that all establishments permitted to sell alcohol for on-site consumption provide information to patrons on safe alternatives for getting home through a means to be determined by, and maintained to the satisfaction of, the Chief of Police.

Policy Context and Code Compliance

Hayward 2040 General Plan. Staff believes the proposed Zoning Text Amendments are consistent with the goals and policies set forth in the *Hayward 2040 General Plan*⁵ in that they are designed to help increase business for the City's many existing full-service restaurants and entice new restaurants to locate in the City. The General Plan contains numerous goals and policies aimed at providing a robust economy that offers a wide variety of goods and services, establishing a lively downtown district that features an array of shopping, restaurant, and entertainment options, and attracting and retaining local businesses of all sizes and types. Specifically, the proposed amendments are consistent with the following goals and policies set forth in the *Hayward 2040 General Plan*:

- *Land Use Policy LU-2.1 – Downtown Arts and Entertainment:* The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.
- *Land Use Policy LU-2.16 – Uses to Attract the Creative Class:* The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to Hayward, including restaurants and cafes; art studios and galleries; and entertainment and cultural venues.
- *Land Use Policy LU-5.1 – Mix of Uses and Activities:* The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.

⁵ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/>

- Economic Development Goal ED-1: Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for local residents.
- Economic Development Policy ED-1.14 – Hospitality and Entertainment Business Clusters: The City shall encourage the development of a hospitality and entertainment business cluster within Downtown Hayward and other appropriate locations to improve opportunities for shopping, dining, arts and entertainment, lodging, business conventions, and cultural events.
- Economic Development Goal ED-3: Grow the local economy and employment base by supporting efforts to expand and retain local businesses.
- Economic Development Goal ED-5: Encourage economic investment by enhancing the image and reputation of Hayward.

Additionally, the proposed Amendments are consistent with Council’s Strategic Roadmap and the recently adopted *Downtown Specific Plan* (DSP)⁶, which contains a goal to establish the downtown area as the heart of the City and create a lively, safe and attractive regional destination for people of all ages that features a mix of land uses, including ground-floor retail shops, restaurants, cafes, business offices and bars/nightclubs, and residential uses on upper floors of mixed-use buildings.

Zoning Ordinance. Pursuant to HMC Section 10-1.3430(a)⁷, the City Council shall hold a public hearing on all Planning Commission recommendations for approval of proposed text amendments to the Zoning Ordinance. The City Council may approve, modify or deny a text amendment, and must base its decision on the findings set forth in HMC Section 10-1.3425(b). Those findings are as follows:

- Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
- The proposed change is in conformance with all applicable, officially adopted policies and plans;
- Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and
- All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

Staff believes the City Council can make the required findings to support the proposed text amendments and has included more detailed analysis in Attachment II.

⁶ Hayward Downtown Specific Plan: <https://www.hayward-ca.gov/sites/default/files/Hayward-Downtown-Specific-Plan.pdf>

⁷ Hayward Municipal Code Section 10-1.3430 (City Council Procedures): https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOOR_S10-1.3400AM_S10-1.3430CICOPR

Staff Analysis

The proposed amendments are consistent with numerous goals and policies of the *Hayward 2040 General Plan* and *Downtown Specific Plan* as enumerated above. In addition, the proposed Amendments would achieve one of the Council's Strategic Roadmap goals of revising the Alcoholic Beverage Outlet Ordinance to support existing full-service restaurants and encourage more full-service restaurants to locate in the City. Furthermore, the proposed Amendments incorporate several modifications that provide additional flexibility to alcohol serving establishments by allowing them to increase the amount of revenues from alcohol sales in relation to food sales, since the current requirement of 60 percent of gross receipts from food sales was very difficult to comply with, particularly for establishments with full bars that offer premium cocktails and wine. The Amendments would also allow restaurants to offer earlier happy hour discount pricing that could enable restaurants the ability to capture more business from people who work earlier shifts and finish work in the early afternoon.

The proposed amendments are also designed to provide additional flexibility and accommodate a greater variety of business models wherein different entities own the food service and alcohol service components of an establishment. These models are becoming increasingly popular, particularly with microbreweries and other similar operations where the primary business owner specializes in alcohol production, service, and sales and is less familiar with operating a full kitchen with food service. This change could attract some alcohol-oriented businesses such as microbreweries to the City by giving their owners who may not have experience running a full-service restaurant the ability to find a food service provider to run the kitchen and handle the food service component. The Amendments would also provide flexibility by allowing the kitchens in such arrangements to be built in a freestanding structure on the premises, separate from the alcohol-serving facility. Finally, they would also help reduce the likelihood of drunk driving by requiring all alcohol-serving establishments to provide information to patrons on safe alternatives for getting home in the event they are too intoxicated to drive.

Alcohol-Related Crimes Attributable to Restaurants. In response to the request of CEDC, the Hayward Police Department pulled data from the previous four years and was unable to identify any clear evidence that a significant amount of crimes resulted from overconsumption of alcohol at local restaurants. During the past four years, there were an average of 397 alcohol-related arrests (for either being drunk in public or driving drunk) throughout the entire City. The downtown area consistently sees the highest volume of such arrests, but it is difficult to determine how many are attributable to restaurants because the information regarding where the perpetrator originated from is not always readily available on police reports. Generally, the Hayward Police Department supports, and assisted in the crafting of, the proposed amendments and does not believe that the changes will result in a significant increase in alcohol-related crimes by persons dining out at full-service restaurants.

Other Municipalities' Alcohol Regulations. In response to a request from one of the CEDC members, staff examined the alcohol regulations of the Cities of San Leandro, Alameda, Fremont, and Union City in an effort to determine if the existing regulations of neighboring cities are more restrictive, more permissive, or similar to Hayward's. None of the cities

surveyed require a minimum ratio of food-to-alcohol sales or specify times when happy hour discount pricing may be allowed. In addition, none of the jurisdictions specifically allow partnerships wherein separate entities own the food service and alcohol service components. A summary of the staff's research is noted below:

- San Leandro's regulations were the most permissive from a land use perspective, with the City generally allowing restaurants with full bars and brewpubs that offer food service and have tasting rooms for beer that they produce on-site in nearly all of its 16 commercial zoning districts by right.
- The City of Alameda's regulations were more restrictive, only allowing restaurants with full bars in the central business district by right. This is presumably because much of Alameda consists of older, mixed-use neighborhoods wherein residential uses abut commercial and/or industrial uses, so zoning regulations must be geared more toward protecting the health, welfare, and property values of those residents.
- Union City's and Fremont's regulations are similar to Hayward's in that they allow for restaurants with full bars to be open until midnight in all commercial zoning districts. However, while Union City allows non-amplified live music until midnight, it does require a Zoning Administrator Permit for any establishments offering amplified live music. Fremont is more restrictive in that it requires a restaurant that wishes to offer any form of live music (either amplified or not) to obtain a Zoning Administrator Permit.

Overall, Hayward's current regulations are generally consistent with those of its neighboring jurisdictions. In some ways, particularly with regard to imposing a minimum 60:40 ratio of food-to-alcohol sales requirement on all full-service restaurants, they are more restrictive, while in other ways, particularly with regard to allowing live music until midnight, they are more permissive.

Environmental Review

The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under the "common sense" exception set forth in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment. The proposed Text Amendments to the Zoning Ordinance will: relax the required ratio of food-to-alcohol sales at full-service restaurants from 60:40 to 50:50; change the definition of "full-service restaurant" to include arrangements wherein separate entities own the food service and alcohol beverage service components of the establishment; allow kitchens to be built in freestanding structures that comply with all applicable development standards of the underlying zoning, modify the hours when such restaurants can offer happy hour discount pricing; and require all establishments that are permitted to sell alcohol for on-site consumption to provide information to patrons on safe alternatives for getting home in the event they become too intoxicated to drive themselves.

ECONOMIC IMPACT

The proposed amendments could potentially have a positive economic benefit in that they could attract additional food- and alcohol-serving establishments to the City by affording prospective owner/operators greater flexibility by enabling them to enter into partnerships

with other entities or individuals who may have more experience in a certain industry, such as providing food service or running a bar. For example, the current standard model in the independent brewery industry is to partner with a food company to provide the food service for the establishment's clientele. The proposed amendments create a low barrier to entry into the Hayward market for these types of modern-day food/alcohol-service operations. In addition, the proposed amendments may result in increased revenues for some restaurants, particularly those with separate bars, by allowing their owners to offer earlier happy hour discount pricing.

FISCAL IMPACT

The proposed amendments could generate an increase in sales tax revenues for the City from new food- and alcohol-serving establishments that choose to locate in Hayward under the new, more flexible regulations as well as from existing establishments that may derive more business from being able to offer earlier happy hour start times.

STRATEGIC ROADMAP

In January 2020, the Council adopted six Strategic Priorities as part of its three-year Strategic Roadmap:

1. Preserve, Protect & Produce Housing
2. Grow the Economy
3. Combat Climate Change
4. Improve Infrastructure
5. Improve Organizational Health
6. Support Quality of Life

Included as one of the five projects under Strategic Priority #2, "Grow the Economy," was to invest in programs that support Hayward's businesses and workers. One of the projects that was identified called for "revising the alcohol use regulations to support existing and encourage more full-service restaurants". The proposed amendments are specifically intended to implement this project.

PUBLIC CONTACT

Over a four-month period from April through July of 2022, Planning Division staff reached out to restaurant owners and a number of other stakeholders via multiple channels in an effort to solicit input on the amendment-drafting process. The outreach included collaborating with the Chamber of Commerce to circulate a flyer to all 1,200 of its membership on April 28, 2022, and sending a separate email to a list of nearly 110 local restaurant owners maintained by the Economic Development Division on July 7, 2022. The Community & Media Relations Division also published an article about the amendments in the July issue of The Stack newsletter. As a result of these outreach efforts, Planning staff was able to interview seven key stakeholders, including the former president of the Chamber of Commerce and the manager of the Downtown Hayward Improvement Association, as well as the owners/operators of several local restaurants and two popular East Bay microbreweries.

NEXT STEPS

If approved, the proposed Zoning Text Amendments will be brought back to the Council for a second reading and adoption and will become effective 30 days after adoption.

Prepared by: Steve Kowalski, Associate Planner

Recommended by: Sara Buizer, AICP, Acting Development Services Director

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-

Introduced by Council Member _____

RESOLUTION TO ADOPT AMENDMENTS TO CHAPTER 10, ARTICLE 1, SECTION 10-1.2750 (ALCOHOLIC BEVERAGE OUTLETS) OF THE HAYWARD MUNICIPAL CODE UPDATING THE REGULATIONS GOVERNING ALCOHOLIC BEVERAGE OUTLETS THROUGHOUT THE CITY.

WHEREAS, on November 19, 2013, the Hayward City Council adopted the current Alcoholic Beverage Outlets Ordinance (Hayward Municipal Code Section 10-1.2750) to address a proliferation of alcohol-selling establishments that existed in the City of Hayward (“City”) at that time and impose regulations on such establishments to ensure they do not pose an adverse impact on the safety and welfare of the public; and

WHEREAS, on January 28, 2020, the City Council adopted the Fiscal Year 2021-23 Strategic Roadmap for the City, which included a call to revise the regulations contained in Section 10-1.2750 of the Municipal Code to better support existing full-service restaurants and encourage more full-service restaurants to locate in the City in response to concerns expressed by a small number of local restaurant owners about the overly strict nature of some of the regulations; and

WHEREAS, between April and July 2022, City staff conducted extensive public outreach to solicit input on potential changes to the regulations that could achieve the Council’s goal, including sending an email flyer to all 1,200 members of the Hayward Chamber of Commerce, emailing 110 local restaurant owners having active business licenses with the City, and interviewing several stakeholders including the former Chamber president, the manager of the Downtown Hayward Improvement Association, and the owner/operators of numerous local and regional eating and drinking establishments; and

WHEREAS, on September 22, 2022, staff presented a number of draft amendments to the regulations crafted using the input received from the public outreach to the Council Economic Development Committee (CEDC) to obtain preliminary feedback before proceeding with a final set of recommended amendments to the Planning Commission and City Council; and

WHEREAS, on September 22, 2022, the CEDC expressed support for the draft amendments and suggested a small number of additional changes; and

WHEREAS, on February 9, 2022, the Planning Commission held a duly-noticed public hearing to consider the recommended amendments to the regulations, received public testimony, and voted unanimously to forward them to the City Council with a recommendation for approval; and

WHEREAS, on February 24, 2023, notice of a public hearing was published in the manner required by law, and said hearing was duly held by the City Council and public testimony was received on March 7, 2023.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under the “common sense” exception set forth in CEQA Guidelines Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that their adoption could have a significant effect on the environment.

FINDINGS FOR TEXT AMENDMENTS TO CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE RELATED TO THE ALCOHOLIC BEVERAGE OUTLETS ORDINANCE (REFERRED TO AS THE "TEXT AMENDMENTS")

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

The proposed Text Amendments will promote the public health, safety, convenience and general welfare of Hayward residents by potentially attracting more full-service restaurants to the City through the relaxing of certain standards that restaurant owners who offer alcoholic beverage service must abide by, by affording greater flexibility in the types of restaurant establishments that are allowed to sell alcoholic beverages, and by ensuring that all establishments that are permitted to sell alcohol for on-site consumption offer information for patrons on ways to get home safely in the event that they drink too much. Furthermore, the Text Amendments will assist existing restaurants and entice new restaurants to locate in the City in order to add to the vitality of the downtown area and other commercial districts and provide a greater offering of choices for residents and workers looking to dine out.

2. **The proposed change is in conformance with all applicable, officially adopted policies and plans;**

The proposed Text Amendments are consistent with the goals and policies set forth in the *Hayward 2040 General Plan* in that they are designed to help increase business for the City’s many existing full-service restaurants and also entice new restaurants to locate in the City. The General Plan contains numerous goals and policies aimed at providing a robust economy that offers a wide variety of goods and services, establishing a lively downtown district that features an array of shopping, restaurant and entertainment options, and attracting and retaining local businesses of all sizes and types. Specifically, the proposed Text Amendments are consistent with the following goals and policies set forth in the *Hayward 2040 General Plan*:

Land Use Policy LU-2.1 – Downtown Arts and Entertainment: The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.

Land Use Policy LU-2.16 – Uses to Attract the Creative Class: The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to Hayward, including restaurants and cafes; art studios and galleries; and entertainment and cultural venues.

Land Use Policy LU-5.1 – Mix of Uses and Activities: The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.

Economic Development Goal ED-1: Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for local residents.

Economic Development Policy ED-1.14 – Hospitality and Entertainment Business Clusters: The City shall encourage the development of a hospitality and entertainment business cluster within Downtown Hayward and other appropriate locations to improve opportunities for shopping, dining, arts and entertainment, lodging, business conventions, and cultural events.

Economic Development Goal ED-3: Grow the local economy and employment base by supporting efforts to expand and retain local businesses.

Economic Development Goal ED-5: Encourage economic investment by enhancing the image and reputation of Hayward.

Additionally, the proposed Text Amendments are consistent with Council’s Strategic Roadmap projects and the recently adopted *Downtown Specific Plan* (DSP), which contains a goal to establish the downtown area as the heart of the City and create a lively, safe and attractive regional destination for people of all ages that features a mix of land uses, including ground-floor retail shops, restaurants, cafes, business offices and bars/nightclubs, and residential uses on upper floors of mixed-use buildings.

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

This finding is not applicable as the proposed Text Amendments will not rezone or reclassify any properties in the City. Additionally, staff does not anticipate that the proposed Text Amendments will generate a significant increase in traffic volumes throughout the City or result in an undue strain on public facilities.

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

The proposed Text Amendments will result in a beneficial effect on existing and future restaurants in that they are designed to help introduce flexibility and encourage a variety of new types of restaurants to open in the City. Increasing business at restaurants will support Hayward’s small business community, while attracting new restaurants which will benefit the community at large by offering a wider variety of local choices to patronize when dining out. Finally, requiring establishments that can sell alcohol for on-site consumption to provide information for patrons on safe alternatives for getting home will provide a beneficial effect for the general public by helping reduce the likelihood of persons driving while intoxicated after patronizing such establishments.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of the proposed Text Amendments to Chapter 10, Article 1, Section 10-1.2750 of the Hayward Municipal Code, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 23-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023.

ADOPTED BY THE FOLLOWING VOTE:

- AYES: COUNCIL MEMBERS:
MAYOR:
- NOES: COUNCIL MEMBERS:
- ABSTAIN: COUNCIL MEMBERS:
- ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO. 23-

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1, SECTION 10-1.2750 (ALCOHOLIC BEVERAGE OUTLETS) OF THE HAYWARD MUNICIPAL CODE TO UPDATE THE REGULATIONS GOVERNING ALCOHOLIC BEVERAGE OUTLETS THROUGHOUT THE CITY

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

Section 1. Provisions. The City Council incorporates by reference the findings contained in Resolution No. 23-__ approving the below Zoning Text Amendments to the Hayward Municipal Code.

Section 2. Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code is hereby amended to read as follows, with all added text shown as underlined and all deleted text shown as ~~stricken through~~. All Zoning Text Amendments are limited to Subsections 10-1.2751, 10-1.2752 and 10-1.2769; all other Subsections of Section 10-1.2750 are to remain unchanged and in effect:

SEC. 10-1.2751 DEFINITIONS.

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

- a. "Alcoholic Beverage Sales Establishment" shall mean an establishment involving the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages. All alcoholic beverage sales establishments are required to obtain the appropriate license from the State of California Department of Alcoholic Beverage Control (ABC), and an annual alcoholic beverage retail license and a conditional use permit from the City, unless otherwise indicated in these regulations. The fees for the annual alcoholic beverage retail licenses shall be established by the City Council from time to time in the City's Master Fee Schedule, and is payable at the time the establishment obtains or renews its business license.
 - i. "On-Sale Alcohol-Related Establishment" means any business wherein alcoholic beverages are sold on the premises and are to be consumed on the premises including all related buildings, structures, open spaces and parking areas. This shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises.
 - ii. "Off-Sale Alcohol-Related Establishment" means any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold.

- b. "Cabaret" is defined in Chapter 6, Article 2 of this Code. All cabarets that serve alcohol must obtain a conditional use permit, unless the cabaret has deemed approved status as defined herein, and a cabaret license as required by Chapter 6, Article 2 of this code.
- c. "Critical Incident" means any event that, in the sole discretion of the Chief of Police, results in a crime of violence; or a large, unruly gathering necessitating a police response of five (5) or more police officers, directly or indirectly resulting from the operation of an alcoholic beverage sales establishment. Crimes of violence include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon. Police response is the arrival of a police officer at the scene of a disturbance to render whatever service is reasonably required in order to protect public health, safety or welfare.
- d. "Deemed Approved Alcoholic Beverage Establishments" means those establishments identified in Section 10-1.2767.
- e. "Downtown Entertainment Area" means that area generally between A and D Streets and between Second Street and Grand Street.
- f. "Licensee" means the holder of an ABC license, an alcoholic beverage retail license, a cabaret license and/or a use permit for the operation of an alcoholic beverage sales establishment.
- g. "Liquor store" is defined in Section 10-1.3500 of this Ordinance ("Definitions"). All liquor stores must obtain a conditional use permit, unless the liquor store has deemed approved status as hereinafter provided. Liquor stores shall not be permitted in the Downtown Entertainment Area, until such time as ABC indicates that the census tract encompassing the Downtown Entertainment Area does not have an overconcentration of off-sale ABC licenses.
- h. "Night Club" see definition of "Bar" in Section 10-1.3500 of this Ordinance ("Definitions"). All night clubs must obtain a conditional use permit, unless the night club has deemed approved status as hereinafter provided. Any night club that permits dancing or live entertainment on a regular basis must obtain a cabaret license as required by Chapter 6, Article 2 of this code, in addition to a conditional use permit.
- i. Restaurant—Full Service. A "full service restaurant" means a sit-down alcoholic beverage sales establishment which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals, and which may include an incidental bar, cocktail lounge, or other area designated primarily for the service of alcohol on the premises, which operates as part of the restaurant and is subservient to the primary function of the establishment, and which maintains a minimum of ~~60~~ 50 percent of its gross receipts from the sale of meals. Full service restaurants may consist of an arrangement wherein one entity or individual owns the alcoholic beverage sales establishment and leases its kitchen facilities to a separate entity or individual who owns and/or provides the meal service to the

establishment's customers; however, such full service restaurants may only be allowed to operate under either a: (1) Type 41; (2) Type 47; or (3) Type 75 California Department of Alcoholic Beverage Control license. Kitchen facilities may be located either physically within the alcoholic beverage sales establishment or within a separate, freestanding, permanently constructed structure or structures situated on the same property and designed to comply with all applicable development standards of the zoning district in which the property is located. For purposes of these regulations, a full-service restaurant does not include fast food restaurants. For the purpose of verifying compliance with the foregoing sales requirement, the sales receipts, accounting ledgers, and any other business records pertaining to the sales of food and alcohol shall be open for inspection by the Chief of Police or his or her designee during regular business hours of the restaurant upon seventy-two (72) hours' prior written notice. Full-service restaurants may operate without a conditional use permit, provided that the restaurant observes the performance standards set forth in Section 10-1.2752 and meets the following criteria.

- (1) A full service restaurant shall serve meals to guests at all times the establishment is open for business. An establishment shall not be considered a full-service restaurant if it serves alcohol without meal service being provided.
 - (2) Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
 - (3) A full service restaurant may offer live or recorded music until midnight without a cabaret license or permit, provided the music is within the parameters established by the City's Noise Ordinance. Dancing or other form of live entertainment besides music is not allowed unless a conditional use permit and a cabaret license or permit is obtained, in accordance with Chapter 6, Article 2 of this code. The right to have live or recorded music in a full-service restaurant may be revoked or suspended if violations of the requirements in this section or performance standards contained in Section 10-1.2752 occur, in accordance with the procedures outlined in Section 10-1.2770 of these regulations.
 - (4) A full service restaurant may offer reduced price alcoholic beverages served on the premises between the hours of ~~4:00~~ 3:00 p.m. and ~~9:00~~ 8:00 p.m., provided that such beverages are offered in conjunction with reduced price appetizers and reduced price non-alcoholic beverages. The right to have reduced price alcoholic beverages in a full-service restaurant may be revoked or suspended if violations of the requirements in this section or performance standards contained in Section 10-1.2752 occur, in accordance with the procedures outlined in Section 10-1.2770 of these regulations.
- j. "Wine Shop" is defined in Section 10-1.3500 of this Ordinance ("Definitions"). All wine shops must obtain an administrative use permit, unless the wine shop has deemed approved status as hereinafter provided.

SEC. 10-1.2752 PERFORMANCE STANDARDS FOR ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS.

All alcoholic beverage sales establishments shall abide by all of the following performance standards:

- a. The establishment does not result in adverse effects to the health, peace or safety of persons residing, visiting, or working in the surrounding area; and
- b. The establishment does not result in jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area; and
- c. The establishment does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests; and
- d. The establishment does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute; and
- e. The establishment's upkeep and operating characteristics are compatible with and do not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and
- f. The establishment's employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed (exempting employees at retail stores having 10,000 square feet or more of floor area and which devote not more than five (5) percent of such floor area to the sale, display, and storage of alcoholic beverages); and
- g. The establishment complies with all of ABC's Retail Operating Standards; and
- h. The establishment does not sell alcoholic beverages to minors; and
- i. The establishment makes information available to patrons on safe alternatives for getting home, such as taxicab or rideshare services, to the satisfaction of the Chief of Police (this standard applies to on-sale alcohol-related establishments only).

SEC. 10-1.2769 DEEMED APPROVED PERFORMANCE STANDARDS.

An alcoholic beverage sales establishment shall retain its deemed approved status only if it conforms to all of the following deemed approved performance standards:

- a. It does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area;

- b. It does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area;
- c. It does not result in repeated nuisance activities within the premises or in close proximity to the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests;
- d. It does not result in violations of any applicable provision of any other City, state, or federal regulation, ordinance or statute; and
- e. Its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
- f. The establishment's employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed; and
- g. The establishment complies with all of ABC's Retail Operating Standards; and
- h. The establishment does not sell alcoholic beverages to minors; and
- i. The establishment makes information available to patrons on safe alternatives for getting home, such as taxicab or rideshare services, to the satisfaction of the Chief of Police (this standard applies to deemed approved on-sale alcohol-related establishments only).

Section 3. California Environmental Quality Act. The City Council independently finds and determines that the Zoning Text Amendments are exempt from the California Environmental Quality Act (CEQA) under the "common sense" exception set forth in CEQA Guidelines Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that their adoption could have a significant effect on the environment.

Section 4. Severance. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 5. Effective Date. In accordance with the provisions of Section 620 of the City Charter, the Ordinance shall become effective 30 days following adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 7th day of March 2023, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ___th day of _____ 2023, 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



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, February 9, 2023, 7:00 p.m.**

PUBLIC HEARING

Agenda items continued from the January 12, 2023 Planning Commission meeting.

For agenda item No. 1 the Planning Commission may make a recommendation to the City Council.

1. Proposal to Amend Chapter 10, Article 1 (Zoning Ordinance) Section 10-1.2750 of the Hayward Municipal Code for Updates to the Alcoholic Beverage Outlets Ordinance and Related Regulations in the City of Hayward, Requiring Approval of a Zoning Text Amendment. **(PH 23-001)**

Associate Planner Kowalski provided a synopsis of the staff report and PowerPoint presentation.

Commissioner Patterson asked what the patron safety information would look like and whether this would be consistent across all alcohol-serving establishments. Associate Planner Kowalski shared that Hayward Police Department's (HPD) Detective Wright from the Vice Unit was on the call and explained the police department would advise what the medium might be for this, noting that there may be a QR Code located at the bar that patrons could scan for an UBER, Lyft or local taxi service. Detective Wright responded that this was still being determined, and that each restaurant or bar that sells alcohol for onsite consumption would have to provide alternatives to patrons for getting home safely as opposed to getting a DUI. Mr. Kowalski confirmed that this requirement would apply to all establishments through amendments to the ordinance.

Commissioner Patterson referenced Attachment I and requested further clarification on staff's comparison to neighboring city's ordinances as Hayward appeared to be more permissive than neighboring jurisdictions.

Associate Planner Kowalski responded that Hayward's ordinance was permissive in a way allowing restaurants to have a jazz band or mariachi band until midnight; most cities do not allow live music late at night. He underscored that most other jurisdictions fall back on the historic definition of the Department of Alcoholic Beverage Control's (ABC) regulations with a minimum of 50% proceeds from food sales and 50% from alcohol, and Hayward was stricter in that regard, and this could have been due to previous Council's viewing alcohol consumption as a community problem. This is now being revisited to make things more favorable for Hayward restaurants.

Commissioner Stevens referenced Page 8 of the staff report, under alcohol-related crime attributed to restaurants, and asked if the statistic of 397 alcohol-related arrests was per



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year. Associate Planner Kowalski answered it was per year. Detective Wright clarified the 2019 data was pre-pandemic and that the yearly figures had reduced since then, underscoring that current data showed it had reduced significantly. She shared that there were over 300 reporting districts in the City and there were approximately 190 total on-sale and off-sale alcohol establishments, and the figures could be stemming from a liquor store or residents drinking alcoholic beverages from home and stepping out drunk-in-public, or from a restaurant or bar establishment.

Commissioner Stevens mentioned the arrest number seemed statistically low given the size of the City. Detective Wright did not have comparisons for other cities and did not have data available on hand; however, she noted that drunk driving had decreased overall, especially from the higher reporting districts which included the downtown and Tennyson areas.

Commissioner Bonilla Jr. asked how often the 50/50 requirements were expected to be achieved. Associate Planner Kowalski predicted it would be monthly, noting that the police department did not have the resources to review the books of all existing alcoholic beverage restaurants.

Commissioner Bonilla Jr. inquired about auditing and enforcement mechanisms and Associate Planner Kowalski answered it would be complaint-based indicating that if there were challenges with alcohol-related crimes at a particular establishment, then HPD may open an investigation. Detective Wright stated that if a restaurant with a Type 47 license was operating like a bar then this would be evaluated, HPD would have a discussion with the alcohol licensee and inform them of the City's ordinance in order to gain compliance. If the licensee continued to be out of compliance, then HPD would work with ABC and the establishment owner to come to a resolution.

Commissioner Bonilla Jr. asked why staff was suggesting restricting happy hour times when neighboring jurisdictions did not have such a requirement. Associate Planner Kowalski recalled the previous Council was concerned about alcohol-related crimes and suggested restricting happy hour timing, and pointed out that none of the stakeholders Mr. Kowalski interviewed suggested removing the happy hour restriction. Only one establishment had suggested making happy hour earlier to attract patrons who get off from work earlier and that staff did not consider eliminating it altogether.

Commissioner Garg clarified the statement that "Hayward's regulations were more permissive than surrounding cities" was incorrect. She believed the proposed regulations would make Hayward's Alcoholic Beverage Outlets Ordinance more restrictive than neighboring cities as there would be restrictions on happy hour timeframes.



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Planner Kowalski stated it was very progressive to have a business arrangement where there was an owner of the bar who then leased the kitchen out to a different entity. The other cities he explored did not consider this concept yet as it was still a relatively new idea. This option would make Hayward more permissive in this regard, but other than this, he concurred with Commissioner Garg that the City was not more permissive. He noted for Commissioner Garg that as this was a new concept, other cities do not necessarily preclude this option, it just takes cities a while to update an ordinance as Council support is required.

Commissioner Garg asked if staff discussed not having a food to beverage ratio. Associate Planner Kowalski confirmed the current regulation was that at least 60 percent of the sales at full service restaurants must come from food and only 40 percent could come from alcoholic beverage sales. The proposal was to change that to a 50/50 ratio. He predicted the police department would not support removing the ratio altogether because some restaurants would then likely become more like bars and patrons might become intoxicated more quickly due to not having food in their system.

Commissioner Garg wanted to know if it was easier for the Hayward Police Department to enforce a ratio if it were in an ordinance as opposed to just the State regulations. Senior Planner Blanton answered the City's Code Enforcement division can only enforce City ordinances and so having it in the Municipal Code provided them with an enforcement mechanism. She noted the police department and ABC would be the entities to enforce the ratio whether it was in a City ordinance or not.

Commissioner Goodbody asked how the licensing worked if a secondary business was within an existing establishment. Associate Planner Kowalski explained the holder of the ABC license would be selling the alcohol. Detective Wright added that both entities would have to be on the ABC license, and that ABC would have to know about the partnership as well as the police department. Staff confirmed for Commissioner Goodbody that both operators would be subject to County Public Health Food Inspector training.

Commissioner Goodbody found 2:00 p.m. to be rather earlier for a happy hour and a 7:00 p.m. end time seemed too early for people who commute. She recommended a happy hour timespan from 3:00 p.m. to 8:00 p.m. Planner Kowalski concurred the Planning Commission could recommend that. He noted the proposed happy hour times were not staff's suggestion but rather came from a local restaurateur who owns several establishments in the City.

Commissioner Goodbody wanted an incremental approach and suggested that a pilot program take place first allowing two entities to work out of one restaurant before permitting freestanding kitchens. Associate Planner Kowalski shared there was one concept that the City Council had already endorsed and approved financial assistance for



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which was located at a vacant lot on B Street that would have a freestanding kitchen, this was an Oakland-based company called Arthur Mac's Tap and Shack. The project was going to have two shipping containers, retrofitted to have one be a bar and one a kitchen, and the establishment would include picnic tables for dining and families would be welcome. Senior Planner Blanton commented that the City's Economic Development Division was trying to invite new uses to the city and "pop up" style locations were more attractive and a more feasible entry-point for smaller start-up businesses.

Acting Chair Lowe asked if there were any statistics regarding intoxication arrests during happy hour. Detective Wright said she did not have this specific data available, noting the data in the staff report ranged from 2019 to 2022. This data indicated that alcohol arrests and DUIs were previously higher and had declined currently. She expressed that in order to find detailed level of data as was being inquired, would require the review of every police report.

Acting Chair Lowe expressed concern as she wanted to ensure that bars would not pretend to operate as restaurants. She asked if the proposed changes bypass any rules, regulations, licenses, that are required to be obtained. Associate Planner Kowalski explained there were three different liquor licenses available from ABC and that the amendments would require any establishment utilizing a partnership format be subject to this. Any establishment having one of the three liquor licenses is required to have full meal service up to 30 minutes before closing. Mr. Kowalski explained there are built-in checks and balances to ensure businesses are following the rules and regulations.

Acting Chair Lowe asked what type of food was considered to be "enough food". Associate Planner Kowalski answered it could not just be bar snacks and finger foods and that customers must be able to order an entrée, appetizer, or a side dish. Senior Planner Blanton added that the costs of items could also be evaluated, exemplifying that at a bar the alcoholic beverage could easily cost more than the food item, thus resulting in the 50/50 ratio not being met, whereas at a sit-down restaurant the cost of the food items and beverages would be more on par with each other. Ms. Blanton added that there were no regulations on the types of food that must be served, theoretically all of the food items could be finger foods, but the distinction was that the restaurant must serve enough food to meet the total sales ratio.

Acting Chair Lowe inquired if there were statistics that showed having an equal food-to-beverage sales ratio would promote restaurant growth. Associate Planner Kowalski remarked there were no such statistics that he was aware of, but the changes would relax the rules and provide more flexibility to restaurants.



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Acting Chair Lowe wanted to know what happened if a microbrewery or bar opened but it was unable to form a partnership for food service. Associate Planner Kowalski responded that the establishment would in this case have violated its liquor license and there would be repercussions for continued noncompliance. Detective Wright added that ABC had a protocol in place to address situations where one partner falls off, noting that in this case the operator may have to change their license type.

Acting Chair Lowe asked what alcohol trends the police department was experiencing over the last six months. Detective Wright could not recall there being any trends at the current time but would have to evaluate the data, she emphasized that officers were good at notifying their units on behaviors they were seeing such as cases of drunk-in-public or alcohol contributing to crime in an area.

Acting Chair Lowe inquired if the police department was immediately supportive of the proposal or did they feel it was a compromise. Detective Wright stated the proposed amendments were aligned with the State's laws, they would not increase overconsumption, and codifying the ratio would help the police department maintain establishments that wanted to be restaurants. She commented changing the happy hours reflected a true happy hour and the regulations required establishments to offer specials on nonalcoholic beverages as well. Ms. Wright mentioned ABC already allowed freestanding kitchens and adopting the change would bring the ordinance into alignment with current state regulations.

Acting Chair Lowe asked if changing the happy hour hours would affect staffing in the police department. Detective Wright did not foresee this occurring, adding that if there was an increase in alcohol consumption due to happy hours at a specific establishment, HPD would work to resolve the challenges with that establishment.

With regards to freestanding kitchens and the allowance for different providers for food and alcohol, Commissioner Garg asked for clarification on the permitting process and whether there would be immediate approval or if there would be a review of the application for a successful partnership. Senior Planner Blanton explained that with the adoption of the proposed amendments, the City would review applications similar to the application of a restaurant which was a permitted use in many zoning areas, adding that freestanding kitchens would be required to have all the documents and licenses showing they will need a beverage and food operation component.

Acting Chair Lowe expressed concern about a restaurant application not receiving the same scrutiny that a bar application would. Senior Planner Blanton commented that what Acting Chair Lowe described could happen now, and in the future, even with the change to the



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definition of restaurant as there was no planning staff review. She emphasized there are many checks and balances to ensure compliance with ABC's and the City's regulations.

Commissioner Patterson mentioned the staff report said that happy hour would be extended but the proposal was to have an earlier start time. Associate Planner Kowalski restated a local restaurant owner was interested in an earlier start time and indicated that the proposed ordinance only included a timeframe and did not state it was an extension. Staff and the owner reached a compromise and that was what was being presented to the Commission.

Commissioner Patterson commented the staff report did use the word "extend" and suggested that be revised to "modify" instead in order to indicate the true intent of the amendment.

Acting Chair Lowe opened the public hearing at 8:11 p.m.

Mr. Eric Yeverino, a restaurant owner, explained the earlier happy hour was proposed to include teachers and other professionals that ended their workday at an earlier hour. He noted serving individuals drinks to the point of intoxication was an establishment issue, not a happy hour issue. Due to the COVID-19 Pandemic, many establishments were moving to a partnership business model. Many bars that operated under a Type 48 liquor license were struggling and sales projections were not being met if food was not being provided. He supported the proposed amendments and found them to be a great step forward for the City.

Ms. Peggy Guernsey, Zoom participant, stated that based on her conversations with staff, the 60/40 ratio would still allow new restaurants to establish in the city. Concerning happy hour, she mentioned there are five schools located around the downtown area that were still in session at 2:00 p.m. This early happy hour start time was a safety concern for those students leaving school. Ms. Guernsey was concerned that intoxicated customers would not be capable of reading a small safety card about how to get home safely. She strongly encouraged the Commission to keep Hayward at a higher standard and to reevaluate the proposed amendments in a year.

Acting Chair Lowe closed the public hearing at 8:18 p.m.

Commissioner Stevens made a motion to approve the item per staff recommendation, seconded by Commissioner Bonilla Jr.

Commissioner Goodbody proposed an amendment that Chapter 10, Article 1, Section I (4) be modified to "a full-service restaurant may offer reduced priced alcoholic beverages



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served on the premises between the hours of 3:00 p.m. to 8:00 p.m.” Commissioner Stevens accepted the amendment.

Commissioner Bonilla Jr. requested more information on the rationale for the amendment from Commissioner Goodbody, as he believed that staff had done their due diligence on what was being proposed.

Commissioner Goodbody explained it was to accommodate and represent the residents in Hayward who worked outside of the city. Commissioner Bonilla Jr. accepted the amendment.

Acting Chair Lowe appreciated the comment by the public speaker that the decrease in the crime trend may have been caused by the COVID-19 Pandemic. She supported the recommendation to wait a year on adopting the proposed amendments to ensure that the trend was really decreasing but could support the motion to move the proposed amendments forward. Ms. Lowe recalled there being a lot of problems coming from bars in the downtown area years ago and was unclear if that was still the trend now, and she appreciated hearing Detective Wright’s perspective on the matter.

A motion was made by Commissioner Stevens, seconded by Commissioner Bonilla Jr., per staff recommendation and with a friendly amendment to modify the proposed earlier happy hour time to from 3:00 p.m. to 8:00 p.m.

The motion passed with the following roll call votes:

AYES:	Commissioners Bonilla Jr., Garg, Goodbody, Patterson, Stevens Acting Chair Lowe
NOES:	None
ABSENT:	Chair Ali-Sullivan
ABSTAIN:	None



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: LB 23-011

DATE: March 7, 2023

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

FY 2023 Mid-Year Budget: Adopt a Resolution Approving the FY 2023 Mid-Year Budget Update and Five-Year General Fund Update

RECOMMENDATION

That the City Council 1) reviews the FY 2023 Mid-Year budget; 2) adopts a resolution providing amendments to the previously adopted City of Hayward FY 2023 Operating Budget (Attachment II); and 3) adopts a resolution providing amendments to the previously adopted City of Hayward FY 2023 Capital Improvement Program Budget (Attachment III).

SUMMARY

This report presents the mid-year review of the FY 2023 Adopted Budget, and an update to the Five-Year General Fund Financial Model (model) presenting proposed changes and projected year-end results based on current trends and data. While staff considers the entire City budget in its mid-year review, this report focuses primarily on the General Fund.

Proposed FY 2023 mid-year expenditures net a total increase of \$7.04 million in General Fund expenses. Of this amount, \$4.55 million is related to previously authorized and approved appropriations, and proposed FY 2023 mid-year expenditure adjustments totaling a net increase of \$2.49 million. The proposed FY 2023 mid-year expenditures are all one-time in nature. **Table 1** and **Table 2** below detail the key changes in General Fund expenditures related to previous Council authorized and approved appropriations, and proposed new FY 2023 mid-year requests:

Table 1: Previous Council Authorized and Approved General Fund Appropriations

Previous Council Approved Appropriation	FY 2023 Impact (\$)
Employee Contract Terms - Unrepresented Staff, HPOA, Local 1909	\$3,957,875
STEP Grant Appropriations	\$210,000
Behavioral Health Justice Intervention Services Project Grant Appropriations	\$74,501
Appropriate funds for the Golden Oaks II Tract 8058 Access and Utilities Project	\$290,672

CAL OES Grant	\$2,970
Hayward Literacy Council Reimbursement	\$15,750
Previous Council Approved Appropriations Subtotal	\$4,551,768

Table 2: Proposed New FY 2023 General Fund Mid-Year Requests

Mid-Year Request (NEW)	FY 2023 Impact (\$)
No Mid-Year Personnel Requests	\$0
Personnel Expenses	\$0
Mayor & City Council transition and furniture expenses	\$10,000
Consultant services to conduct a one-time language access assessment	\$30,000
Outside consultant to conduct 360 evaluations for each Council Appointed Officer	\$27,000
Allocation for the Countywide Consolidated General Election cost in 2022	\$400,000
Appropriate revenue received Permit Fees for Inspection and Plan Check for services	\$500,000
Additional funding to cover costs of expanding security hours at City Libraries	\$35,000
Transfer-Out: General Liability Funds - Allocation of increase in the City's insurance premium costs	\$629,476
Transfer Out: Facilities Management Fund - Security Services, and facility repairs	\$223,961
Transfer-Out: Facilities Capital Fund - Construction of Fire Administration in City Hall	\$46,506
Transfer-Out: Information Technology Capital Fund - Online Permitting Project	\$125,029
Transfer-Out: Fleet Management Fund - Fuel costs, and deferred repairs and maintenance	\$463,537
Non-Personnel Expenses	\$2,490,509
Mid-Year Requests (NEW) Subtotal	\$2,490,509
TOTAL GENERAL FUND EXPENSES	\$7,042,277

General Fund revenues are expected to exceed the originally projected FY 2023 amount by \$2.6 million. Changes in revenue projections are detailed in **Table 3** of the report. Key changes in the General Fund revenues are as follows:

Table 3: General Fund Revenues

GENERAL FUND REVENUE ADJUSTMENTS	FY 2023 IMPACT (\$)
Projected increase in Property Tax above budgeted amount	\$1,600,000
Projected increase in Utility User Tax above budgeted amount	\$1,000,000
Previous Council Approved Appropriation (One-Time Transfer-In)	\$5,902,372
TOTAL GENERAL FUND REVENUES	\$8,502,372

If mid-year requests are approved as proposed, the FY 2023 Revised Budget would result in a projected surplus, building the General Fund Reserves by \$5.9 million for FY 2023.

This report provides an overall update to the City's Five-Year General Fund outlook.

ATTACHMENTS

File #: LB 23-011

Attachment I	Staff Report
Attachment II	Resolution Amending FY 2023 Operating Budget
Attachment IIA	Exhibit A and B FY 2023 Mid-Year Operating Adjustments
Attachment III	Resolution Amending FY 2023 Capital Improvement Budget
Attachment IIIA	Exhibit A and B FY 2023 Mid-Year CIP Adjustments
Attachment IV	FY 2023 Mid-Year Budget Adjustments Summary
Attachment V	Measure C 20-Year Forecast Update



DATE: March 7, 2023

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FROM: Director of Finance

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TABLE 1: PREVIOUS COUNCIL AUTHORIZED AND APPROVED GENERAL FUND APPROPRIATIONS

Previous Council-Approved Appropriation	FY 2023 Impact (\$)
Employee Contract Terms – Unrepresented Staff, HPOA, Local 1909	\$3,957,875
STEP Grant Appropriations	\$210,000
Behavioral Health Justice Intervention Services Project Grant Appropriations	\$74,501
Appropriate funds for the Golden Oaks II Tract 8058 Access and Utilities Project	\$290,672
CAL OES Grant	\$2,970
Hayward Literacy Council Reimbursement	\$15,750
Previous Council Approved Appropriations Subtotal	\$4,551,768

TABLE 2: PROPOSED NEW FY 2023 GENERAL FUND MID-YEAR REQUESTS

Mid-Year Request (NEW)	FY 2023 Impact (\$)
No Mid-Year Personnel Requests	\$0
	Personnel Expenses \$0
Mayor & City Council transition and furniture expenses	\$10,000
Consultant services to conduct a one-time language access assessment	\$30,000
Outside consultant to conduct 360 evaluations for each Council Appointed Officer	\$27,000
Allocation for the Countywide Consolidated General Election cost in 2022	\$400,000
Appropriate revenue received Permit Fees for Inspection and Plan Check for services	\$500,000
Additional funding to cover costs of expanding security hours at City Libraries	\$35,000
Transfer-Out: General Liability Funds - Allocation of increase in the City's insurance premium costs	\$629,476
Transfer Out: Facilities Management Fund – Security Services, and facility repairs	\$223,961
Transfer-Out: Facilities Capital Fund – Construction of Fire Administration in City Hall	\$46,506
Transfer-Out: Information Technology Capital Fund – Online Permitting Project	\$125,029
Transfer-Out: Fleet Management Fund – Fuel costs, and deferred repairs and maintenance	\$463,537
	Non-Personnel Expenses \$2,490,509
Mid-Year Requests (NEW) Subtotal	\$2,490,509
TOTAL GENERAL FUND EXPENSES	\$7,042,277

General Fund revenues are expected to exceed the originally projected FY 2023 amount by \$2.6 million. Changes in revenue projections are detailed in **Table 3** of the report. Key changes in the General Fund revenues are as follows:

TABLE 3: GENERAL FUND REVENUES

GENERAL FUND REVENUE ADJUSTMENTS	FY 2023 IMPACT (\$)
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Previous Council-Approved Appropriation (One-Time Transfer-In)	\$5,902,372
TOTAL GENERAL FUND REVENUES	\$8,502,372

If mid-year requests are approved as proposed, the FY 2023 Revised Budget would result in a projected surplus, building the General Fund Reserves by \$5.9 million for FY 2023.

This report provides an overall update to the City's Five-Year General Fund outlook.

BACKGROUND

On June 7, 2022¹, Council adopted the FY 2023 Operating Budget, which projected a surplus by fiscal year-end, building the General Fund Reserves by \$4.5 million. Since the time of the FY 2023 Operating Budget adoption, the City's fiscal position has changed as it continues to address service needs and emerging needs of the community. Considering recently updated revenue projections, additional Council-approved appropriations, and proposed new mid-year requests, the proposed FY 2023 Revised Budget will result in a balanced budget without the projected use of General Fund Reserves. Should the FY 2023 mid-year review be approved as proposed, the FY 2023 Revised Budget is projected to build the General Fund Reserves by \$5.9 million.

On March 1, 2023², the FY 2023 Mid-Year review and update to the Five-Year General Fund Financial Model were presented to the Council Budget and Finance Committee for review and feedback. The Committee recommended that the Council approve the staff recommended mid-year budget adjustments.

This report includes an update to the Five-Year General Fund Financial Model as part of the FY 2023 mid-year review, reflecting the proposed changes in revenue projections and expenditure adjustments.

DISCUSSION

GENERAL FUND REVENUES

FY 2023 General Fund revenues are projected to be \$8.5 million higher than originally projected. This is primarily attributed to projected increases in Property Tax, Utility Users Tax (UUT) revenues, and one-time transfer from the Workers' Compensation Fund to the General Fund.

The following analysis highlights key revenue variances as it pertains to FY 2023 mid-year projections and the impact on future year projections as outlined in the model.

Property Tax (increase of \$1.6 million) – The FY 2023 Adopted Budget projected an increase of 3% year-over-year in Property Tax revenues as the economic recovery led to increased home values. Property Tax projections have been updated to reflect slightly more growth than previously projected in tax revenue.

Utility User Tax (increase of \$1.0 million) – The FY 2023 Adopted Budget projected UUT at \$18.0 million. Based on review and analysis of year-to-date revenue collected, the mid-year budget review forecasts an increase of approximately \$1.0 million in projected revenue through the end of the fiscal year.

One-Time Transfer-In (increase \$5.9 million) – City Council previously approved a one-time transfer of \$5.9 million from the Workers' Compensation Fund (Fund 705) to the General Fund.

¹ [Hayward City Council Meeting on June 7, 2022 \(Legistar.com\)](#)

² [Council Budget and Finance Committee March 1, 2023 \(Legistar.com\)](#)

The fund transfer was a reimbursement to the General Fund from prior-year overfunding to the Workers' Compensation Fund.

GENERAL FUND EXPENDITURES

FY 2023 General Fund total adjustments include FY 2022 carryforwards, previous Council authorized and approved appropriations, and mid-year requests. FY 2023 General Fund expenditures, including proposed mid-year requests and previous Council authorized and approved appropriations are projected to be \$7.04 million higher than anticipated at the time the City adopted its budget. Of this amount, \$4.55 million is related to previously authorized and approved appropriations, which includes \$3.95 million is related to employee labor contracts, and \$593,893 related to other previously authorized and approved appropriations, such as grants and contract agreements. Proposed FY 2023 new mid-year expenditure requests total an increase of \$2.49 million.

FY 2022 budget carryforwards total \$3.22 million and were approved with the FY 2022 Operating Budget. The following analysis highlights key expenditure variances as it pertains to FY 2023 mid-year projections and the fiscal impacts on future year projections, as illustrated in the model.

Operating Expenses

A number of adjustments are needed at mid-year to fund necessary and/or unanticipated expenditures, and to appropriate prior year carryforward requests into FY 2023.

Carryforward Requests (increase of \$3.22 million):

A carryforward is unspent budget that is linked to a commitment such as a contract, requisition, or purchase order. The carryforward of commitment to a new fiscal year carries with it the unspent budget associated with the balance of the commitment. Carryforwards represent budget amounts that were previously authorized and approved by Council during the prior fiscal year.

Previous Council Approved Appropriations - FY 2023 (increase of \$4.55 million):

City Council previously authorized and approved appropriations totaling \$4.55 million. Previously authorized and approved appropriations are as follows:

- Council approval of employee contract terms (\$3.95 million)
- Appropriation of STEP grant funding (\$210,000)
- Behavioral Health Justice Intervention Services Project Grant Appropriations (\$74,501)
- Appropriate funds for the Golden Oaks II Tract 8058 Access and Utilities Project (\$290,672)
- CAL OES Grant (\$2,970)
- Appropriation of Hayward Literacy Council Grant (\$15,750)

Proposed FY 2023 Mid-Year Requests – New (net increase of \$2.49 million):

- 2022 General Election Cost (increase of \$400,000): Allocation of \$400,000 is the average estimated amount based on the Countywide Consolidated General Election cost of \$4 to \$6 per voter according to the Alameda County Registrar of Voter's (ROV) published cost.
- Mayor and City Council (increase of \$10,000): Costs associated with furniture expenses and transition of newly appointed City Council members.

- Increase in Inspection and Plan Check Services (increase of \$500,000): Appropriate previously collected fees/revenue for development projects for Inspection and Plan Check for Services.
- Security Services (increase of \$35,000): Additional funding to cover costs associated with expanding security hours at City libraries.
- Contract Services (increase of \$57,000) – Additional contract services are necessary in the City Manager’s Office.
 - Increase of \$30,000 to conduct a one-time language assessment for the City of Hayward (Strategic Roadmap Project R12); and
 - Increase of \$27,000 in contract services for a consultant to conduct 360 evaluations for each Council Appointed Officer.
- Transfer-Out (increase of \$1,488,509)
 - Transfer-Out from the General Fund to the Information Technology Capital Fund in the amount of \$125,029 is requested to cover costs associated with the implementation of EnerGov online permitting. The General Fund transfer is supported by Technology Fee revenues collected in FY 2023; and
 - Transfer-Out from the General Fund to the General Liability Insurance Fund in the amount of \$629,476, which is the General Funds allocated portion of the increased amount in the City’s insurance premium costs; and
 - Transfer-Out from the General Fund to the Facilities Management Fund of \$223,961 to supported increased costs in new security service contract, enhance security measures, and expanded hours at the Watkins Street garage, and elevator repairs and window replacement at the Library; and
 - Transfer-Out from the General Fund to the Facilities Capital Fund in the amount of \$46,506 to cover costs associated with the construction of Fire Administration Office at City Hall; and
 - Transfer-Out from the General Fund to the Fleet Management fund of \$463,537 to account for the increase in fuel costs, and deferred repair and maintenance costs for City fleet (\$100,000).

The amounts shown below in **Table 4** demonstrate the General Fund impact of the changes being proposed as part of the City’s FY 2023 Mid-Year Budget Review from the time that Council adopted the City’s Operating Budget in June of 2022. In total, the changes presented for consideration will build the General Fund Reserves by \$5.9 million.

TABLE 4: SUMMARY OF PROPOSED GENERAL FUND MID-YEAR CHANGES

<i>(in thousands)</i>	FY 2023 Adopted	Change	FY 2023 Mid-Year Revised
Revenue			
Property Tax		\$1,600	
Utility User Tax (UUT)		\$1,000	
Previous Council Approved Appropriation (One-time Transfer-In)		\$5,902	
Total Revenue	\$199,141	\$8,502.372	\$207,643
Expenditures			
Employee Contract Terms - Unrepresented Staff, HPOA, Local 1909		\$3,958	
Net Staffing Expenses	\$153,805	\$3,958	\$157,763
Mayor & City Council transition and furniture expenses (Mayor & City Council)		\$10	
Outside consultant to conduct 360 evaluations for each Council Appointed Officer (City Manager's Office)		\$27	
Consultant Services to conduct a one-time language access assessment (City Manager's Office)		\$30	
Allocation for the Countywide Consolidated General Election cost in 2022 (City Clerk's Office)		\$400	
Appropriate revenue received in Inspection Fees and Plan Check for services (Development Services)		\$500	
Additional funding to cover increased security hours at Downtown and Branch Libraries (Library Services)		\$35	
Transfer-Out: General Liability Funds - Allocation of increase in the City's insurance premium costs		\$629	
Transfer Out: Facilities Management Fund – Security Services, and facility repairs		\$224	
Transfer-Out: Facilities Capital Fund – Construction of Fire Administration in City Hall		\$47	
Transfer-Out: Information Technology Capital Fund – Technology fee revenue to support Online Permitting Project		\$125	
Transfer-Out: Fleet Management Fund – Increase in Fleet Fuel budget due to global increases in fuel costs		\$364	
Transfer-Out: Fleet Management Fund – Deferred repair and maintenance costs for Citywide Fleet and Public Safety Fleet		\$100	
Previous Council Approved Appropriation - Non-Personnel Expenses		\$593	
Net Operating Expenses	\$40,883	\$3,084	\$43,967
Total Expenditures	\$194,688	\$7,042	\$201,730
Total Surplus/(Shortfall)	\$4,453	\$1,460	\$5,914
Reserve Ending Balance	\$43,843		\$47,278
Balance as % of Total Expenses	22.5%		23.4%

FIVE-YEAR GENERAL FUND MODEL UPDATE

The Five-Year Model (model) has been updated to include projected changes in revenue and expenses impacting the City’s projected year-end fiscal position for FY 2023. The FY 2023 Adopted Budget assumed a surplus, building the General Fund Reserves by \$4.5 million by the end of the fiscal year, with a projected ending balance of \$43.9 million. Based on the FY 2023 Adopted Budget, the model projected that General Fund Reserves would represent 22.5% of the City’s budgeted General Fund expenditures, which is above the City’s current General Fund Reserve policy which states that General Fund Reserves should equal 20% of budgeted General Fund expenditures.

As part of the mid-year review process, the model has been updated to include current revenue projections, mid-year expenditure requests, and previous Council approved appropriations as discussed in this report. The updated model projects a surplus of \$5.9 million by the end of the fiscal year, compared to the projected surplus at the time of adoption, which projected a \$4.5 million surplus. The change in projected surplus, can be attributed to the change in revenue projections, specifically Property Tax revenue, UUT revenue, and the one-time transfer of \$5.9 million, combined with increases in General Fund expenditures. Based on these changes, General Fund Reserve balance is projected at 23.4% of total expenses by the end of the fiscal year.

Table 5 provides an overview of the City’s Five-year forecast, with updated revenue projections and expenditures.

TABLE 5: FIVE-YEAR GENERAL FUND FINANCIAL MODEL UPDATE

GENERAL FUND FORECAST - Proposed FY 2023 Mid-Year Changes <i>in thousands</i>	Revised FY 2023 Year 1	FY 2024 Year 2	FY 2025 Year 3	FY 2026 Year 4	FY 2027 Year 5
Revenues	\$207,643	\$199,804	\$207,505	\$214,482	\$219,680
Expenditure	201,730	211,394	217,931	223,853	229,866
<i>Net Change in Reserve - Surplus / (Shortfall)</i>	5,914	(11,590)	(10,425)	(9,371)	(10,186)
Beginning Balance*	\$41,364	\$47,277	\$35,687	\$25,262	\$15,892
<i>Net Change in Reserve - Surplus / (Shortfall)</i>	5,914	(11,590)	(10,425)	(9,371)	(10,186)
Ending Balance	\$47,278	\$35,687	\$25,262	\$15,892	\$5,706
Target to maintain 20% GF Reserves in Operating Expenses	\$40,346	\$42,279	\$43,586	\$44,771	\$45,973
General Fund Reserve Level as % of Total Expenses	23.4%	16.9%	11.6%	7.1%	2.5%

MEASURE C FUND

Measure C Operating

The Council, as well as the ballot language for Measure C, established a number of spending priorities for these funds. These priorities include a mix of capital projects and funding allocations toward operating services. While Measure C revenues are to primarily be used to fund capital projects, operating activities, such as police services, addressing illegal dumping, litter control, and graffiti abatement, which also fulfill the promises of Measure C.

FY 2023 Measure C operating fund total adjustments include previously authorized and approved appropriations, and mid-year requests. Proposed FY 2023 Measure C expenditure related requests total an increase of \$113,609. The following details the additional request:

- Previously approved appropriation for employee contract terms (increase of \$55,610).
- Proposed Mid-Year Request: Transfer-out to the General Liability Insurance Fund for the Measure C allocated portion of the increased amount in the City's insurance premium costs (increase of \$16,999).
- Proposed Mid-Year Request: Appropriate funds for the new South Resource Center for facility rent, utilities, and janitorial services (increase of \$41,000).

Measure C Capital

While Measure C funds operating programs and related expenses, Measure C funds are primarily used to fund capital projects. FY 2023 Measure C capital total adjustments amount to \$13.2 million in FY 2022 carryforwards.

Attachment V is an update to the Measure C 20-Year Financial Forecast that includes projected changes in revenue and expenses impacting the projected year-end fiscal position for FY 2023.

OTHER FUNDS

Total adjustments for FY 2023 Other Funds include FY 2022 carryforwards, previous Council approved appropriations, and mid-year requests. Expenditure increases in Other Funds total \$29.9 million. Of this total, FY 2022 budget carryforwards total \$16.8 million; and appropriations previously approved by City Council total \$10.4 million. Increase in expenditure requests at mid-year amount to \$2.7 million. Detail of mid-year adjustments are as follows:

Previous City Council Approved Appropriations (increase of \$10.4 million)

- Appropriation of State Grant funding for Mobile Integrated Health Unit (MIHU) - (increase of \$208,019);
- Appropriation of State Grant funding for Hayward Evaluation and Response Teams (HEART) - (increase of \$91,956);
- Appropriation of State Grant funding for Mobile Evaluation Team (MET) - (increase of \$89,285);
- Appropriation of State Grant funding -Permanent Local Housing (PLHA) program award (increase of \$3,258,675);

- Appropriation of Other California State Library Grants (increase of \$89,368);
- Appropriation of HUSD Grants for Educational Services (increase of \$53,716);
- Appropriation of California State Library Grant Funds (increase of \$32,805);
- Appropriation of California State Library Literacy Services ESL Grant Funds (increase of \$128,362);
- Appropriation of UC Davis Koret Shelter Medicine Program - All Animals Spring 2022 Grant (increase of \$55,000);
- Appropriation of First Five of Alameda funds for Library Services (increase of \$2,800);
- Appropriation of various State Grants for the Fire Department (increase of \$66,000);
- Appropriation of Stupski Foundation Grant for the Hayward Food, Agriculture, and Economy Plan (increase of \$125,000);
- Appropriation of Friends of Hayward Library donations (increase of \$50,000);
- Appropriation of FY 2023 Budgets for Landscape and Lighting Assessment Districts and Maintenance Districts (increase of \$1.8 million);
- Appropriation of Grant funding received from California Department of Community Development (HCD) Local Housing Trust Fund program for Affordable Housing Projects (increase of \$3,994,906);
- Appropriation of funds for the Professional Services to conduct FY 2024 and FY 2025 Water, Wastewater, and Recycled Water rate study and connection fee study (increase of \$190,000);
- Appropriation of fund for Contract Services for installation of a Trash Capture Device (increase of \$70,000); and
- Appropriation to establish budget balances from Byrne Grant 2017, 2018, 2019 award years (increase of \$57,499)

Proposed Mid-Year Requests (increase of \$2.7 million)

- Rental Housing Program Fund (increase of \$10,000): Increased overtime staffing expenses related to housing workshop and outreach activities.
- Inclusionary Housing Fund (increase of \$33,211): Appropriate balance authorized by City in previous fiscal year (Council Resolutions 21-071 and 21-072).
- Donations Fund (increase of \$45,407): Appropriate grant revenue received in FY 2022 and appropriate the remaining budget balance from the Bookmobile Purchase from the Fleet CIP fund.
- Facilities Management Fund (increase of \$223,961): Increase in security services contract and expansion of security service hours at the Watkins parking garage in the amount of \$113,900; an increase of \$41,745 for replacement of glass window at the Main Library; \$30,000 for enhance security measures at City facilities; \$15,300 for elevator repairs at the Library; and \$23,016 for additional janitorial service needs.
- Landscape & Lighting and Maintenance District Funds (increase of \$54,544): Increased costs related to a change to maintenance vendor; and increased water utility needs.
- Fleet Management Fund (increase of \$600,000): \$500,000 to increase Fleet fuel budget due to projected increases in fuel costs; \$100,000 to cover costs of deferred maintenance and repairs of City fleet.
- State Grants Fund (increase of \$238,330): Appropriate SB1381 Grant (\$223,823) and WMAC Delinquent Assessment Grant (\$14,507).

- Sewer Fund (increase of \$280,480): Appropriation of \$104,000 of revenue received from East Bay Dischargers Authority (EBDA) for facility maintenance, and \$26,000 additional funding needed to continue operation and maintenance of facilities, and an increase of \$150,000 for the increase in supplies and service needs.
- Airport Fund (increase of \$22,000): Security Services Contract effective March 2023.
- Water Fund (increase of \$30,138): An additional \$30,138 in Debt service payment for the cost of issuance to prepay the debt service early.
- General Liability Insurance Fund (increase of \$849,123): The FY 2023 Adopted Budget reflected a projected increase of 10%. The insurance premium cost increased by a total of 34%. The mid-year increase reflects the difference not budgeted of 24%. This expense is an Internal Service Fund, which is supported by allocations and transfers from General Fund, Measure C, and various operating funds.
- Transfer-Out to the General Liability Insurance Fund from other funds for the allocation of costs contributing to the increase in general liability insurance premium cost (increase of \$200,031).
- Transfer-Out to Fleet Maintenance Fund from other funds for the allocation of cost contributing to the increase in operating expenses related to fleet fuel and deferred maintenance of citywide fleet (increase of \$136,463).

CAPITAL IMPROVEMENT FUNDS

Total adjustments for FY 2023 Capital Improvement Funds include FY 2022 carryforwards, previous Council approved appropriations, and mid-year requests. The FY 2023 Capital Improvement Budget expenditures total a net increase of \$137.5 million. Of this amount, FY 2022 carry forwards total \$128.8 million; and prior Council authorized, and approved appropriations total \$8.1 million. Proposed mid-year adjustments reflect an increase in projected expenditures in the amount of \$609,286. **Table 6** provides detail of the proposed FY 2023 CIP mid-year changes.

TABLE 6: PROPOSED FY 2023 MID-YEAR CIP CHANGES

Mid-Year CIP Changes	FY 2023 Mid-Year Changes
Information Technology Capital (Fund 731) – Appropriate technology fee revenue to support EnerGov Online Permitting Project	\$125,029
Facilities Capital (Fund 726) – Construction of Fire Administration in City Hall; increase related to building code requirements related to ADA and Title 24	\$46,506
Special Gas Tax (Fund 210) – Appropriate Grant funding	\$76,744
Airport Capital Fund (Fund 621) – Restore previous budget reduction and increase in costs related to Skywest Property maintenance services	\$82,000
Water Replacement Fund (Fund 603) – Transfer-out to support Fiscal Year 2023 Annual Line Repairs in the Water Fund (Fund 605)	\$250,000
Fleet Management Capital Fund (Fund 736) – Transfer-out to Library Services Bookmobile project in the Donation Fund (Fund 250)	\$29,007
Total Net Change	\$609,286

AMERICAN RESCUE PLAN ACT (ARPA) STATE AND LOCAL FISCAL RECOVERY FUNDS

On March 11, 2021, the American Rescue Plan Act (ARPA) of 2021 was signed into law. A major component of ARPA was the State and Local Fiscal Recovery Fund (SLFRF), which included \$65 billion in direct federal relief to cities to address the impacts of COVID-19 and aid in recovery. The City of Hayward was allocated approximately \$38.3 million in fiscal recovery funding, to be disbursed in two tranches. The first tranche of 50% of the City’s allocation was disbursed in late May 2021, with the second half was disbursed in May of 2022.

On July 13, 2021, Council approved a plan for use of the City’s ARPA \$38.3 million. To date, the City has received the full \$38.3 million in ARPA funding. Council appropriated \$18.9 million in FY 2022, and \$16.4 million FY 2023. The use of ARPA funds is governed by the SLFRF Interim Final Rule issued by the US Treasury Department in May 2021. City Staff developed the ARPA expenditure plan based on community needs, the City’s operational response, and Council feedback. The expenditure plan was also presented to the Council Infrastructure Committee, the Homeless-Housing Task Force, the Council Economic Development Committee, and the Community Services Commission for further refinement prior to Council Approval in July.

The ARPA expenditure plan is comprised of 37 projects across four major expenditure categories: support for public health expenditures and investments in pandemic operational needs; addressing negative impacts cause by the public health emergency; replacement of lost public sector revenue; and investment in water, sewer, and broadband infrastructure. Projects commenced in FY 2022 and will continue through FY 2024. **Table 7** provides an overview of total expenditures in FY 2022, and revised appropriations in FY 2023, and anticipated appropriations for FY 2024.

TABLE 7: ARPA EXPENDITURE PLAN OVERVIEW

(\$ THOUSANDS)

Expenditure Category	Total Budget	FY 2022 Actuals	FY 2023 Revised Appropriation*	FY 2024 Appropriation
Support public health expenditures, including capitalizing investments in public facilities to meet pandemic operational needs	\$6,940	\$799	\$5,422	\$719
Address negative economic impacts caused by the public health emergency	\$15,700	\$3,915	\$9,685	\$2,100
Replace lost public sector revenue	\$14,500	\$7,250	\$7,250	\$0
Invest in water, sewer, and broadband infrastructure	\$1,238	\$80	\$958	\$200
TOTAL ARPA EXPENDITURES	\$38,378	\$12,044	\$23,315	\$3,019

*Includes unspent FY 2022 appropriated expenditures (carried forward into FY 2023)

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not specifically relate to any of the six priorities outlined in the Council’s Strategic Roadmap.

FISCAL IMPACT

The overall fiscal impact of the proposed mid-year adjustments is an increase to General Fund revenue of \$2.6 million, and an increase to General Fund expenditures of \$7.04 million (\$4.55 million in previously approved appropriations, an increase of \$2.49 million in newly requested adjustments). Additionally, the mid-year review reflects \$3.23 million in carryforwards previously approved with the FY 2022 Budget. All Other Funds (including Measure C) proposed adjustments will result in an increase of \$2.8 million in newly requested expenditures; and Capital Improvement Funds will result in a proposed increase in expenditures of \$0.6 million in newly requested expenditures.

SUSTAINABILITY FEATURES

The actions in this report do not have an impact on sustainability. Sustainability elements are more directly identified with specific projects as they are carried out.

PUBLIC CONTACT/NEXT STEPS

Upon approval by Council of the recommendations contain herein, staff will post the budget amendments per the approved resolutions. Staff will continue to refine the Five-Year General Fund Financial Model as part of the upcoming FY 2024 budget process.

Prepared by: Nicholas Mullins, Management Analyst II
Nicole Gonzales, Director of Finance

Recommended by: Nicole Gonzales, Director of Finance

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-___

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 22-146, AS AMENDED,
THE BUDGET RESOLUTION FOR THE CITY OF HAYWARD
OPERATING BUDGET FOR FISCAL YEAR 2023, RELATING TO
AN APPROPRIATION OF FUNDS

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 22-146, as amended, the Budget Resolution for the City of Hayward Operating Budget for Fiscal Year 2023, is hereby amended by approving the changes indicated below.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following revenue estimate amounts are hereby amended:

1. CHANGE OF REVENUE ESTIMATE TO THE GENERAL FUND AND OTHER FUNDS AS DISPLAYED IN EXHIBIT A.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following expenditure estimate amounts are hereby amended:

2. CHANGE OF EXPENDITURE ESTIMATE TO THE GENERAL FUND AND OTHER FUNDS AS DISPLAYED IN EXHIBIT B

The Director of Finance is hereby authorized and directed to distribute the above revised revenue estimates and revised expenditure estimates to the various accounts of the City in accordance with generally accepted accounting principles and consistent with the purposes and objectives as outlined in the approved budget.

ATTACHMENT II

IN COUNCIL, HAYWARD, CALIFORNIA March 7, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

FY 2023 Mid-Year Operating Revenue Adjustments

Fund #	Fund Name	Adopted Budget	Total Amendment	Total Adjusted Budget
100	General Fund	\$199,140,612	\$8,502,372	\$207,642,984
101	Measure C	20,576,000	1,072,666	21,648,666
102	Economic Development Fund	350,000	-	350,000
103	ARPA	19,232,997	-	19,232,997
214	Measure BB Paratransit	1,720,100	-	1,720,100
220	Federal Grants	410,000	-	410,000
225	Community Dev. Block Grant	1,541,746	693,458	2,235,204
230	State Grants	52,500	748,512	801,012
231	Used Oil	23,877	-	23,877
232	Recycling/Measure D	910,270	-	910,270
240	Local Grants	-	68,800	68,800
245	Housing Authority	200,000	-	200,000
246	Affordable Housing	155,500	-	155,500
250	Donations	-	250,000	250,000
255	Park Dedication - Zone A	1,300,000	-	1,300,000
256	Park Dedication - Zone B	11,953	-	11,953
257	Park Dedication - Zone C	575,000	-	575,000
258	Park Dedication - Zone D	337,000	-	337,000
259	Park Dedication - Zone E	11,953	-	11,953
266	LLD 1	-	6,311	6,311
267	LLD 2	-	10,266	10,266
268	LLD 3	-	145,000	145,000
269	LLD 4	-	19,868	19,868
270	Maintenance District #1	-	41,721	41,721
271	Maintenance District #2	-	126,097	126,097
272	LLD 5	-	9,532	9,532
273	LLD 6	-	12,813	12,813
274	LLD 7	-	202,411	202,411
275	LLD 8	-	4,401	4,401
276	LLD 9	-	2,487	2,487
277	LLD 10	-	150,821	150,821
278	LLD 12	-	34,536	34,536
279	LLD 11	-	213,157	213,157
281	LLD 13	-	218,934	218,934
282	LLD 14	-	120,293	120,293
284	LLD 16	-	74,942	74,942
285	Inclusionary Housing	1,024,000	-	1,024,000
286	Rental Housing Program	550,000	-	550,000
288	Local Housing Trust Program	-	3,994,906	3,994,906
290	LLD17	-	50,411	50,411
291	LLD18	-	109,651	109,651
295	South Hayward BART JPA	421,280	-	421,280
605	Water	57,702,516	-	57,702,516
606	Regional Inter-Tie	134,271	-	134,271
610	Sewer	28,512,314	-	28,512,314
615	Stormwater	2,857,000	-	2,857,000
620	Airport	3,512,054	-	3,512,054
630	Recycled Water	1,255,701	10,000	1,265,701
705	Worker's Compensation	9,866,339	-	9,866,339
710	General Liability Insurance	6,573,122	846,508	7,419,630
720	Retiree Medical Benefits Fund	7,191,807	-	7,191,807
725	Facilities Management	4,693,175	-	4,693,175
730	Information Technology	8,523,838	-	8,523,838
735	Fleet Management	4,030,000	-	4,030,000
815	RDA Successor Agency	3,510,542	-	3,510,542
820	Byrne Grant	-	57,499	57,499
851	Hayward Area Shoreline JPA	208,000	-	208,000
860	Cannabis Community Fund	63,552	-	63,552
	Other Funds Total	188,038,407	9,296,001	197,334,408

Change to General Fund **\$8,502,372**

Net Change to Non-General Fund

9,296,001

Total Change to City Revenues

\$17,798,373

Fund	Expenditure	Adopted Budget	Total Amendment	Total Adjusted Budget
100	Net Change to General Fund	194,688,033	10,274,319	204,962,352
101	Measure C Fund	20,509,198	113,609	20,622,807
102	Economic Development Fund	350,000	125,000	475,000
103	ARPA Fund	16,436,000	7,348,469	23,784,469
214	Paratransit Fund - Measure BB	1,515,000	-	1,515,000
217	Paratransit Fund - Measure B	1,436,558	137,877	1,574,435
220	Grants Fund	435,438	1,442,587	1,878,025
225	Community Development Block Grant Fund	2,086,311	1,033,342	3,119,653
230	Recycling Fund	39,287	5,206,515	5,245,802
231	Used Oil Fund	22,060	44,461	66,521
232	Recycling/Measure D Fund	899,848	154,330	1,054,178
240	Local Grants	-	519,845	519,845
245	Housing Authority	179,370	798,753	978,123
246	Affordable Housing Fund	192,372	15,294	207,666
250	Donation Fund	-	593,174	593,174
265	Asset Forfeiture	-	-	-
255	Park Dedication - Zone A	1,261,916	-	1,261,916
256	Park Dedication - Zone B	71,300	-	71,300
257	Park Dedication - Zone C	657,300	-	657,300
258	Park Dedication - Zone D	447,650	-	447,650
259	Park Dedication - Zone E	200,650	-	200,650
266	LLD Zone 1	-	11,654	11,654
267	LLD Zone 2	-	14,873	14,873
268	LLD Zone 3	-	211,817	211,817
269	LLD Zone 4	-	31,169	31,169
270	MD 1	-	50,723	50,723
271	MD 2	-	232,446	232,446
272	LLD Zone 5	-	14,213	14,213
273	LLD Zone 6	-	14,639	14,639
274	LLD Zone 7	-	206,743	206,743
275	LLD Zone 8	-	11,653	11,653
276	LLD Zone 9	-	2,904	2,904
277	LLD Zone 10	-	185,303	185,303
278	LLD Zone 12	-	36,655	36,655
279	LLD Zone 11	-	294,040	294,040
281	LLD Zone 13	-	202,656	202,656
282	LLD Zone 14	-	114,388	114,388
284	LLD Zone 16	-	80,790	80,790
285	Inclusionary Housing	416,625	8,443,220	8,859,845
286	Rent Review Program Fund	642,071	50,586	692,657
288	Local Housing Trust Program	-	3,994,906	3,994,906
290	LLD Zone 17	-	51,715	51,715
291	LLD Zone 18	-	92,840	92,840
295	So. Hayward B.A.R.T. JPA	566,220	4,462	570,682
300	Certificate of Participation	2,712,190	-	2,712,190
301	Measure C Debt Service	5,419,113	-	5,419,113
605	Water	66,473,278	851,686	67,324,964
606	Regional Intertie	131,329	-	131,329
610	Wastewater	29,032,515	820,585	29,853,100
615	Stormwater	3,486,521	85,068	3,571,589
620	Airport	5,024,849	56,664	5,081,513
630	Recycled Water	1,091,411	-	1,091,411
705	Worker's Compensation	6,756,333	78,138	6,834,471
710	Risk Management	6,151,433	2,401,343	8,552,776
720	Employee Benefits	7,191,807	-	7,191,807
725	Facilities	4,712,120	232,009	4,944,129
730	Information Technology	10,190,053	176,190	10,366,243
735	Fleet	4,312,916	611,890	4,924,806
805/810	Special Assessment District	1,072,068	-	1,072,068
815	Hayward Redevelopment Successor Agency	4,377,063	60,829	4,437,892
820	Byrne Grant	-	57,499	57,499
850	Hayward Trust & Agency Fund	-	7,685	7,685
851	Hayward Shoreline JPA	116,333	33	116,366
	Net Change to Non-General Fund	\$ 206,616,505	\$ 37,327,270	\$ 243,943,775
	Total Change to City Expenditures	\$ 401,304,538	\$ 47,601,589	\$ 448,906,127

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-__

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 22-147, AS AMENDED,
THE BUDGET RESOLUTION FOR THE CITY OF HAYWARD
CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2023,
RELATING TO AN APPROPRIATION OF FUNDS

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 22-147, as amended, the Budget Resolution for the City of Hayward Capital Improvement Projects for Fiscal Year 2023, is hereby amended by approving the Capital Improvement Fund changes indicated below.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following revenue estimate amounts are hereby amended:

1. CHANGE OF REVENUE ESTIMATE TO THE FOLLOWING CIP FUNDS AS DISPLAYED IN EXHIBIT A

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following expenditure estimate amounts are hereby amended:

- II. CHANGE OF EXPENDITURE ESTIMATE TO THE FOLLOWING CIP FUNDS AS DISPLAYED IN EXHIBIT B

The Director of Finance is hereby authorized and directed to distribute the above revised revenue estimates and revised expenditure estimates to the various accounts of the City in accordance with generally accepted accounting principles and consistent with the purposes and objectives as outlined in the approved budget.

ATTACHMENT III

IN COUNCIL, HAYWARD, CALIFORNIA March 7, 2023

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Fund #	Fund Name	Adopted Budget	Total Amendment	Total Adjusted Budget
210	Special Gas Tax	198,000	-	198,000
219	Measure BB-CIP Paratransit	750,000	-	750,000
405	Capital Projects	1,589,000	1,517,782	3,106,782
406	Capital Projects Measure C	10,000,000		10,000,000
450	Street System Improvement	1,799,000	-	1,799,000
460	Transportation System Improvement	500,000	-	500,000
603	Water Replacement	7,000,000	-	7,000,000
604	Water Improvement	4,705,000	-	4,705,000
611	Sewer Replacment	6,808,000	70,000	6,878,000
612	Sewer Improvement	5,826,000	-	5,826,000
621	Airport Capital	2,214,000	-	2,214,000
726	Facilities Capital	1,060,000	-	1,060,000
731	Information Technology Capital	2,155,000	-	2,155,000
736	Fleet Management Capital	3,161,000	-	3,161,000
737	Fleet Management Enterprise	606,000	-	606,000
	CIP Funds Total	\$48,371,000	\$1,587,782	\$49,958,782

Fund	Expenditure	Adopted Budget	Total Amendment	Total Adjusted Budget
209	Special Gas Tax	-	183,001	183,001
210	Special Gas Tax	\$ 4,019,000	\$ 1,247,777	\$ 5,266,777
211	RRAA (SB1)	3,350,000	1,140,792	4,490,792
212	Measure BB-Local Transportation	4,665,000	3,911,823	8,576,823
213	Measure BB-Ped & Bike	1,285,000	650,088	1,935,088
215	Measure B-Local Transportation	1,100,000	4,967,313	6,067,313
216	Measure B-Ped & Bike	800,000	189,698	989,698
218	Vehicle Registration	1,000,000	687,928	1,687,928
219	Measure BB Tax Fund (Paratransit)	750,000	3,356,364	4,106,364
401	Strategic Initiative	-	7,685	7,685
405	Capital Projects	33,511,302	5,832,317	39,343,619
406	Capital Projects Measure C	4,500,000	13,197,995	17,697,995
410	Rte 238 Corridor Improvements	5,410,000	17,265,701	22,675,701
411	Rte 238 Settlement Admin	415,000	737,865	1,152,865
450	Street System Improvement	3,330,000	6,051,915	9,381,915
460	Transportation System Improvement	575,000	1,532,491	2,107,491
603	Water Replacement	6,945,000	21,343,501	28,288,501
604	Water Improvement	13,424,775	15,261,946	28,686,721
611	Sewer Replacement	15,111,000	30,486,026	45,597,026
612	Sewer Improvement	9,896,314	11,681,524	21,577,838
621	Airport Capital	5,900,000	1,504,949	7,404,949
726	Facilities Capital	1,050,000	1,422,255	2,472,255
731	Information Technology Capital	2,230,000	3,397,999	5,627,999
736	Fleet Management Capital	3,261,000	3,181,859	6,442,859
737	Fleet Management Enterprise	1,130,000	1,443,536	2,573,536
	Total Change to CIP Expenditures	\$ 123,658,391	\$ 150,684,348	\$ 274,342,739

FY 2023 Mid-Year Operating Budget Adjustments Summary by Department

Non-Departmental

- ❑ Appropriation of \$70,000 to the Stormwater Fund - Reso 22-155: Awarding the contract for the Trash Capture Device installation on Cotter Way Project Number 07675 to GSW Construction Inc.
- ❑ Mid-Year request – Transfer-Out of \$1,488,509 from General Fund to:
 - General Liability Insurance Fund in the amount of \$629,476, which is the General Funds allocated portion of the increased amount in the City’s insurance premium costs.
 - Facilities Management Fund of \$223,961 to supported increased costs in new security service contract, enhance security measures, and expanded hours at the Watkins Street garage, and elevator repairs and window replacement at the library.
 - Facilities Capital Fund of \$46,506 to support construction related expense with the Fire Administration office.
 - Fleet Management fund of \$463,537 to account for the increase in fuel costs, and deferred repair and maintenance costs for City fleet (\$100,000)
 - Information Technology Fund of \$125,029 – appropriating technology fee revenue to support the Online Permitting project.
- ❑ Mid-Year request – Transfer-Out of \$16,999 to General Liability Insurance Fund which is the Measure C allocated portion of the increased amount in the City’s insurance premium costs (Measure C).
- ❑ Mid-Year request – Transfer-Out of \$29,007 to Donation Fund for Library Services Bookmobile project (Fleet Management Capital Fund)
- ❑ Mid-Year request – Transfer-Out of \$136,463 to Fleet Maintenance Fund from other funds for the allocation of cost contributing to the increase in operating expenses related to fleet fuel and deferred maintenance of citywide fleet (Multiple Funds)
- ❑ Mid-Year request – Transfer-Out of \$200,032 to General Liability Insurance Fund which is the allocated portion of the increased amount in the City’s insurance premium costs from other funds (Multiple Funds).

City Manager’s Office – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2022 for a net total of \$17,545,542:
 - \$1,613,681 in the General Fund
 - \$125,000 in the Economic Development Fund
 - \$135,261 in the Measure B Paratransit Fund
 - \$785,595 in the Federal Grants Fund
 - \$1,032,689 in the Community Development Block Grant Fund
 - \$466,898 in the State Grants Fund
 - \$213,449 in the Local Grants Fund
 - \$798,099 in the Housing Authority Fund
 - \$13,986 in the Affordable Housing Fund
 - \$8,410,009 in the Inclusionary Housing Fund
 - \$39,933 in the Rental Housing Program Fund
 - \$4,462 in the South Hayward BART JPA Fund
 - \$56,304 in the RDA Successor Agency Fund

- \$6,546 in the Hayward Trust & Agency Fund
- \$3,843,630 in the ARPA Fund
- Appropriation of \$1,010,034 for an agreement with Advocates for Human Potential Inc. to accept grant funding for Behavioral Health Justice Intervention Services Project (General Fund) – Reso 22-088
- Appropriation of \$389,260 for an agreement with Advocates for Human Potential Inc. to accept grant funding for Behavioral Health Justice Intervention Services Project (State Grants Fund) – Reso 22-088
- Appropriation of \$3,258,675 of the remaining balance from Permanent Local Housing Allocation Plan funding for the Hayward Navigation Center (State Grants) – Reso 20-095
- Appropriation of \$125,000 in grant funding from the Stupski Foundation for the Hayward Food, Agriculture, and Economy Plan (Local Grants Funds) – Reso 22-248
- Appropriation of \$3,994,906 in grant funding received from California Department of Community Development (HCD) Local Housing Trust Fund program for Affordable Housing Projects (Local Housing Trust Program Fund) – Reso 21-153
- Mid-Year request – Budget increase of \$30,000 to hire a consultant to conduct a one-time language access assessment for Hayward. Strategic Roadmap Project R12 (General Fund)
- Mid-Year request – Budget increase of \$27,000 for an outside consultant to conduct 360 evaluations for each Council Appointed Officers (General Fund)
- Mid-Year request – Budget increase of \$33,211 to appropriate balance authorized by City Council Resolutions 21-071 and 21-072 (Inclusionary Housing Trust Fund)
- Mid-Year request – Budget increase of \$10,000 for increased overtime staffing expenses related to housing workshop and outreach activities (Rental Housing Program Fund)

City Attorney’s Office – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total:
 - \$1,552,220 in the General Liability Insurance Fund
- Mid-Year request – Increase of \$849,123 in the General Liability Insurance Fund: The FY 2023 Adopted Budget reflected a projected increase of 10%. The insurance premium cost increased by a total of 34%. The mid-year increase reflects the difference not budgeted of 24%. This expense is an Internal Service Fund, which is supported by allocations and transfers from General Fund, Measure C, and various operating funds.

City Clerk – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$11,719:
 - \$10,579 in the General Fund
 - \$1,140 in Hayward Trust & Agency Fund
- Mid-Year request – Budget increase of \$400,000 for General Election Costs in 2022 (General Fund)

Development Services Department – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$573,222:

- \$573,189 in the General Fund
- \$33 in the Hayward Area Shoreline JPA Fund
- Mid-Year request – Budget increase of \$500,000 to appropriate previously collected permit fee revenue to perform Inspection and Plan Check for services (General Fund)

Finance Department – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$341,229:
 - \$280,937 in the General Fund
 - \$60,292 in the Water Fund

Fire Department – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$561,854:
 - \$21,736 in the General Fund
 - \$7,992 in the Fire Educational Training Fund
 - \$484,409 in the Federal Grants Fund
 - \$47,717 in the Local Grants Fund
- Appropriation of \$2.970 for CAL OES grant reimbursement (General Fund)
- Appropriation of \$1,493,573 for employee contract terms (General Fund)
- Appropriation of \$29,000 – Reso 22-249: for grant funding from Alameda County OES (Local Grants Fund)
- Appropriation of \$22,000 for CERT program reimbursement (Local Grants Fund)
- Appropriation of \$15,000 – Reso 19-168: to appropriate funds from the Fairview Fire Protection District for special projects (Local Grants Fund)

Human Resources Department – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$196,541:
 - \$121,018 in the General Fund
 - \$75,523 in the Worker’s Compensation Fund

Information Technology Department – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$1,143,213:
 - \$160,703 in the Information Technology Fund
 - \$982,510 in the ARPA Fund

Library Department – No Staffing Changes

- Contracts both encumbered and unencumbered carried forward from FY 2022 total \$668,640:
 - \$48,403 in the General Fund
 - \$348,252 in the ARPA Fund
 - \$171,929 in the Federal Grants Fund
 - \$4,046 in the State Grants Fund
 - \$23,182 in the Local Grants Fund

- \$72,828 in the Donations Fund
- ❑ Appropriation of \$15,750 for the Hayward Literacy Council (General Fund)
- ❑ Appropriation of \$304,252 in grant funding from the California State Library for Library Services Programs (State Grants Fund) – Reso 22-078
- ❑ Appropriation of \$2,800 in grant funding from the First Five of Alameda County (Local Grants Fund)
- ❑ Appropriation of \$50,000 in Friends of the Hayward Library Donations (Donations Fund)
- ❑ Mid-Year request – Appropriation of \$29,007 in unspent Bookmobile capital budget (Donations Fund)
- ❑ Mid-Year request – Appropriation of \$16,400 of donation revenue (Donations Fund)
- ❑ Mid-Year request - Additional funding for expanded security services at Main Library and Branch Libraries (General Fund)

Maintenance Services Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2022 total \$656,549:
 - \$4,600 in the General Fund
 - \$643,077 in the ARPA Fund
 - \$8,032 in the Maintenance District #1 Fund
 - \$840 in the Water Fund
- ❑ Appropriation of \$1,543,508 for annual LLD budget appropriations (LLD Funds) – Reso 22-210
- ❑ Appropriation of \$263,169 for annual Maintenance District budget appropriations (Maintenance District Funds) – Reso 22-214
- ❑ Mid-Year request – Budget increase of \$4,544 for additional cost of new maintenance vendor vs. previous (L2 Harder & Mocine) (LLD 2 Fund)
- ❑ Mid-Year request – Budget increase of \$30,000 for additional cost of water used in FY23 Q1 PGA Golf Course (LLD 11 Fund)
- ❑ Mid-Year request – Budget increase of \$20,000 for additional cost of water used for the wildfire buffer canal (Maintenance District #2 Fund).
- ❑ Mid-Year request - Increase in security services contract and expansion of security service hours at the Watkins parking garage in the amount of \$113,900; an increase of \$41,745 for replacement of glass window at the Main Library; \$30,000 for enhance security measures at City facilities; \$15,300 for elevator repairs at the Main Library; and \$23,016 for additional janitorial service needs (Facilities Management Fund).
- ❑ Mid-Year request – Budget increase of \$500,000 to increase fleet fuel budget due to increase in global fuel costs (Fleet Management Fund)
- ❑ Mid-Year request – Budget increase of \$100,000 for deferred maintenance and repairs of City fleet (Fleet Management Fund)

Mayor & City Council – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2022 total \$6,950 (General Fund)
- ❑ Mid-Year request – Budget increase of \$10,000 for Mayor and City Council transition and furniture expenses (General Fund)

Police Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2022 total \$714,733:
 - \$289,799 in the General Fund
 - \$424,934 in the Donations Fund
- ❑ Appropriation of \$935,534 for the Behavioral Health Justice Intervention Services Projects (General Fund) – Reso 22-088
- ❑ Appropriation of \$210,000 in grant funding from the California Office of Traffic Safety for use by the Hayward Police Department (General Fund) – Reso 22-203
- ❑ Appropriation of \$55,000 in grant funding from the University of California Davis Koret Shelter Medicine Program's "California for All Animals" Grant (State Grants Fund) – Reso 22-247
- ❑ Appropriation of \$55,610 for employee contract terms (Measure C Fund)
- ❑ Appropriation of \$2,430,770 for employee contract terms (General Fund)
- ❑ Appropriation of \$57,499 to establish budget balances from Byrne Grant 2017, 2018, 2019 Award Years (Byrne Grant Fund)
- ❑ Mid-Year request – Budget increase of \$41,000 for increased South Resource Center Rent & Utilities (Measure C Fund)

Public Works - Utilities Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2022 total \$1,864,556:
 - \$261,150 in the General Fund
 - \$4,769 in the Airport Fund
 - \$490,054 in the State Grants Fund
 - \$44,461 in the Used Oil Fund
 - \$152,369 in the Measure D Recycling Fund
 - \$41,697 in the Local Grants Fund
 - \$551,929 in the Water Fund
 - \$318,115 in the Sewer Fund
 - \$12 in the Stormwater Fund
- ❑ Appropriation to increase budget by \$140,672 for the Tract 8058 Access and Utilities project (General Fund)- Reso 22-217
- ❑ Appropriation to increase budget by \$150,000 for the Golden Oaks II Tract 8058 Improvement Project (General Fund) – Reso 22-274
- ❑ Appropriation to increase budget by \$95,000 for the FY24 and FY25 Water, Wastewater, and Recycled Water rate study and connection fee study (Water Fund) - Reso 22-233
- ❑ Appropriation to increase budget by \$95,000 for the FY24 and FY25 Water, Wastewater, and Recycled Water rate study and connection fee study (Sewer Fund) - Reso 22-233
- ❑ Mid-Year request – Appropriation of \$22,000 for new unarmed security company services effective March 2023. (Airport Fund)
- ❑ Mid-Year request – Appropriation of \$30,138 for the cost of issuance to prepay the debt service early. (Water Fund)
- ❑ Mid-Year request – Appropriation of \$130,480 of revenue received from EBDA and an additional appropriation to continue operation and maintenance of facilities (Sewer Fund)

- ❑ Mid-Year request – Appropriation of \$150,000 to increase supplies and services which have doubled in price for FY2023 due to supply chain issues (Sewer Fund)
- ❑ Mid-Year request – Appropriation of \$223,823 for SB1383 grant revenue (State Grants Fund)
- ❑ Mid-Year request – Appropriation of \$14,507 for WMAC Delinquent Assessment revenue (State Grants Fund)

**Measure C
20-Year Financial Forecast Update**

ATTACHMENT V

Measure C 20-Year Financial Forecast	Year Ref.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
	Fiscal Year	Actual FY 2015	Actual FY 2016	Actual FY 2017	Actual FY 2018	Actual FY 2019	Actual FY 2020	Actual FY 2021	Actual FY 2022	Estimated FY 2023	Projected FY 2024*	Projected FY 2025*	Projected FY 2026*	Projected FY 2027*	Projected FY 2028*	Projected FY 2029*	Projected FY 2030*	Projected FY 2031*	Projected FY 2032*	Projected FY 2033*	Projected FY 2034*	Projected 2035*
Revenues																						
Measure C		8,090,470	13,436,227	14,189,607	15,216,260	16,906,772	16,876,487	18,577,214	20,373,313	21,648,666	21,850,493	22,335,762	22,924,061	23,451,644	23,939,396	24,390,589	24,634,495	24,880,840	25,129,648	25,380,945	25,634,754	25,891,102
Bond Issuance			65,789,797																			
Chabot Commitment							1,837,150	6,127,662	9,206,638	2,828,550												
Total Revenues		8,090,470	79,226,024	14,189,607	15,216,260	16,906,772	18,713,637	24,704,876	29,579,951	24,477,216	21,850,493	22,335,762	22,924,061	23,451,644	23,939,396	24,390,589	24,634,495	24,880,840	25,129,648	25,380,945	25,634,754	25,891,102
Expenditures																						
Capital Expenditures																						
Library/Learning Center			10,607,338	17,372,241	17,051,095	11,515,077	2,739,353	2,449,125	577,137	500,000												
Fire Facilities Design			930,859	1,285,242	284,537	150,680	35,898	50,250	-	150,000												
Fire Station 1				358,293	618,851	33,618	1,521		1,728													
Fire Station 2				587,183	1,571,806	172,704	95,567	3,095	1,728													
Fire Station 3				472,826	1,622,186	141,045	66,950	1,269	1,728													
Fire Station 4				114,900	1,609,051	297,312	128,458	20,554	1,728													
Fire Station 5				75,973	1,207,332	435,506	58,488	1,345	1,728													
Fire Station 6					65,762	305,789	720,032	5,298,984	2,474,899	5,395,000												
Fire Training Academy				681,043	2,025,836	752,152	877,108	12,719,734	28,732,040	16,451,000												
Street Rehabilitation			490,845	10,554,232	652,521	32,113	-			2,000,000									2,000,000			
EBRCS Radios					1,314,719	1,337,437	-															
Jacksons & Tennyson Corridor Median Improvement					29,494	392,662	446,979	266,831	172,655	250,000	300,000	150,000										
Subtotal		-	12,029,043	31,501,932	26,738,471	15,543,377	6,507,791	20,811,187	31,965,371	22,746,000	2,300,000	150,000	-	-	-	-	-	-	2,000,000	-	-	-
Operating Expenditures																						
Police Services			569,836	1,793,135	1,935,134	2,956,896	3,097,313	3,290,198	3,115,461	3,246,643	3,473,908	3,717,082	3,977,277	4,255,687	4,553,585	4,872,336	5,213,399	5,578,337	5,968,821	6,386,638	6,386,638	6,833,703
Maintenance Services		205,969	708,249	572,105	610,926	761,784	1,058,980	1,468,931	1,410,360	1,621,965	1,735,503	1,856,988	1,986,977	2,126,065	2,274,890	2,434,132	2,604,521	2,786,838	2,981,916	3,190,651	3,190,651	3,413,996
Other Department Services						73,240	66,116	106,542	223,813	221,777	237,301	253,912	271,686	290,704	311,054	332,827	356,125	381,054	407,728	436,269	466,808	499,484
Subtotal		205,969	1,278,084	2,365,240	2,546,060	3,791,920	4,222,408	4,865,672	4,749,634	5,090,385	5,446,712	5,827,982	6,235,941	6,672,456	7,139,528	7,639,295	8,174,046	8,746,229	9,358,465	10,013,558	10,044,097	10,747,183
Debt Service Expenditures			2,326,436	2,859,637	2,732,875	5,430,063	4,523,594	5,424,438	5,423,063	5,415,313	5,407,938	5,425,488	5,419,188	5,436,938	5,434,838	5,434,063	5,426,800	5,424,913	5,420,657	5,379,350	5,372,350	5,372,350
Total Expenditures		205,969	15,633,563	36,726,809	32,017,406	24,765,360	15,253,793	31,101,296	42,138,069	33,251,698	13,154,649	11,403,469	11,655,128	12,109,394	12,574,366	13,073,358	13,600,846	14,171,142	16,779,122	15,392,908	15,416,447	16,119,533
Annual Cash Flow		7,884,501	63,592,461	(22,537,202)	(16,801,146)	(7,858,588)	3,459,844	(6,396,420)	(12,558,117)	(8,774,481)	8,695,844	10,932,293	11,268,933	11,342,250	11,365,030	11,317,231	11,033,649	10,709,698	8,350,527	9,988,037	10,218,308	9,771,568
Cumulative Fund Balance		7,884,501	71,476,962	48,939,761	32,138,614	24,280,026	27,739,869	21,343,449	8,785,332	10,850	8,706,694	19,638,987	30,907,920	42,250,170	53,615,200	64,932,431	75,966,080	86,675,778	95,026,305	105,014,342	105,244,613	114,785,910

*The amounts identified for capital projects in future fiscal years of this projection are conceptual only and have not been approved or appropriated. Appropriation and allocation of these funds will occur annually with adoption of the City's Operating and Capital budgets.