

# **CITY OF HAYWARD**

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **Agenda**

**Tuesday, November 1, 2022**

**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.

*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](mailto: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/83336737872?pwd=Q3RSQkFHbHV6MktXc1BoM3VTSFBZz09>

Meeting ID: 833 3673 7872

Password: CC11/1@7pm

or

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

Meeting ID: 833 3673 7872

Password: 6448719721

A Guide to attend virtual meetings is provided at this link: <https://bit.ly/3jmaUxa>

**CALL TO ORDER: Mayor Halliday**

**Pledge of Allegiance: Council Member Andrews**

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PUBLIC COMMENTS**

*The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or 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 22-125](#)     Approve the City Council Minutes of the City Council Meeting on October 18, 2022  
  
      **Attachments:**   [Attachment I Draft Minutes of 10/18/2022](#)
  
2.     [CONS 22-586](#)   Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 7, D-1 and D-2 Improvement Project No. 05296  
  
      **Attachments:**   [Attachment I Staff Report](#)  
                          [Attachment II Resolution](#)  
                          [Attachment III Project Location Map](#)
  
3.     [CONS 22-609](#)   Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Site License Agreement with East Bay Community Energy for Electric Vehicle Charging at Multiple Locations  
  
      **Attachments:**   [Attachment I Staff Report](#)  
                          [Attachment II Resolution](#)

4.      [CONS 22-610](#)      Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 8 Improvement Project No. 05740
- Attachments:**      [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)  
                              [Attachment III Location Map](#)
5.      [CONS 22-618](#)      Adopt a Resolution: (1) Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners and Other Affiliated Entities for Transfer of Specified City Owned Properties within Parcel Group 3 and Amendments to Exhibits Attached Thereto Including the Restrictive Use Covenant Agreement; and (2) Approving Modifications to the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594)
- Attachments:**      [Attachment I Staff Report](#)  
                              [Attachment II DDA Resolution](#)  
                              [Attachment III Revised Parcel Group 3 Affordable Housing Plan](#)
6.      [CONS 22-624](#)      Adoption of a Resolution Supporting Public Bank East Bay and Authorizing a Letter of Support to the Alameda County Board of Supervisors
- Attachments:**      [Attachment I Staff Report](#)  
                              [Attachment II Resolution](#)  
                              [Attachment III City Public Banking Letter of Support](#)

**PUBLIC HEARING**

7. [PH 22-056](#) Building and Fire Code Updates: Introduction of Ordinances and Adoption of Resolutions Adopting the California Code of Regulations 2022 Edition of Title 24, Including the 2022 Building, Fire, Plumbing, Mechanical, Electrical, Energy and Green Building Codes, and Related Amendments (Report from Assistant City Manager/Development Services Director Ott and Fire Chief Contreras)

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Building Code Draft Ordinance](#)  
[Attachment III Building Code Resolution](#)  
[Attachment IV Fire Code Resolution](#)  
[Attachment V Fire Code Draft Ordinance](#)

8. [PH 22-058](#) Reach Code: Introduction of Reach Code Ordinance: 1) Addressing New Building Electrification; 2) Addressing Electric Vehicle Charging Requirements; and 3) Repealing Current Reach Code (Ordinance 20-05) (Report from Public Works Director Ameri)

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Resolution](#)  
[Attachment III Draft Ordinance](#)

**INFORMATIONAL ITEM**

*Information items are presented as general information for Council and the public, and are not presented for discussion. Should Council wish to discuss or take action on any of the "information" items, they will direct the City Manager to bring them back at the next Council agenda as an Action Item.*

9. [RPT 22-106](#) Informational Report Describing the Appointment and/or Special Election Process for City Council Vacancy

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Sample Application Form](#)

**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, November 15, 2022, 7:00 PM**  
**- ELECTION DAY - November 8, 2022**

**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](mailto: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.*



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**File #:** MIN 22-125

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Approve the City Council Minutes of the City Council Meeting on October 18, 2022

**RECOMMENDATION**

That the Council approves the City Council meeting minutes of October 18, 2022.

**SUMMARY**

The City Council held a meeting on October 18, 2022.

**ATTACHMENTS**

Attachment I Draft Minutes of October 18, 2022





## **CITY COUNCIL MEETING**

**777 B Street, Hayward, CA 94541**

**Hybrid (Council Chamber) Virtual Platform (Zoom)**

<https://hayward.zoom.us/j/84415253276?pwd=NG9tZjhXVmkwczU5NSStHVHh3NWpqZz09>

**Tuesday, October 18, 2022, 7:00 p.m.**

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The City Council meeting was called to order by Mayor Halliday at 7:03 p.m. The City Council held a hybrid meeting in Council Chambers and virtually via Zoom.

**Pledge of Allegiance:** Council Member Wahab

### **ROLL CALL**

Present

Council Chamber: Council Members Lamnin, Zermeño  
Mayor Halliday

Virtual Platform (Zoom): Council Members Andrews, Márquez, Salinas, Wahab

Absent: None

### **CLOSED SESSION ANNOUNCEMENT**

The City Council convened in closed session at 6:15 p.m., with all members present and no public comment, regarding conference with labor negotiators pursuant to Government Code Section 54957.6 about labor groups. City Attorney Lawson announced the Council discussed, provided direction to staff, and took no reportable action. The closed session adjourned at 6:53 p.m.

Mayor Halliday announced Consent items 1 and 2 were continued to the October 25, 2022 City Council meeting.

### **PUBLIC COMMENTS**

Mr. David Whatley, former Hayward resident, commended the work New Hope Christian Fellowship is doing by providing hot meals and groceries to members of the community. He requested additional information about Ron Thompson who is a mural artist in Hayward.

Ms. Ellen Mayfield, Glen Eden Townhome resident, expressed concern about her neighbors engaging in drug abuse, which is impacting her health, noted there are smoke-free ordinances in Alameda County, urged the Council to create a smoke-free ordinance, and asked if one was being considered. Ms. Mayfield was asked to contact the City Manager's office.

Mr. Jaime Arteaga, Nor Cal Carpenters Union member, expressed concern about irresponsible contractors who do not abide by labor standards in paying fair wages to workers who use their own tools and urged the City to help police construction job sites.

## CITY MANAGER'S COMMENTS

City Manager McAdoo made five announcements: the City of Hayward and Dahlin Group Architecture Planning received the 2022 Award of Excellence from the American Planning Association, California Chapter, for the work on the SoHay mixed-use, mixed-income, mixed-density development; the Information Technology department was awarded the 2022 Award for Excellence in Information Technology Practices from the Municipal Information Systems Association of California; the Hayward Downtown Library Learning Center received a special commendation for Noll and Tam Architect's design and integration from the American Institute of Architects; October 16-22, 2022 is National Friends of Libraries Week and the Friends of Hayward Library were recognized for the work they do for the community; and the City received a grant in the amount of \$8.6 million for the Stack Center construction from the California State Library to create a satellite branch library in South Hayward. Mayor Halliday congratulated staff for the Stack Center's grant and those involved in receiving the awards.

## CONSENT

Mayor Halliday announced Consent Items 1 and 2 were continued to the October 25, 2022 City Council meeting.

1. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Staples Construction Company for the City Hall First Floor Restroom Renovations in an Amount Not-to-Exceed \$199,211 **CONS 22-558**

The item was continued to the October 25, 2022 City Council meeting.

2. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Newton Construction & Management for the Hayward Police Department Building Improvement Project in an Amount Not-to-Exceed \$246,326.65 Pursuant to a Cooperative Purchasing Agreement **CONS 22-561**

The item was continued to the October 25, 2022 City Council meeting.

3. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Extension to the Master Agreement and Lease with the Hayward Area Recreation and Park District for Operations and Maintenance of City Lands Through June 30, 2023 **CONS 22-567**

Staff report submitted by Assistant City Manager Youngblood, dated October 18, 2022, was filed.

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



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Hybrid (Council Chamber) Virtual Platform (Zoom)

<https://hayward.zoom.us/j/84415253276?pwd=NG9tZjhXVmktwczU5NStHVHh3NWpqZz09>

Tuesday, October 18, 2022, 7:00 p.m.

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AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,  
Wahab, Zermeño  
MAYOR Halliday

NOES: None

ABSENT: None

ABSTAIN: None

Resolution 22-252, “Resolution Authorizing the City Manager to Negotiate and Execute an Extension to the Master Agreement and Lease with the Hayward Area Recreation and Park District for Operations and Maintenance of City Lands Through June 30, 2023”

### WORK SESSION

4. Density Bonus Update: Review and Discuss Updates to the City’s Density Bonus Ordinance for Compliance with State Density Bonus Laws (Report from Assistant City Manager/Development Services Director Ott) **WS 22-033**

Staff report submitted by Assistant City Manager/Development Services Director Ott, dated October 18, 2022, was filed.

Assistant City Manager/Development Services Director Ott announced the item and introduced Planning Manager Lochirco who provided a synopsis of the staff report.

Mayor Halliday opened the public comment period at 7:49 p.m.

Ms. Diann Castleberry, Alameda County Transit (AC Transit) representative, read into the record a letter from AC Transit Service Development and Planning Director Robert del Rosario, which recommended that developers receiving density bonuses or incentives participate in the AC Transit EasyPass program which would help reduce traffic congestion and emissions, and limit demand for parking in developments.

Mr. David Whatley recommended that the definition of “density bonus” be described in terms that someone not specialized in the field can understand.

Ms. Ro Aguilar referred to a written comment sent to Council which recommended to require affordable units to be provided on-site and highlighted the importance of requiring developers to build affordable inclusionary owner-occupied housing to build the middle class.

Ms. Suzanne spoke against giving incentives and bonuses to builders and urged Council to require builders to provide adequate parking to deal with congestion challenges.

Mayor Halliday closed the public comment period at 8:00 p.m.

Members of the City Council thanked City staff for the report.

Discussion ensued among members of the City Council, Assistant City Manager Ott, and Planning Manager Lochirco regarding: opportunities for promoting multimodal transportation such as the AC Transit EasyPass program; the City continues to have conversations with BART's Transit-Oriented Development (TOD) group to develop properties adjacent to stations into affordable housing; reasoning for the proposal to exceed the State's Density Bonus Maximum by 5% for all density bonus projects that provide on-site affordable units; staff is working with a consultant on performing a feasibility study to require only on-site affordable housing units and increasing the number of units; density bonus for target populations and income categories; development standards would allow developers an opportunity to provide a baseline analysis to demonstrate that concessions and waivers are needed to make their project feasible, such that in exchange of reduction of retail or commercial space, they can provide on-site affordable housing and meet the City's requirement; staff's recommendation intended to increase density through the number of units or offer additional financial incentives, underscoring that it was not intended to further decrease parking; universal design incentives tied to density bonus and universal design ordinance; timeline for updating the City's Density Bonus Ordinance and aligning it with the launch of the online permitting system, EnerGov; density bonus for Accessory Dwelling Units (ADUs); commercial use on the ground-level which could be for co-working space; infrastructure for transit-oriented development; residential design study includes a parking analysis to review current parking standards to determine if a change is warranted; Rent Stabilization Ordinance; existing state density bonus laws allow height increases for projects located within a half mile of a major transit option; and density bonuses and transportation requirements could still be included in permitting process.

Council Member Zermeño requested staff explore developments of special teacher housing for teachers at Chabot College and CSUEB; noted building space was running out for in-fill development; and noted he was not too concerned about parking since some of the projects would be close to public transportation and staff may consider the proposal by AC Transit regarding its EasyPass program.

Council Member Márquez underscored she and Council Member Lamnin were proponents of universal design standards and hoped that Hayward could be one of the first cities to apply universal design to its density bonus ordinance and have a citywide universal design ordinance; encouraged seeking additional bonuses for target populations, look at the most recent Point-in-Time count to gauge the need in Hayward and continue to track Regional Housing Needs Assessment (RHNA) numbers; noted the ultimate goal was to encourage developers to build more on-site affordable housing, and stressed the importance of outreach efforts once projects were in place; and requested that staff share information with non-profit providers to ensure the public is informed.

Council Member Andrews requested that staff highlight the analysis and barriers to achieving 20% inclusionary housing for future presentations; explore if AC Transit's EasyPasses program



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<https://hayward.zoom.us/j/84415253276?pwd=NG9tZjhXVmkwczU5NStHVHh3NWpqZz09>

**Tuesday, October 18, 2022, 7:00 p.m.**

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should reside with the density bonus ordinance; study San Francisco Unified School District as a case study for teacher and faculty housing; explore density bonus for Accessory Dwelling Units (ADUs) to incentivize them; and expressed concerns about parking issues emphasizing the need to ensure the community is not affected heavily by density.

Council Member Wahab expressed her major concern was lack of adequate parking in multi-family complexes; commented the City does not have parking infrastructure in place for large vehicles specifically in multi-family complexes; added the infrastructure for transit-oriented development was still lacking; encouraged advocating for affordable rental housing for seniors on fixed income; supported exploring faculty and teacher housing on school property; asked if the Rent Stabilization policy could be reverted to apply to properties built in 1995 to newer developments; emphasized the need for on-site affordable housing that would be deed-restricted; and indicated that the problem was that many of affordable unit projects being created were for rental and did not provide home-ownership opportunities.

Council Member Salinas emphasized that projects that were built as transit-oriented needed to be advertised as such to help resolve parking concerns earlier on; indicated that ground-floor commercial space should not be an easy concession and did not want an increase density at the expense of open space; underscored the importance of residents having sufficient open space for recreational activities; supported that specific populations were being targeted and hoped the school district would be mindful of land that could be used to address workforce and faculty housing demands; and appreciated the flexibility with the proposed bonus update in not relinquishing the City Council's and Planning Commission's ability to include requirements for items that are valuable to the community.

Council Member Lamnin appreciated the best practices and strategies used for the plans and goals articulated by the City Council and the community; and supported looking at the fee waiver deferral component of the incentive package to see what flexibility could happen with the projects, noting that better financing was one way to get affordability by design.

Mayor Halliday noted the City was updating its density bonus ordinance to be consistent with the State's requirement; underscored the City was supportive of housing and increasing density throughout the community which brought traffic and parking challenges; noted the proposed changes would give staff additional tools to get additional housing without creating unlivable communities; noted that ground floor commercial space should be preserved and activated for uses such as daycare centers, gyms and workspaces; appreciated the comments from AC Transit about the use of EasyPasses and also favored Clipper cards; favored exploring unbundled parking and residents having to pay for this; added that a neighborhood parking permit program be evaluated to avoid future developments inundating the surrounding neighborhood with parking; supported affordable senior housing projects; and noted that some teachers may be eligible for affordable units if they meet income standards.

It was noted the item would come back to Council at the December 6, 2022, Council meeting.

## **PUBLIC HEARING**

5. Allocation of Local Housing Trust Funds: (1) Adopt a Resolution Approving Allocation of the California State Department of Housing and Community Development Local Housing Trust Fund Grant Award to Mission Paradise in the Amount of \$1,150,000; and Authorizing the City Manager to Negotiate and Execute Loan Documents Between the City of Hayward and EAH, Inc. in an Amount Not-to-Exceed \$1,150,000 for the Development of Mission Paradise; and (2) Adopt a Resolution Approving Allocation of the California State Department of Housing and Community Development Local Housing Trust Fund Grant Award to Parcel Group 8 Affordable Housing in the Amount of \$2,645,161; and Authorizing the City Manager to Negotiate and Execute Loan Documents Between the City of Hayward and Resources for Community Development in an Amount Not-to-Exceed \$2,645,161 for the Development of Parcel Group 8 Affordable Housing (Report from Assistant City Manager Ott) **PH 22-054**

Staff report submitted by Assistant City Manager Ott, dated October 18, 2022, was filed.

Assistant City Manager Ott announced the item and introduced Housing Manager Morales who provided a synopsis of the staff report.

Mayor Halliday opened the public hearing at 9:16 p.m.

Mr. David Whatley asked what type of public oversight was in place with state and federal government to ensure funds will be spent properly by Mission Paradise and Parcel Group 8 Affordable Housing developments. He was advised Housing Manager Morales would follow up with him.

Ms. Ro Aguilar stated the proposed projects were non-inclusionary, and Parcel Group 8 development would be isolated, and requested that staff have her questions addressed on 1) the percentage and number of units of inclusionary affordable housing built or approved in Hayward, and 2) number of affordable inclusionary owner-occupied units built or approved in very low/low/moderate income categories.

Mayor Halliday closed the public hearing at 9:23 p.m.

Council Member Zermeño noted the home ownership percentage was 52%.

Council Member Wahab made a motion to approve staff's recommendation.

In response to Council Member Wahab's question if Mission Paradise units could be designated for Hayward residents, Housing Manager Morales responded that Alameda County Measure A1 funds were applied from the County's regional pool and due to the funding source, no local preference could be imposed by the City.



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**Hybrid (Council Chamber) Virtual Platform (Zoom)**

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**Tuesday, October 18, 2022, 7:00 p.m.**

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In response to Council Member Wahab's inquiry as to whether age 62 seniors taking care or serving as custodian of their grandchildren could be a part of the development, Ms. Tessa Quintanilla with EAH, Inc., stated that the development was restricted to individuals ages 62 and older and would need to confirm if another resident living in the same unit could be of an age below the threshold.

Council Member Wahab stated that most seniors are on a fixed income and advocated for the project to provide affordable housing to the lowest income level populations. Housing Manager Morales stated that the Mission Paradise development has 25 project-based Section 8 vouchers, and qualifying individuals' rent would be relative to their income, paying only 30% of their income on rent.

Mayor Halliday seconded the item.

In response to Council Member Márquez's request for staff to elaborate how local preference was determined and whether this was monitored by the City ensuring residents get first opportunities, Housing Manager Morales indicated that under the Affordable Housing Ordinance, there is a live, work preference, so that if an individual qualifies as a Hayward resident or is currently employed in Hayward, they would receive priority placement on the waitlist to rank for affordable units, and added there is no minimum requirement for years.

Council Member Zermeño expressed support for both projects. In response to his inquiry if there was a need for more apartments rather than homeowner opportunities, Housing Manager Morales stated that affordable rental units and inclusionary affordable ownership units were serving different demographics, and that ownership housing was being developed as market rate development and there was not much market rate rental in the city.

Mayor Halliday commended staff for their efforts in cobbling funds to provide much needed housing in Hayward underscoring that it was complex and not an easy task.

It was moved by Council Member Wahab, seconded by Mayor Halliday, and carried by the following roll call vote, to approve the resolutions.

AYES:	COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas, Wahab, Zermeño MAYOR Halliday
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution 22-253, “Resolution to Approve Allocation of California State Department of Housing and Community Development Local Housing Trust Fund Program Grant Award to Mission Paradise in the Amount of \$1,150,000; and Authorizing the City Manager to Negotiate and Execute Loan Documents Between the City of Hayward and EAH, Inc. in an Amount Not to Exceed \$1,150,000 for the Development of Mission Paradise”

Resolution 22-254, “Resolution to Approve Allocation of California State Department of Housing and Community Development Local Housing Trust Fund Program Grant Award to Parcel Group 8 Affordable Housing in the Amount Of \$2,654,161; and Authorizing the City Manager to Negotiate and Execute Loan Documents Between the City of Hayward and Resources for Community Development in an Amount Not-To-Exceed \$2,654,161 for the Development of Parcel Group 8 Affordable Housing”

## **LEGISLATIVE BUSINESS**

6. Manon Avenue Townhomes: Adopt an Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property from Single Family Residential District to Medium Density Residential District in Connection with Zone Change, Density Bonus, and Site Plan Review Application No. 202101491 to Accommodate 22 Rental Townhomes at 27865 Manon Avenue (Report from City Clerk Lens) **LB 22-022**

Staff report submitted by City Clerk Lens, dated October 18, 2022, was filed.

City Clerk Lens announced the item indicating the ordinance was introduced on October 11, 2022, by Council Member Salinas and because the item did not garner unanimous vote, it was placed under Legislative Business.

Mayor Halliday opened the public hearing at 9:40 p.m.

Mr. David Whatley stated that it was important to highlight why there was a dissenting vote on the item at a previous meeting by Council Member Wahab. He requested that Council Member Wahab provide a reason for her dissenting vote.

Mayor Halliday closed the public hearing at 9:43 pm.

There being no further discussion, it was moved by Council Member Salinas, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the ordinance.





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Tuesday, October 18, 2022, 7:00 p.m.

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AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,  
Wahab, Zermeño  
MAYOR Halliday

NOES: None

ABSENT: None

ABSTAIN: None

Ordinance 22-08, "An Ordinance Amending Chapter 10, Article 1 (zoning ordinance) of the Hayward Municipal Code by Rezoning Certain Property from Single Family Residential District to Medium Density Residential District in Connection with Zone Change, Density Bonus, and Site Plan Review Application no. 202101491 to Accommodate 22 Rental Townhomes at 27865 Manon Avenue"

### COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Salinas announced two events: Trunk or Treat on October 29, 2022, at the Heritage Plaza, and California State University East Bay (CSUEB) Preview Day on October 22, 2022, at CSUEB.

Council Member Márquez shared she attended the La Familia Golf Tournament and Dinner Fundraiser on October 17, 2022 at the Stonebrae Golf Course, and participated in International Walk and Roll to School Day on October 12, 2022, where she walked to Tyrrell Elementary School and acknowledged Principal Dr. Stacy Butler for serving as the school principal for over 12 years.

Mayor Halliday indicated she attended International Walk and Roll to School Day at Cherryland Elementary School.

Council Member Andrews announced three events: Keep Hayward Clean and Green Task Force clean-up event on October 22, 2022, at Tennyson Park; Trunk or Treat at Eden Youth and Family Center on October 22, 2022; and Treasures Unleashed Halloween event on October 29, 2022, at 971 B Street.

Council Member Zermeño noted that October 22, 2022, was Make a Difference Day and encouraged all to clean their street and attend the Keep Hayward Clean and Green Task Force clean-up event at Tennyson Park.

### COUNCIL REFERRALS

There were none.

**ADJOURNMENT**

Mayor Halliday adjourned the City Council meeting at 9:51 p.m.

**APPROVED**

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Barbara Halliday  
Mayor, City of Hayward

**ATTEST:**

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Miriam Lens  
City Clerk, City of Hayward



# CITY OF HAYWARD

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**File #:** CONS 22-586

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 7, D-1 and D-2 Improvement Project No. 05296

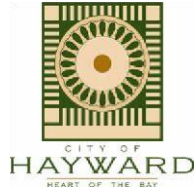
That Council adopts a resolution (Attachment II) approving the plans and specifications, and calling for bids to be received on November 22, 2022 for the Municipal Parking Lots (Muni Lot) No. 7, D-1 and D-2 Improvement Project No. 05296.

**SUMMARY**

This project is a continuation of the City's municipal parking lot improvement project. This is the seventh of several parking lot improvement projects within the downtown area of the City. This lot services parking needs for businesses along Mission Boulevard, Main Street, and Foothill Boulevard. Once the Council approves this project, bids will be received on November 22, 2022 and staff will return to Council for contract award.

**ATTACHMENTS**

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



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 7, D-1 and D-2 Improvement Project No. 05296

### **RECOMMENDATION**

That Council adopts a resolution (Attachment II) approving the plans and specifications, and calling for bids to be received on November 22, 2022 for the Municipal Parking Lots (Muni Lot) No. 7, D-1 and D-2 Improvement Project No. 05296.

### **SUMMARY**

This project is a continuation of the City's municipal parking lot improvement project. This is the seventh of several parking lot improvement projects within the downtown area of the City. This lot services parking needs for businesses along Mission Boulevard, Main Street, and Foothill Boulevard. Once the Council approves this project, bids will be received on November 22, 2022 and staff will return to Council for contract award.

### **BACKGROUND**

This project is part of an annual pavement rehabilitation and preventive maintenance program for the City's nine municipal parking lots. Improvements of Municipal Parking Lots No. 1 to 6 have been completed which improved not only the pavement and aesthetic condition of the parking lots, but also added additional parking stalls including accessible parking spaces for Americans with Disabilities Act (ADA) compliance.

### **DISCUSSION**

The project consists of improving the current condition of Muni Lot Nos. 7, D-1 and D-2 by upgrading the parking configuration to City standards and ADA parking spaces requirements. Additional improvements include pavement rehabilitation, additional landscaping, additional LED parking lot lighting, parking stall striping, markings and signages.

Muni Lot Nos. 7, D-1 and D-2 are clustered in close proximity to the Downtown area servicing public parking needs for offices and retail establishments on Mission Boulevard, Main Street and Foothill Boulevard along with church services at Second Street.

Improvements to be performed with this project include the reconfiguration of the parking stalls to be in compliance with City standards and ADA requirements.

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

On November 15, 2016, Council passed 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. The 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 this Project is less than \$1,000,000, the CWA agreement does not apply.

### **ECONOMIC IMPACT**

The improvement of the parking amenities will provide convenience for visitors to the Downtown area and may increase activity to nearby businesses.

The work has been scheduled in three phases specifically to ensure that most parking stalls are available for use during the work in order to minimize impact on the downtown businesses.

### **FISCAL IMPACT**

The estimated project costs are as follows:

Construction Contract	\$340,000
Construction Contingency	60,000
Landscaping – City Staff	30,000
Design and Administration	7,500
Construction Survey, Inspection and Testing	7,500
<b>TOTAL</b>	<b>\$445,000</b>

The adopted FY23 Capital Improvement Program (CIP) includes \$350,000 for the Municipal Parking Lots No.7, D1 & D2 Improvement Project No. 05296 in the Street System Improvements – Fund 450. As shown above, current estimated project costs are \$95,000 higher than this adopted budget. If necessary based on the bid amounts received, staff may request an additional appropriation to bridge the funding gap at the time of contract award.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Roadmap Priority to Invest in Infrastructure. Specifically, this item relates to the implementation of the following projects:

Invest in Multi-Modal Transportation

Project N1: Improve access and mobility in downtown Hayward.

## **SUSTAINABILITY FEATURES**

This project upgrades the condition of the parking requirements particularly the availability of accessible parking spaces and safe pathways. The project requires the contractor to recycle all construction and demolition debris resulting from the construction of the project.

## **PUBLIC CONTACT**

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 seven-two hours prior to actual commencement of work.

## **SCHEDULE**

The estimated schedule for this project is as follows:

Call for Bids	October 25, 2022
Open Bids	November 22, 2022
Award Construction Contract	December 20, 2022
Begin Construction	January 2023
Complete Construction	March 2023

## **NEXT STEPS**

After staff evaluates the bid results, staff will return to Council with recommendation for award of construction contract.

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

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND CALL FOR BIDS  
FOR MUNICIPAL PARKING LOT NOS. 7, D-1 AND D-2 IMPROVEMENT  
PROJECT, PROJECT NO. 05296

WHEREAS, those certain plans and specifications for Municipal Parking Lot Nos. 7, D-1 and D-2 Improvement Project, Project No. 05296 on file in the office of the City Clerk, are hereby adopted as plans and specifications for the project; and

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

WHEREAS, sealed bids therefor will be received by the City Clerk's office at City Hall, 777 B Street, First Floor, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday November 22, 2022, and immediately thereafter publicly opened and declared by the City Clerk in the Rotunda, First Floor, at City Hall.

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

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

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES:           COUNCIL MEMBERS:

MAYOR:

NOES:           COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

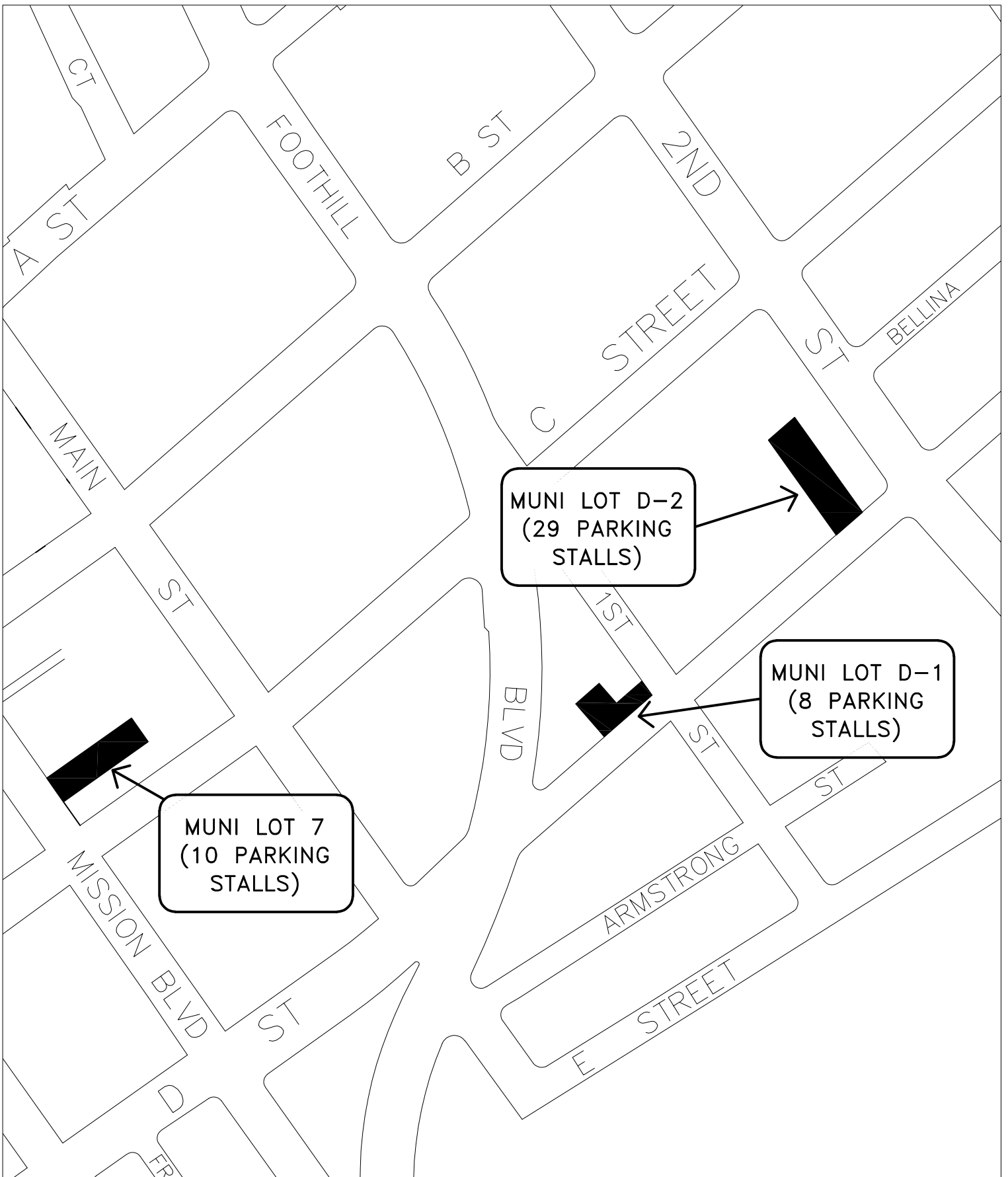
ABSENT:        COUNCIL MEMBERS

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward





**LOCATION MAP**  
**MUNICIPAL PARKING LOT NO. 7, D-1 & D-2**  
**IMPROVEMENT PROJECT**  
PROJECT NO. 05296



# CITY OF HAYWARD

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

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**File #:** CONS 22-609

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Site License Agreement with East Bay Community Energy for Electric Vehicle Charging at Multiple Locations

**RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute a Master Site License Agreement with East Bay Community Energy for electric vehicle charging at multiple locations within the City of Hayward.

**SUMMARY**

East Bay Community Energy (EBCE) seeks to develop, own, and operate a network of publicly available electric vehicle (EV) fast charging hubs throughout its service territory. In the near term, EBCE is interested in locating two to three EV charging hubs, each with capacity for at least 20 EVs, in Hayward. Staff is negotiating a draft Master Site License Agreement (Agreement) that would allow EBCE to pursue locating charging hubs in up to seven City-owned municipal parking lots and garages. The draft Agreement was considered and recommended by the Council Sustainability Committee (CSC) on October 6, 2022.

**ATTACHMENTS**

Attachment I Staff Report  
Attachment II Resolution



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT** Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Site License Agreement with East Bay Community Energy for Electric Vehicle Charging at Multiple Locations (Report from Public Works Director Ameri)

### **RECOMMENDATION**

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute a Master Site License Agreement with East Bay Community Energy for electric vehicle charging at multiple locations within the City of Hayward.

### **SUMMARY**

East Bay Community Energy (EBCE) seeks to develop, own, and operate a network of publicly available electric vehicle (EV) fast charging hubs throughout its service territory. In the near term, EBCE is interested in locating two to three EV charging hubs, each with capacity for at least 20 EVs, in Hayward. Staff is negotiating a draft Master Site License Agreement (Agreement) that would allow EBCE to pursue locating charging hubs **in** up to seven City-owned municipal parking lots and garages. The draft Agreement was considered and recommended by the Council Sustainability Committee (CSC) on October 6, 2022.

### **BACKGROUND**

In 2018, the EBCE Board of Directors adopted a Local Development Business Plan (Plan). One of the key strategies included in the Plan is to develop and implement projects that support electrification of transportation in its service territory. EBCE is also working to align its initiatives with California's EV goals including:

- By 2025, 1.5 million Zero-Emission Vehicles (ZEVs) on the road and 250,000 public and shared EV chargers in operation.
- By 2030, approximately 1.2 million public and shared chargers to meet the fueling demands of the 7.5 million ZEVs anticipated to be on California roads<sup>1</sup>.

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<sup>1</sup> <https://www.energy.ca.gov/news/2021-06/report-shows-california-needs-12-million-electric-vehicle-chargers-2030#:~:text=In%20addition%20to%20the%201.2, trucks%20and%20buses%20also%20anticipated.&text=These%20numbers%20fall%20short%20of,250%2C000%20chargers%20by%2054%2C000%20installations.>

In support of the above goals, on August 25, 2022, the California Air Resources Board (CARB) approved a rule requiring 100 percent of new car sales in California to be ZEVs by 2035. The rule also includes ZEV targets for 2026 (35 percent) and 2030 (68 percent).

On October 6, 2022, the CSC considered a report<sup>2</sup> regarding the draft Agreement and unanimously recommended that Council authorize the Agreement. The CSC recognized that there may be some concern about the reduction of parking spaces available to non-EV drivers and requested that staff work closely with downtown merchants. The CSC also requested that the hubs be extended to other areas of Hayward and that there be a reduced rate for low-income customers.

## DISCUSSION

EBCE aims to deploy forty to fifty fast charging hubs throughout its service area over the next several years. Each hub is planned to have a minimum of ten dual port Direct Current Fast Chargers (DCFCs)<sup>3</sup>. This is the level of investment needed to meet the State's goal of 7.5 million ZEVs on the road by 2030. A charging hub with ten dual port DCFCs can charge up to twenty vehicles simultaneously. Due to the loading areas needed for van-accessible parking spaces, each hub may occupy up to 22 existing parking spaces.

A DCFC hub can be a valuable amenity for patrons of nearby businesses and for residents of multi-family properties. An analysis by EBCE found that: 90% of multi-family properties in Alameda County are 50 years old or older; most lack the infrastructure needed to support EV charging; and that multi-family residents could be served by publicly accessible fast charging hubs if located in high density areas. In Alameda County, 47% of the population are renters, so a major initiative of EBCE is to provide charging facilities for renters who may not be able to install charging equipment at home.

In the next few years, EBCE is seeking to develop two or three fast charging hubs in Hayward. Attachment III is a map showing the six downtown potential locations for fast charging hubs. Staff and EBCE recently agreed to add a seventh location – a City-owned parcel at the northeast corner of Mission Boulevard and Fairway Street. This is an undeveloped site and would require the City to develop a parking lot before the chargers could be installed. Staff and EBCE are negotiating a draft Agreement that identifies:

1. Cinema Garage – 22695 Foothill Boulevard
2. Municipal Lot 1 – 919 A Street
3. Municipal Lot 2 – 1042 B Street
4. Municipal Lot 4 – 1147 B Street
5. Municipal Lot 5 – 22456 Maple Court
6. Municipal Lot 6 – 1164 A Street

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<sup>2</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5860959&GUID=18C2C23E-0277-446D-9523-5C71105382D5&Options=&Search=>

<sup>3</sup> There are generally three types of EV chargers:

- *Level 1* – 15-20 Amps, providing a driving distance of 3-4 miles/hour of charge
- *Level 2* – 40 Amps, providing a driving distance of 25-30 miles/hour of charge
- *Direct Current Fast Charger (DCFC)* – 80 – 400 Amps, providing a driving distance of 125-1,000 miles/hour of charge

## 7. Northeast Corner of Mission Blvd. and Fairway Street

These initial locations were selected because they are under City ownership, large enough to accommodate the 22 parking spaces needed, and in proximity of high-density multi-family residents. In later phases of the project, EBCE intends to explore additional sites in Hayward, including other areas of the City and may include private properties. EBCE is seeking an Agreement to secure the City's commitment to working in partnership to host the charging hubs at the seven locations listed above. The first hub to be developed will be the Cinema Place parking structure because grant funding has been secured for that project. Once the Agreement is in place, EBCE will conduct engineering analysis and coordinate with PG&E to find one or two additional locations that are the best in terms of electrical capacity and space for new transformers and related equipment.

*Cinema Place Parking Structure* – In early 2022, staff assisted EBCE with the submittal of a grant application to the California Energy Commission (CEC) to fund a DCFC hub in the Cinema Place parking structure. The CEC has issued a Notice of Proposed Award for grant funds for 10 dual-port chargers to be installed on the ground level of the parking structure. This location was selected because it would serve renters as well as visitors to Hayward's Downtown businesses and because of the large number of parking spaces in the structure. The proposed chargers would have the capability to charge an EV up to 80% in less than 45 minutes. Staff is currently working with EBCE and their engineer to design this hub.

*Key Terms of Master Site License Agreement* – The key terms of the draft Agreement are:

1. The term of the Agreement would be for 15 years.
2. The Agreement would allow charging hubs to be developed on seven sites: the Cinema Garage and Municipal Lots 1, 2, 4, 5, and 6 and the northeast corner of Mission Blvd. and Fairway Street.
3. EBCE will pay for construction, operation, and maintenance of the chargers.
4. EBCE will pay for electricity used by the chargers.
5. The City will provide the land and access to the parking spaces.
6. The City will not be permitted to install or allow installation of any charging facilities other than those operated by EBCE on any property covered by the Agreement.
7. EBCE may place signage related to the charging facilities.
8. Rates for charging will be set by EBCE and may change from time to time at EBCE's sole discretion. (Given that the City has representation on EBCE's Board of Directors, the City will be able to weigh in on rate setting.)
9. After the City and EBCE agree on design details, construction schedule, etc. for each site, the City would issue a "Notice to Proceed" before EBCE can develop each hub.

EBCE has assured staff that discounted rates will be offered for low-income customers, but details of the program are not yet available. Staff continues to negotiate the draft Agreement, with particular focus on items 6 and 8.

- Regarding item 6, the October 6 CSC report mentioned staff's concern about an exclusivity provision in the draft Agreement. Staff and EBCE have tentatively agreed that if the City decides to install additional chargers on a site that is already

developed with EBCE chargers, then the City will give EBCE the first right of refusal to develop and operate the additional chargers.

- Regarding item 8, staff will want to ensure that the rate structure for use of the EV chargers is designed such that it encourages EV drivers to charge their vehicles in Hayward and that it sufficiently addresses the equity concerns of lower income households.

### ***Environmental Review***

The proposed agreement is statutorily exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) pursuant to Section 15262 (Feasibility and Planning Studies) of the CEQA Guidelines. Charging hubs developed on existing parking lots will likely be categorically exempt from environmental review in accordance with CEQA pursuant to Section 15301, Class 1 (Minor Alteration of Existing Facilities) of the CEQA Guidelines. If construction of a parking lot and charging hub for the corner of Mission Boulevard and Fairway Street are found to be feasible, staff would determine the appropriate CEQA analysis after a plan is developed.

### **FISCAL IMPACT**

The recommended Agreement and the siting of charging hubs in Hayward will have no costs to the City's General Fund or other City Funds. The City will receive a small increase in revenues from the utility user tax (UUT) that will pay for the electricity used for the chargers. EBCE will fully fund the construction and operation of the charging hubs. The CEC has awarded a grant to EBCE allocating approximately \$1.2 million to the Cinema Place project. The City's contribution for each charging hub will be the dedication of the parking spaces and areas needed for transformers and electrical equipment.

### **ECONOMIC IMPACT**

Staff anticipates the charging hubs will benefit business owners as well as residents. The hubs are expected to bring more people downtown, both for those primarily intending to shop and those intending to charge their vehicles. A report<sup>4</sup> published by the San Diego Association of Governments (SANDAG), cites studies that found when drivers charge their EVs in retail settings, they encourage customers to stay longer, make more purchases, and lead to more repeat customers. As a local example, staff has heard from the owners of the Target Center at Hesperian and A Street that they have seen increases in sales at the Target and neighboring businesses due to the installation of the Tesla charging stations.

### **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority to *Invest in Infrastructure* as included in the Strategic Roadmap adopted by Council on May 3, 2022. Specifically, this item is related to implementation of the following project:

Project N9b: Construct additional EV charging facilities.

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<sup>4</sup> [https://www.sandag.org/uploads/projectid/projectid\\_511\\_25858.pdf](https://www.sandag.org/uploads/projectid/projectid_511_25858.pdf)

## **SUSTAINABILITY FEATURES**

Electrification of vehicles throughout the community is necessary to meet the City's long-term greenhouse gas (GHG) emissions reduction goals. In June 2020, Council adopted ambitious goals to reduce GHG emissions 55% below 2005 levels by 2030 and to work with the community to develop a plan that may result in the reduction of community-based GHG emissions to achieve carbon neutrality by 2045. Of Hayward's total GHG emissions, the transportation sector accounts for close to 65%. While active transportation (walking, biking, etc.), ridesharing, and other strategies will be important to achieving needed reductions in Hayward's transportation emissions, the electrification of cars and trucks will also be necessary.

Hayward's *2040 General Plan* includes the following policy related to EVs.

*NR-2.10 – Zero-Emission and Low-Emission Vehicle Use:* The City shall encourage the use of zero-emission vehicles, low-emission vehicles, bicycles and other non-motorized vehicles, and car-sharing programs by requiring sufficient and convenient infrastructure and parking facilities throughout the City.

## **PUBLIC CONTACT**

On September 7, 2022, staff mailed letters to approximately 600 downtown business owners and property owners to solicit comments on the installation of new charging facilities. Public meetings were held on September 20 (on Zoom) and September 22 (in person) to allow community members to ask questions and provide feedback. One person attended the September 20 meeting; no attendees were present for September 22 meeting. On October 11, staff received a letter from a downtown business owner in support of downtown EV charging and offering thoughts on the locations under consideration. If the location at Mission Boulevard and Fairway Street is deemed feasible, staff will engage with nearby residents to solicit input before detailed plans are prepared.

## **NEXT STEPS**

If Council approves, staff will continue to negotiate and execute the Agreement with EBCE. Additionally, staff will continue to work with EBCE to design the charging hub at the Cinema Place Parking structure and may present the plans to the CSC in January 2023.

*Prepared by:* Erik Pearson, Environmental Services Manager

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager

RESOLUTION NO. 22-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MASTER SITE LICENSE AGREEMENT WITH EAST BAY COMMUNITY ENERGY FOR ELECTRIC VEHICLE CHARGING AT MULTIPLE LOCATIONS

WHEREAS, the State of California has a goal of 7.5 million zero emission vehicles (ZEVs) on California roads and approximately 1.2 million public and shared chargers to meet the fueling demands of those vehicles by 2030; and

WHEREAS, on August 25, 2022, the California Air Resources Board approved a rule requiring 100 percent of new car sales in California to be ZEVs by 2035

WHEREAS, East Bay Community Energy (EBCE) aims to deploy forty to fifty fast charging hubs throughout its service area over the next several years; and

WHEREAS, in the next few years, EBCE is seeking to develop two or three fast charging hubs in Hayward is considering the following locations:

1. Cinema Garage - 22695 Foothill Boulevard
2. Municipal Lot 1 - 919 A Street
3. Municipal Lot 2 - 1042 B Street
4. Municipal Lot 4 - 1147 B Street
5. Municipal Lot 5 - 22456 Maple Court
6. Municipal Lot 6 - 1164 A Street
7. Northeast Corner of Mission Blvd. and Fairway Street

WHEREAS, the agreement would supports the Strategic Priority to Invest in Infrastructure as included in the Strategic Roadmap adopted by Council on May 3, 2022. Specifically, this project is related to implementation of "Project N9b - Construct Additional EV Charging Facilities"; and

WHEREAS, the agreement would allow EBCE to develop charging hubs on City-owned parking lots; and

WHEREAS, on October 6, 2022, the Council Sustainability Committee (CSC) considered a report regarding the draft master site license agreement and unanimously recommended that Council authorize the agreement.



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 on behalf of the City of Hayward a Master Site License Agreement with EBCE.

BE IT FURTHER RESOLVED, that the City Council finds the agreement statutorily exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) pursuant to Section 15262 (Feasibility and Planning Studies) of the CEQA Guidelines.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022

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

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**File #:** CONS 22-610

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 8 Improvement Project No. 05740

**RECOMMENDATION**

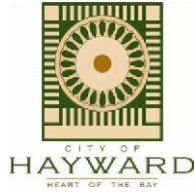
That Council adopts a resolution (Attachment II) approving the plans and specifications, and calling for bids to be received on November 29, 2022 for the Municipal Parking Lots (Muni Lot) No. 8 Improvement Project No. 05740.

**SUMMARY**

This project is a continuation of the City's municipal parking lot improvement project. This is the eighth of several parking lot improvement projects within the downtown area of the City. This lot services parking needs for businesses along Mission Boulevard, Main Street, C Street, D Street and Foothill Boulevard. Once the Council approves this project, bids will be received on November 29, 2022 and staff will return to Council for contract award.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Location Map



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 8 Improvement Project No. 05740

### **RECOMMENDATION**

That Council adopts a resolution (Attachment II) approving the plans and specifications, and calling for bids to be received on November 29, 2022 for the Municipal Parking Lots (Muni Lot) No. 8 Improvement Project No. 05740.

### **SUMMARY**

This project is a continuation of the City's municipal parking lot improvement project. This is the eighth of several parking lot improvement projects within the downtown area of the City. This lot services parking needs for businesses along Mission Boulevard, Main Street, C Street, D Street and Foothill Boulevard. Once the Council approves this project, bids will be received on November 29, 2022 and staff will return to Council for contract award.

### **BACKGROUND**

This project is part of an annual pavement rehabilitation and preventive maintenance program for the City's nine municipal parking lots. Improvements of Municipal Parking Lots No. 1 to 6 have been completed and Muni Lot No. 7, D1 and D2 will soon be completed which not only improved the pavement and aesthetic condition of the parking lots, but also added additional parking stalls including accessible parking spaces for Americans with Disabilities Act (ADA) compliance.

### **DISCUSSION**

The project consists of improving the current condition of Muni Lot No. 8 by upgrading the parking configuration to City standards and ADA parking spaces requirements. Additional improvements include pavement rehabilitation, additional landscaping, additional LED parking lot lighting, parking stall striping, markings and signages.

Muni Lot No. 8 is located in the Downtown adjacent to the old City Hall building, which continues servicing public parking needs for offices and retail establishments on Mission Boulevard, Main Street, C Street, D Street, and Foothill Boulevard.

Improvements to be performed with this project include the reconfiguration of the parking lot to generate additional stalls in compliance with City standards and ADA requirements.

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

On November 15, 2016, Council passed 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. The 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 this Project is less than \$1,000,000, the CWA agreement does not apply.

### **ECONOMIC IMPACT**

The improvement of the parking amenities will provide convenience for visitors to the downtown area and expected to increase activity to nearby businesses.

The work has been scheduled in two phases specifically to ensure that most parking stalls are available for use during the work in order to minimize impact on the downtown businesses.

### **FISCAL IMPACT**

The Adopted FY23 Capital Improvement Program (CIP) includes \$750,000 for this project in the Street System Improvements – Fund 450.

The estimated project costs are as follows:

Construction Contract	\$600,000
Construction Contingency	90,000
Landscaping – City Staff	30,000
Design and Administration	15,000
Construction Survey, Inspection and Testing	15,000
<b>TOTAL</b>	<b>\$750,000</b>

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Roadmap Priority to Invest in Infrastructure. Specifically, this item relates to the implementation of the following projects:

Invest in Multi-Modal Transportation

Project N1: Improve access and mobility in downtown Hayward

## **SUSTAINABILITY FEATURES:**

This project upgrades the condition of the parking requirements particularly the availability of accessible parking spaces and safe pathways. The project requires the contractor to recycle all construction and demolition debris resulting from the construction of the project.

## **PUBLIC CONTACT**

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 seven-two hours prior to actual commencement of work.

## **SCHEDULE**

The estimated schedule for this project is as follows:

Call for Bids	November 1, 2022
Open Bids	November 29, 2022
Award Construction Contract	December 27, 2022
Begin Construction	February 2023
Complete Construction	April 2023

## **NEXT STEPS**

After staff evaluates the bid results, staff will return to Council with recommendation for award of construction contract.

*Prepared by:* Hector M. 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. 22-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND CALL FOR BIDS  
FOR MUNICIPAL PARKING LOT NO. 8 IMPROVEMENT PROJECT, PROJECT NO.  
05740

WHEREAS, those certain plans and specifications for Municipal Parking Lot No. 8 Improvement Project, Project No. 05740 on file in the office of the City Clerk, are hereby adopted as plans and specifications for the project; and

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

WHEREAS, sealed bids therefor will be received by the City Clerk's office at City Hall, 777 B Street, First Floor, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday November 29, 2022, and immediately thereafter publicly opened and declared by the City Clerk in the Rotunda, First Floor, at City Hall.

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

BE IT FURTHER RESOLVED that the City Council finds this project is categorically exempt for environmental review under Section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

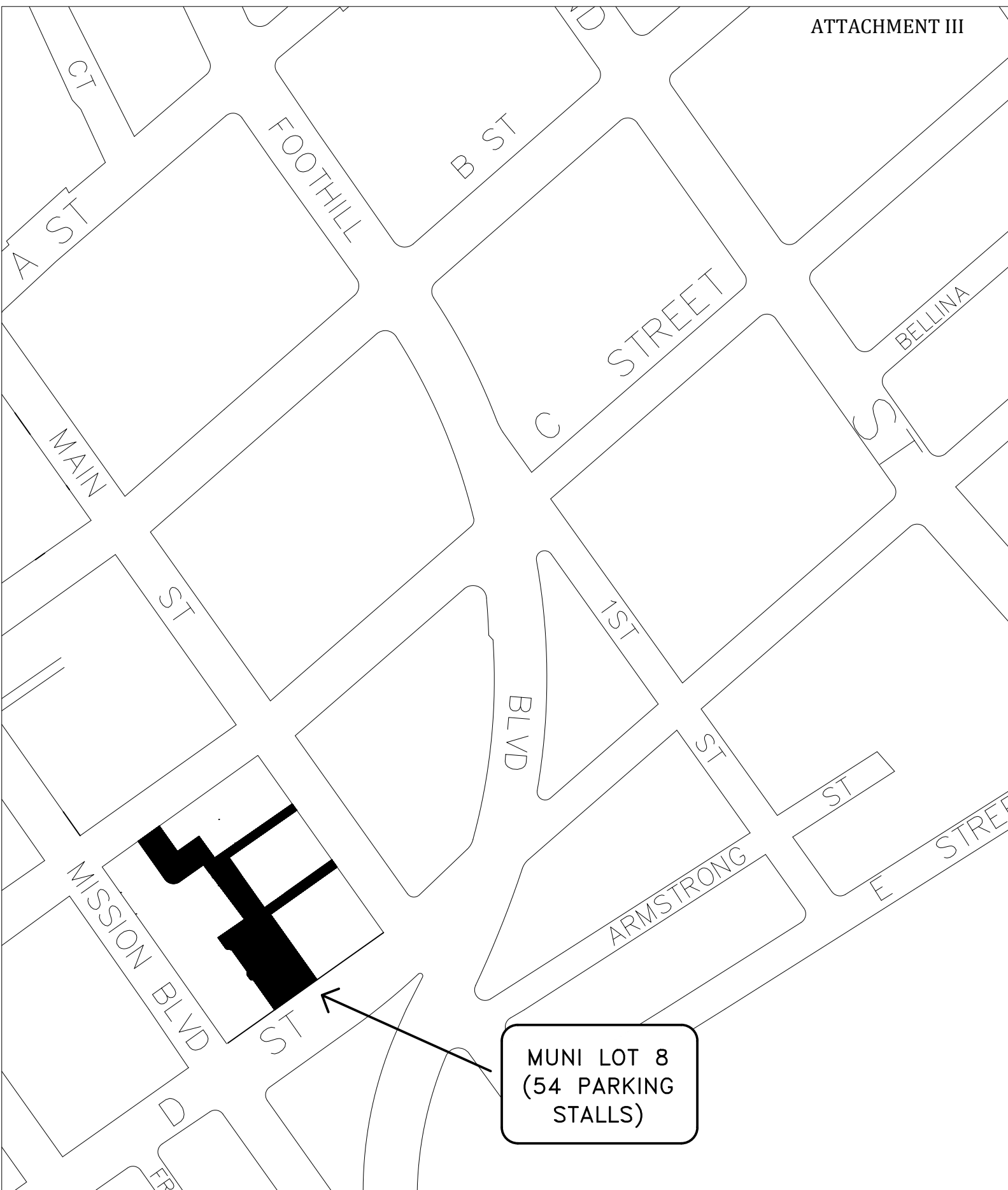
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward



**LOCATION MAP**  
**MUNICIPAL PARKING LOT NO. 8**  
**IMPROVEMENT PROJECT**  
**PROJECT NO. 05740**





# CITY OF HAYWARD

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

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**File #:** CONS 22-618

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Assistant City Manager/Development Services Director

## **SUBJECT**

Adopt a Resolution: (1) Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners and Other Affiliated Entities for Transfer of Specified City Owned Properties within Parcel Group 3 and Amendments to Exhibits Attached Thereto including the Restrictive Use Covenant Agreement; and (2) Approving Modifications to the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594)

## **RECOMMENDATION**

That the Council adopts a resolution (Attachment II): (1) authorizing the City Manager to negotiate and execute the First Amendment to the Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners and other affiliated entities for transfer of specified City owned properties within Parcel Group 3 and amendments to exhibits attached thereto including the Restrictive Use Covenant Agreement; and (2) approving modifications to the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594) (Attachment III).

## **SUMMARY**

After abandoning the State Route 238 Bypass Project in the 1970s, Caltrans began selling parcels that had previously been acquired for the planned freeway. In order to ensure that future development of the State Route 238 parcels located in Hayward align with the City's land use policies and overall vision, the City negotiated a Purchase and Sale Agreement (PSA) with Caltrans to assume responsibility for the sale of some of these properties to private developers. The City-controlled State Route 238 properties are divided into ten "parcel groups." Parcel Group 3, located north of Tennyson Road between 16th Street and the future La Vista Park, is the subject of this staff report.

In October 2021, Council adopted resolutions authorizing the City Manager to negotiate and execute a Disposition and Development Agreement (DDA) and related documents, with Eden Housing, Pacific West Communities, and Strategic Growth Partners (Developer) for the transfer of specified Parcel Group 3 properties and for the development of new affordable housing and a school on the Parcel Group 3 property, as well as final approval of the Parcel Group 3 Affordable Housing Plan.

Since approval of the DDA, the Developer has requested changes to the DDA and Affordable Housing Plan to allow development of housing and all of the off-site project related infrastructure to commence ahead of the development of the school parcel, to provide more flexibility in the timing of development and the proposed allowable uses of the Adjacent Parcel (formerly the school parcel), and to address feasibility issues related to interest rate increases and cost escalation factors. Staff is recommending that the Council authorize the City Manager to negotiate and execute amendments to the DDA consistent with the Developer's request. The City findings and reports approved pursuant to Government Code Sections 52201 and 54221(f) are unaffected by the requested amendment.

## **ATTACHMENTS**

Attachment I Staff Report

Attachment II Resolution



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Assistant City Manager/Development Services Director

**SUBJECT:** Adopt a Resolution: (1) Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners and Other Affiliated Entities for Transfer of Specified City Owned Properties within Parcel Group 3 and Amendments to Exhibits Attached Thereto including the Restrictive Use Covenant Agreement; and (2) Approving Modifications to the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594)

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### **SUMMARY**

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In October 2021, Council adopted resolutions authorizing the City Manager to negotiate and execute a Disposition and Development Agreement (DDA) and related documents, with Eden Housing, Pacific West Communities, and Strategic Growth Partners (Developer) for the transfer of specified Parcel Group 3 properties and for the development of new affordable

housing and a school on the Parcel Group 3 property, as well as final approval of the Parcel Group 3 Affordable Housing Plan.

Since approval of the DDA, the Developer has requested changes to the DDA and Affordable Housing Plan to allow development of housing and all of the off-site project related infrastructure to commence ahead of the development of the school parcel, to provide more flexibility in the timing of development and the proposed allowable uses of the Adjacent Parcel (formerly the school parcel), and to address feasibility issues related to interest rate increases and cost escalation factors. Staff is recommending that the Council authorize the City Manager to negotiate and execute amendments to the DDA consistent with the Developer's request. The City findings and reports approved pursuant to Government Code Sections 52201 and 54221(f) are unaffected by the requested amendment.

## **BACKGROUND**

The City of Hayward entered into a PSA with Caltrans in January 2016 to acquire 10 parcel groups comprised of properties acquired by Caltrans for the State Route 238 expansion project. Caltrans has transferred those properties to the City subject to the City managing the disposition and development of these former State Route 238 parcel groups with the goals of removing blight, enhancing community involvement in the development process, and creating economic and public benefits, such as job generating uses and trails and parks. As the City sells or transfers particular parcels, the City is obligated to repay Caltrans the negotiated purchase prices for the various parcel groups under the PSA.

In April 2018, the Council approved the issuance of a RFP for the cluster of parcels located north of Tennyson Road and east of 16th Street, referred to as "Parcel Group 3." The RFP process was intended to facilitate the re-sale of the parcels through a competitive process to ensure the best price and land use for the City. Three proposals were received in response to the RFP, and in July 2018, the Council authorized the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement with the proposed Developer, based on their proposal to construct a minimum of 150 affordable housing units and a school on the Parcel Group 3 properties.

After significant due diligence and site planning efforts, the Developer submitted an application for development of two five-story residential buildings comprised of 176 affordable rental housing units, a two-story 36,000-square-foot public community school for up to 384 preschool and elementary students, and indoor and outdoor amenity spaces located north of Tennyson Road between 16th Street and the future La Vista Park. The application required a Site Plan Review, Administrative Use Permit, and Density Bonus application, which were approved by the Planning Commission on July 22, 2021. The Planning Commission's approval of the project was appealed to the Council, and the appeal was denied by the Council on September 28, 2021.<sup>1</sup> Twenty-one parcels of land zoned for single family housing will also

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<sup>1</sup> [CITY OF HAYWARD - File #: PH 21-063 \(legistar.com\)](#) and [CITY OF HAYWARD - File #: PH 21-080 \(legistar.com\)](#)

be transferred to the Developer, but is not currently planned for development. The 21.5-acre remainder of Parcel Group 3 will be retained by the City for extension of La Vista Park.<sup>2</sup>

On October 19, 2021<sup>3</sup>, the Council adopted resolutions declaring City-owned properties generally located between Tennyson Road and Broadway Street as exempt surplus lands pursuant to Government Code Section 54221(f)(1)(H); and authorized the City Manager to negotiate and execute a DDA and related documents, with the Developer for the transfer of specified Parcel Group 3 properties and for the development of new affordable housing and a school as well as final approval of the Parcel Group 3 Affordable Housing Plan. (Planning Application #202001594), finding the project is consistent with prior California Environmental Quality Act (CEQA) determinations.

## DISCUSSION

Since the approval of the DDA, the Developer has requested changes to the DDA and Affordable Housing Plan to allow development of housing and all of the off-site project related infrastructure to commence ahead of the development of the Adjacent Parcel, to provide more flexibility in the timing of development and the proposed allowable uses of the Adjacent Parcel, and to address feasibility issues related to interest rate increases and cost escalation factors. Staff is recommending that the Council authorize the City Manager to negotiate and execute amendments to the DDA consistent with the Developer's request. The City findings and reports approved pursuant to Government Code Sections 52201 and 54221(f) are unaffected by the requested amendment. The following section summarizes the key terms of the proposed amendments to Parcel Group 3 DDA, and Affordable Housing Plan:

### I. Key Terms of Proposed Amendments to the Parcel Group DDA

City staff recommends that the Council authorize the City Manager to amend the approved DDA with the Developer with the following key terms:

- **Phasing and Performance Milestones** - Allow for the affordable housing development to be constructed first with land closing anticipated for December 2022, including an update of performance schedules for both phases of the projects.
- **Infrastructure Phasing** - Front load all project off-site infrastructure improvements except specific improvements directly related to the Adjacent Parcel instead of a bi-furcated, phased infrastructure approach, including updates to related agreements and performance schedules.
- **School Covenant** - Provide greater flexibility on timing and use of the Adjacent Parcel, including allowing a one-year period for the Adjacent Parcel Developer to notify the City of its intent to either (1) develop a school or school related uses on

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<sup>2</sup> [CITY OF HAYWARD - File #: LB 21-044 \(legistar.com\)](#)

<sup>3</sup> [CITY OF HAYWARD - File #: PH 21-087 \(legistar.com\)](#)

the Adjacent Parcel; or (2) exercise the right to meet and confer to establish proposed development uses and the development timelines for the Adjacent Parcel; maintaining the "Excluded Business" provision, which consists of no market rate residential, golf course/country club, massage parlor, gambling or sale of alcoholic beverages; and allowing a public serving use (nonprofit or profit), which includes: educational, recreation, affordable housing uses, and other uses allowed under New Market Tax Credits.

II. Proposed Amendments to the Parcel Group 3 Affordable Housing Plan

The Developer has also requested changes to the Affordable Housing Plan to address feasibility issues related to interest rate increases and cost escalation. By changing the unit mix, the Developer can increase project revenue to pay for the financing needed to develop the projects while still maintaining the average affordability level below 60% of Area Median Income (AMI). Table 1 illustrates the overall change to the unit distribution by affordability level.

Table 1. Percent Distribution of Affordability Level

<u>Affordability Levels</u>	<u>Approved AHP</u>	<u>Revised AHP</u>	<u>Percent Change</u>
<u>Extremely Low-Income (30% AMI)</u>	<u>10.3%</u>	<u>12.1 %</u>	<u>1.7%</u>
<u>Very Low-Income (50% AMI)</u>	<u>10.3%</u>	<u>21.8%</u>	<u>11.5%</u>
<u>Low Income (60% AMI)</u>	<u>59.8%</u>	<u>37.4%</u>	<u>-22.4%</u>
<u>Low Income (80% AMI)</u>	<u>19.5%</u>	<u>28.7%</u>	<u>9.2%</u>
<u>Average</u>	<u>59.8%</u>	<u>59.9%</u>	<u>.1%</u>

While the current Affordable Housing Plan provides more units targeting households earning incomes below 60% AMI, the proposed unit mix provides a better distribution of units by affordability levels, which better meets the diverse housing needs of the community. The revised Affordable Housing Plan will provide more units for extremely low- and very low-income households, while decreasing the number of low-income units that serve 60% and increasing the number of low-income units that serve 80% AMI households. This distribution better supports development of affordable units that address the housing supply gap identified in the 2021 City of Hayward Displacement Study<sup>4</sup>.

The amendment makes other necessary minor changes to the schedule of performance and other non-material provisions. If approved, and upon execution of the amendments, the City anticipates transferring all of the specified Parcel Group 3 properties to the Developers in December 2022, with commencement of construction on infrastructure and the affordable housing to commence soon thereafter.

<sup>4</sup> City of Hayward Displacement Study  
<https://www.hayward-ca.gov/sites/default/files/documents/Hayward-Displacement-Study-w-Appendix.pdf>

## ***Environmental Review***

In 2014, the City certified the EIR for the *Hayward 2040 General Plan*.<sup>5</sup> The General Plan represents the community's view of its future and expresses the community's conservation and development goals through the year 2040. An Addendum to the General Plan EIR was prepared pursuant to Section 15164 of the CEQA guidelines, which states, "The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred."

The proposed modifications to the General Plan EIR described in the Parcel Group 3 Addendum would not require major revisions to the General Plan EIR due to new or substantially increased significant environmental effects. The analysis contained in the Environmental Checklist confirms that the modified project is within the scope of the General Plan EIR and would have no new or more severe significant effects and no new mitigation measures are required.<sup>6</sup> Additionally, the proposed First Amendment to the DDA and changes to the related agreements do not change the proposed project or uses. Therefore, no subsequent or supplemental EIR or further CEQA review is required for the Parcel Group 3 development. To the extent necessary, any future revisions to the allowable use and development of the Adjacent Parcel will be reviewed for consistency with current project approvals.

## **ECONOMIC IMPACT**

The proposed development would have a positive economic benefit in that it would result in development of a currently vacant site with new residential units and a public community educational use site that would beautify the location and increase surrounding property values.

## **FISCAL IMPACT**

There are no fiscal impacts related to the amendments to the DDA, Restrictive Use Covenant Agreement, and Affordable Housing Plan. However, the sales proceeds will be utilized by the City to repay Caltrans as required under the PSA and any excess to sales proceeds will be retained by the City. According to projections provided by the developer, the construction valuation of the project is estimated at \$72,900,000.

The project would also generate annual revenue from taxes, including: real property transfer tax, business license tax, and emergency facilities tax among others, while requiring annual costs related to City services including but not limited to Fire, Police, Library, and Maintenance Services. Communities sometimes attempt to quantify positive or negative fiscal impacts to help decide if a particular development project should move forward. While an important planning tool for city resource allocation, this data does not account for other

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<sup>5</sup> Hayward 2040 General Plan EIR: <https://www.hayward-ca.gov/your-government/documents/planning-documents>

<sup>6</sup> [CITY OF HAYWARD - File #: PH 21-080 \(legistar.com\)](#)

elements or community benefits the project may provide that address Council priorities and policies. These benefits, such as increasing affordable housing supply to help stabilize housing costs, promoting equity and housing opportunities, and adding new consumers that can support city businesses and help attract new ones, offer offsets for negative fiscal impacts.

### **STRATEGIC ROADMAP**

The proposed project supports the Strategic Priorities of Preserve, Protect, and Preserve Housing for All, as well as of Grow the Economy, and specifically, relates to the implementation of the following project:

Project 5, Part 5.a-c: Facilitate disposition and development of Route 238 Corridor lands.

### **NEXT STEPS**

Following Council approval, City staff will take the necessary steps to negotiate and execute the First Amendment to the DDA and convey the property to the Developer later this year in accordance with the DDA. The Developer will continue the process of pursuing construction permits for the project.

*Prepared by:* Nicole Gonzales, Deputy Director, Finance

*Recommended by:* Jennifer Ott, Assistant City Manager

Approved by:



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Kelly McAdoo, City Manager



HAYWARD CITY COUNCIL

RESOLUTION NO. 22 – \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FIRST AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH EDEN HOUSING, PACIFIC WEST COMMUNITIES, AND STRATEGIC GROWTH PARTNERS AND OTHER AFFILIATED ENTITIES FOR TRANSFER OF SPECIFIED CITY OWNED PROPERTIES WITHIN PARCEL GROUP 3 AND AMENDMENTS TO EXHIBITS ATTACHED THERETO INCLUDING THE RESTRICTIVE USE COVENANT AGREEMENT; AND APPROVING MODIFICATIONS TO THE PARCEL GROUP 3 AFFORDABLE HOUSING PLAN (PLANNING APPLICATION #202001594)

WHEREAS, the City of Hayward (the “City”) entered into a Purchase and Sale Agreement (PSA) with Caltrans in January 2016 to acquire 10 parcel groups comprised of properties acquired by Caltrans for the State Route 238 expansion project; and

WHEREAS, Caltrans has transferred those properties to the City subject to the City managing the disposition and development of these former State Route 238 parcel groups with the goals of removing blight, enhancing community involvement in the development process, and creating economic and public benefits, such as job generating uses and trails and parks; and

WHEREAS, as the City sells or transfers particular parcels, the City is obligated to repay Caltrans the negotiated purchase prices for the various parcel groups under the PSA; and

WHEREAS, in April 2018, the Council approved the issuance of a Request for Proposals (RFP) for the cluster of parcels located north of Tennyson Road and east of 16th Street, referred to as “Parcel Group 3,” which was intended to facilitate the re-sale of the parcels through a competitive process to ensure the best price and land use for the City; and

WHEREAS, in July 2018, the Council authorized the City Manager to negotiate and enter into an Exclusive Negotiating Rights Agreement (ENRA) with the proposed Developer (Eden Housing and Pacific West Communities), based on their proposal to construct a minimum of 150 affordable housing units and a public community school on the Parcel Group 3 properties; and

WHEREAS, after significant due diligence and site planning efforts, the Developer submitted an application for development of two five-story residential buildings comprised of 176 affordable rental housing units, a two-story 36,000-square-foot public community school for up to 384 preschool and elementary students, and indoor and outdoor amenity spaces located north of Tennyson Road between 16th Street and the future La Vista Park; and

WHEREAS, the application required approval of a Site Plan Review, Administrative Use Permit, and Density Bonus application, which was approved by the Planning Commission on July 22, 2021; and

WHEREAS, the approval was then appealed to the Council, which the Council denied on September 28, 2021; and

WHEREAS, in October 2021, the City, Eden Housing and Pacific West Communities, and Strategic Growth Partners (the Developers) successfully completed the obligations under the ENRA and entered into a Disposition and Development Agreement (the “DDA”); and

WHEREAS, the City executed a DDA with the Developers for the disposition from the City to Developers for a total purchase price of \$3,552,000 for the following parcels: a 4.6-acre parcel to be transferred for the development of 176 new affordable rental housing units (Housing Parcel); a 3.2-acre parcel for the development of a new school (School Parcel herein after referred to as the “Adjacent Parcel”); and 21 parcels of land zoned for single family housing (Single Family Parcels); and

WHEREAS, amendments to the Parcel Group 3 Affordable Housing Plan were approved in October 2021 to address conflicting affordability requirements between funding sources and State Density Bonus law and more accurately reflect the unit mix of the affordable housing development project. The Developer has requested additional revisions to the Parcel Group 3 Affordable Housing Plan to address feasibility issues related to interest rate increases and cost escalation factors; and

WHEREAS, independent of the DDA the City is obligated to construct the keyway improvements associated with La Vista Park. Under the DDA, the City has agreed to prioritize the construction of specified portions of the La Vista Park Keyway. The construction of the La Vista Park Keyway is consistent with the prior CEQA determination for the updated La Vista Park design presented and approved by the Council on September 28, 2021. The amendment contemplates an update to the construction schedule for the keyway improvements; and

WHEREAS, since approval of the DDA, the Developer requested changes to the DDA and Affordable Housing Plan to allow development of housing and all of the site-related infrastructure to commence ahead of the development of the Adjacent Parcel, to provide more flexibility in the timing of development and allowable development uses of the Adjacent Parcel, to address feasibility issues related to interest rate increases and cost escalation factors, and to update schedule of performance for the various aspects of the Project (including the construction of the Keyway Improvements); and

WHEREAS, staff is recommending that the Council authorize the City Manager to negotiate and execute amendments to the DDA consistent with the Developer’s request.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward authorizes the City Manager or designee to execute the First Amendment to the DDA, and all ancillary documents attached thereto, on behalf of the City in substantial conformance to the terms outlined in the staff report, subject to such nonsubstantive or minor modifications or amendments as may be necessary to complete the transactions contemplated hereby, and subject further to the City Attorney’s approval as to form.

BE IT FURTHER RESOLVED that the City Manager or designee shall execute such other instruments, and take any and all other action, as may be reasonably necessary to complete the disposition and acquisition of the SR 238 Parcel Group 3 properties, and to close escrow on, as contemplated in the first amendment to the DDA.

BE IT FURTHER RESOLVED that the Council approves amendments to the Parcel Group 3 Affordable Housing Plan contained as Attachment III to the staff report, following adoption of this Resolution.

BE IT FURTHER RESOLVED that the City Council designates the City Clerk as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the office of the City Clerk, at 777 B Street, Fourth Floor, Hayward, CA 94541.

BE IT FURTHER RESOLVED that this Resolution shall take immediate effect from and after its passage.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022

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

**Affordable Housing Plan  
Hayward Parcel Group 3 / La Vista  
Planning Application #202001594  
Applicant: Eden Housing**

The Eden/TPC development team is proposing a 100% affordable housing project consisting of 176 total units. With the exception of two manager's units, all of the units will be restricted to income-eligible households under State Density Bonus Law (AB1763) ("DB-Restricted Units"). Of the 174 DB-Restricted Units, four (4) units will be restricted in perpetuity ("AHO-Restricted Units") under the City of Hayward's Affordable Housing Ordinance (AHO). This Affordable Housing Plan also outlines how the development team will meet the requirements of the Density Bonus Law and the AHO.

- a. **Location:** Adjacent to Tennyson Road, East 16<sup>th</sup> Street and Calhoun Street

**APNs:** 078C-0626-003-16; 078C-0626-003-09; 078C-0626-001-07

**Structure:** Attached

**Proposed Tenure:** Rental

**Unit Sizes:** See Proposed Unit Matrix Summary Table.

**Calculation of AHO-Restricted Units :**

- Density permitted without Density Bonus Law: 12 units/acre
- Total number of units permitted without Density Bonus Law: 12 units/acre \* 4.6 acres = 55.2 units, round down to 55 units
- 55 total units \* 6 percent (minimum requirement for on-site rental units) = 4 AHO-Restricted Units (rounded up from 3.3 units)
- 3% of units at Very Low Income: 3% \* 55 units = 1.65 units, round up to 2 units
- 3% of units at Low Income: 3% \* 55 units = 1.65 units, round up to 2 units
- 

- b. **Floor or site plan depicting the location of the Affordable Units:**

100% of the units will be restricted as affordable units. See enclosed floor and site plans (Sheets AR-1.0 – AR-2.4). Please note that on the plans S1 units are studio units, A1 units are 1-bedroom units, B1 units are 2-bedroom units, and C1 units are 3-bedroom units.

- c. **Income levels of each Affordable Unit:**

See Unit Matrix Summary Tables.

- d. **Phased Residential Development Projects:**

N/A

- e. **Concessions/Incentives requested by the Applicant:**

As a 100% affordable housing development that is located within 0.5 mile of the South Hayward BART Station, the Project is entitled to up to 4 concessions. The following concessions are requested:

1. *Concession #1 – Group Open Space:* The proposed design involves 13,160 sf of on-site courtyard space in between the two residential buildings. This space will be programmed for

- outdoor recreation and will include a play structure for children as well. Although this space does not meet Hayward's requirement of 150 SF per unit of on-site public open space, the project will be located directly adjacent to the new La Vista Park that is currently in development. This park will include over 50 Acres of programmed open space, and as part of our development agreement with the City of Hayward, we will be providing pedestrian access from the doorstep of both the residential and school buildings up to the future La Vista Park and SD-7 Foothill Trail.
2. *Concession #2 –Rear Yard Setback Requirements:* Current zoning code requires 20' of rear yard setback. The project proposes 15'-2" due to limited space and site constraints as illustrated in the site plan.
  3. *Concession #3 – City of Hayward's Reach Code Electric Vehicle Charging Requirements:* The City of Hayward's Reach Code requires that 75% of the project's dwelling units with one or more parking spaces be provided with at least one Level 2 EV Ready space and that the remaining 25% of project's units be provided with at least one Level 2 EV Capable space. Due to the considerable cost associated with fully meeting the Reach Code's electric vehicle charging requirement, the project will instead meet the electric vehicle charging requirements of the California Tax Credit Allocation Committee (CTCAC), which are dictated by the 2019 California Building Standards Code.
  4. *Concession #4 – Not used.*

**f. Method of meeting Section 10-17.205:**

- b. On-site rental Affordable Units

**g. Marketing Plan:**

Eden Housing will submit preliminary Marketing Plan for review and will submit to the Housing Division final Marketing Plan either earlier of (a) one hundred twenty (120) days prior to completion of construction or (b) sixty (60) days prior to marketing the Units in the Development

**h. Affordable Housing Unit Mix :**

The Developer has elected to use two standards of income and rent restrictions to restrict 100% of the units as affordable housing as permitted by the Density Bonus Law. To comply with both the Density Bonus Law and the AHO, 20% of the Units (36 units) will be restricted per **Table 1** at or below the applicable Health and Safety Code rent and income limit standards (see below). These units will have a deeper tax credit affordability level to ensure compliance with both tax credit and Health and Safety Code rent standards. 2 of the Very Low-income Units and 2 of the Low-Income units will be restricted in perpetuity as indicated in **Table 1** to comply with the AHO. The remaining 80% of the DB restricted units will be restricted at or below the tax credit income levels with the corresponding rent limit as indicated in **Table 2**.

**Unit Mix Summary Tables****Table 1: Health and Safety Code Section 50053 Rent Standard Unit Mix**

<b>Unit Type (bedroom)</b>	<b>SF</b>	<b>Very Low-Income Units (30% AMI TCAC unit)</b>	<b>Low-Income Units (50% AMI TCAC unit)</b>
<i>Studio</i>	<i>Approx.416 sf</i>	4 <i>(Includes 1 AHO Restricted Unit)</i>	4
<i>1-BR</i>	<i>Approx.547 sf</i>	5	5 <i>(Includes 1 AHO Restricted Unit)</i>
<i>2-BR</i>	<i>Approx. 700 - 776 sf</i>	4 <i>(Includes 1 AHO Restricted Unit)</i>	4
<i>3-BR</i>	<i>Approx.986 sf</i>	5	5 <i>(Includes 1 AHO Restricted Unit)</i>
<i>Total</i>		18	18

**Table 1 Income limit:** Established by California Housing and Community Development based on Title 25 of the California Code of Regulations, Section 6932

**Table 1 Rent limit:** Established by California Health and Safety Code Section 50053

Total number of units: 36

**Table 2: Tax Credit Rent Standard Unit Mix**

<b>Unit Type (bedroom)</b>	<b>SF</b>	<b>30% AMI TCAC unit</b>	<b>50% AMI TCAC unit</b>	<b>60% AMI TCAC unit</b>	<b>80% AMI TCAC unit</b>
<i>Studio</i>	<i>Approx.416 sf</i>	<i>0</i>	<i>0</i>	<i>19</i>	<i>11</i>
<i>1-BR</i>	<i>Approx.547 sf</i>	<i>3</i>	<i>9</i>	<i>16</i>	<i>9</i>
<i>2-BR</i>	<i>Approx.700- 776 sf</i>	<i>0</i>	<i>6</i>	<i>15</i>	<i>15</i>
<i>3-BR</i>	<i>Approx.986 sf</i>	<i>0</i>	<i>5</i>	<i>15</i>	<i>15</i>
<i>Total</i>		<i>3</i>	<i>20</i>	<i>65</i>	<i>50</i>

**Table 2 Rent and Income Limit:** Established by the California Tax Credit Allocation Committee.

#### **Regional Housing Needs Allocation Compliance**

Based on the targeted income levels, the project will provide the following affordability levels for the purpose of meeting the City's Regional Housing Needs Allocation:

- Very Low Income: 59 Units
- Low-Income: 115 Units

#### **Additional affordability terms related to the Disposition and Development Agreement**

In addition, the Eden/TPC development team will voluntarily record an affordable housing covenant that will restrict the use of the property to 100% affordable housing project with all units to be made available for occupancy by very low and low income households at an affordable rent in perpetuity. For purposes of this covenant, the term "low-income households" shall refer to households earning no more than 80% of AMI, with rents restricted to no more than 30% of 80% of AMI. The City shall have third-party beneficiary status under the affordable housing covenant.



BUILDING A  
 S1 = 18 UNITS (20.5)  
 A1 = 12 UNITS (13.5)

B 4  
 1 4  
 = U





	BUILDING B	TOTAL
0)	S1 = 20 UNITS (22.5)	S1 = 38 UNITS (21.5)
C1= 14 UNITS (16)	A1 = 35 UNITS (39)	A1 = 47 UNITS (26.5)
TOTAL = 88 UNITS	B1= 0 UNITS (0)	B1= 44 UNITS (25)
	C1= 33 UNITS (38.5)	C1= 47 UNITS (27)
	TOTAL = 88 UNITS	TOTAL = 176 UNITS

1"=40'-  
0"

0 20'

# AR-1.0



NORTH

40' 80' 120'

LA VISTA RESIDENTIAL

HAYWARD, CA

CONCEPTUAL SITE PLAN

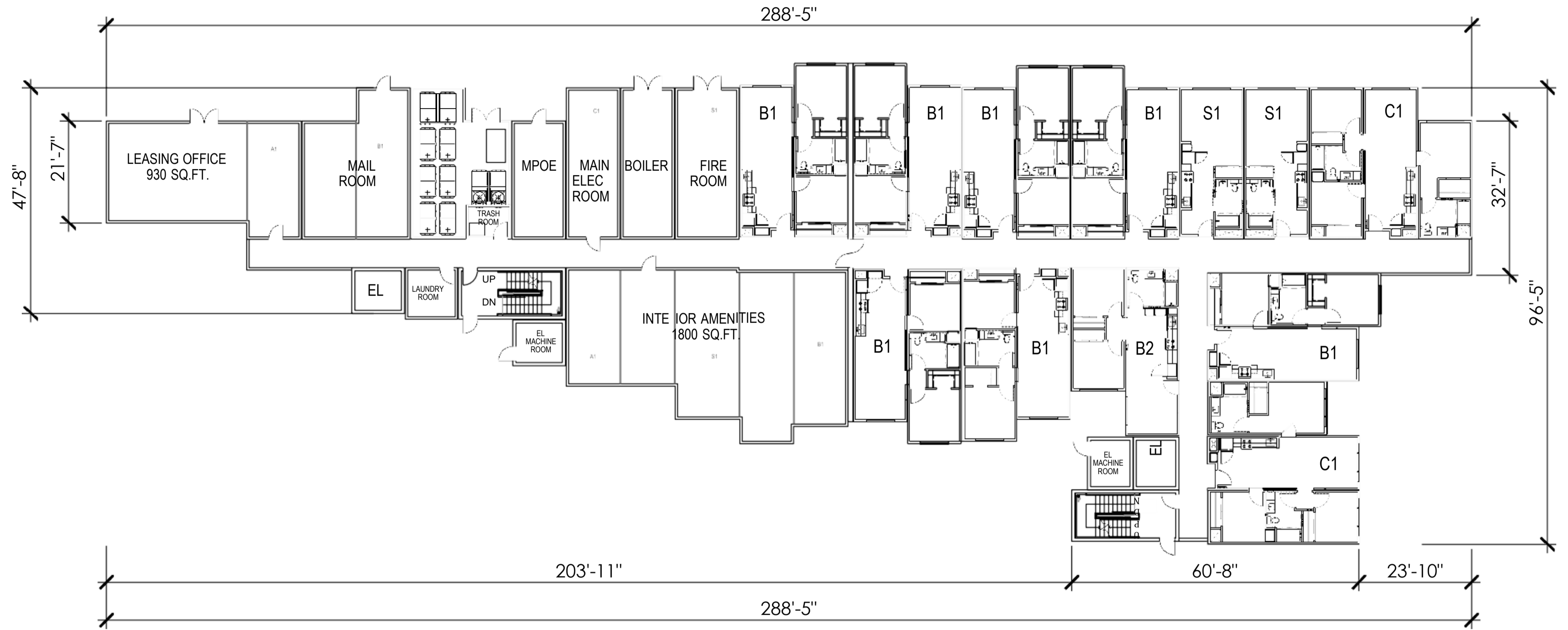
DATE: 05-12-2021

15'-2"

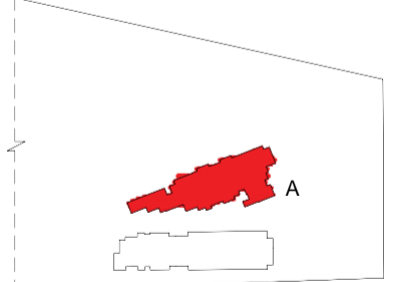
PACIFIC WEST COMMUNITIES, INC

JOB NO.: 2018-201  
**AO ARCHITECTS**  
144 NORTH ORANGE ST., ORANGE, CA 92866  
(714) 639-9860

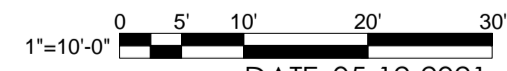




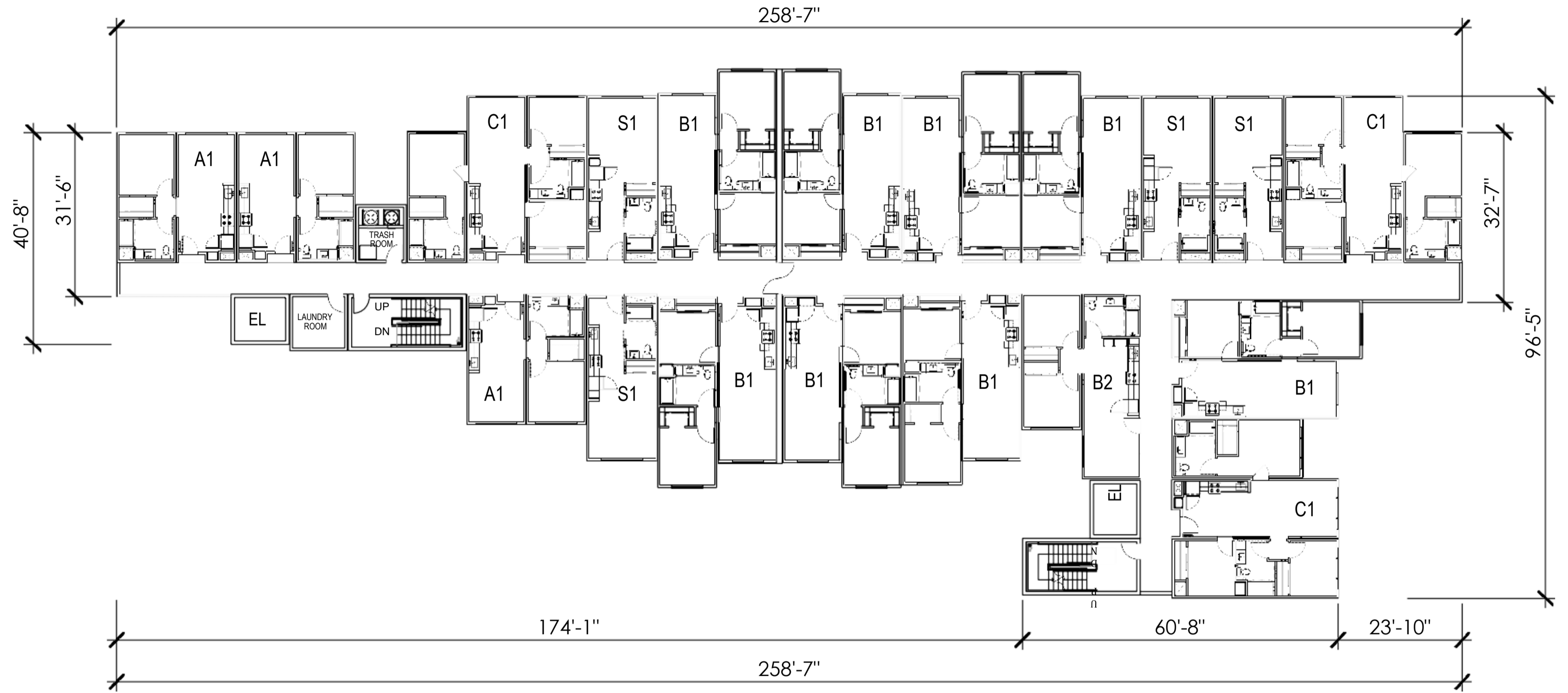
GROUND FLOOR PLAN



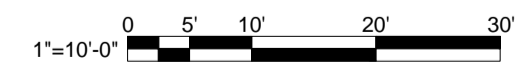
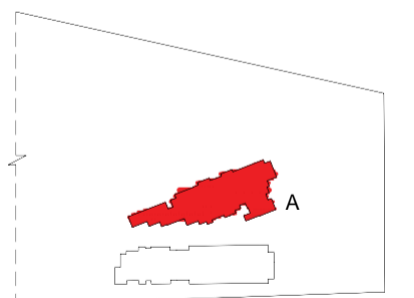
NORTH



AR-2.0



TYPICAL UPPER FLOOR PLAN



DATE: 05-12-2021  
 JOB NO.: 2018-201

LA VISTA RESIDENTIAL  
 PACIFIC WEST COMMUNITIES, INC

HAYWARD, CA

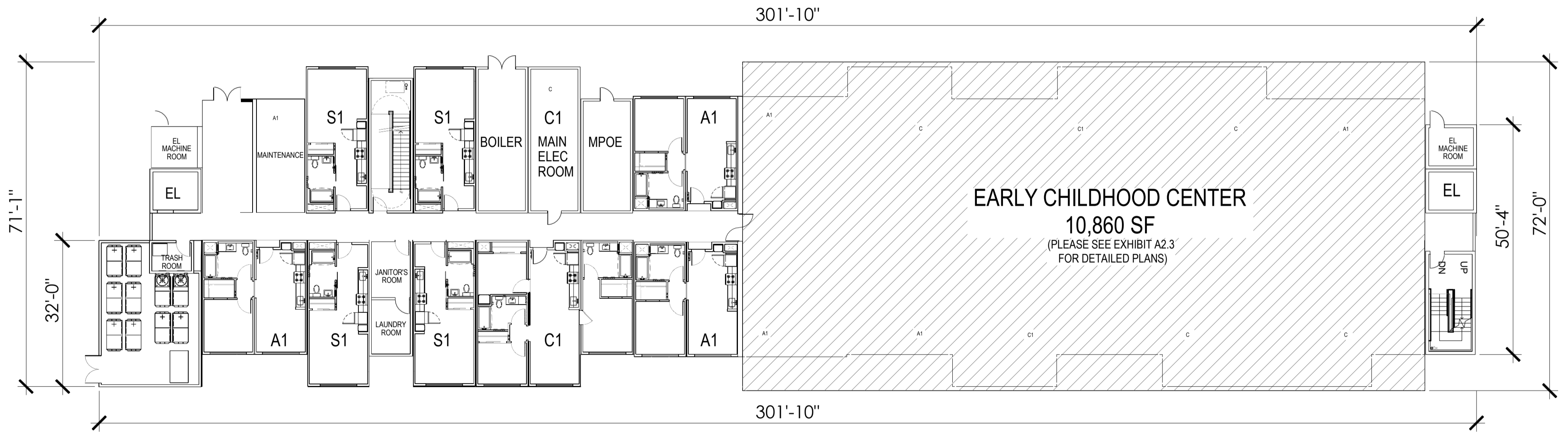
CONCEPTUAL BLDG. PLANS - BLDG. B

AO ARCHITECTS

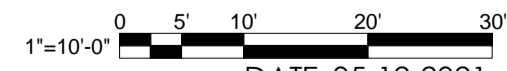
144 NORTH ORANGE ST., ORANGE, CA 92866  
 (714) 639-9860

AR-2.1





GROUND FLOOR PLAN



DATE: 05-12-2021  
 JOB NO.: 2018-201

LA VISTA RESIDENTIAL  
 PACIFIC WEST COMMUNITIES, INC

HAYWARD, CA

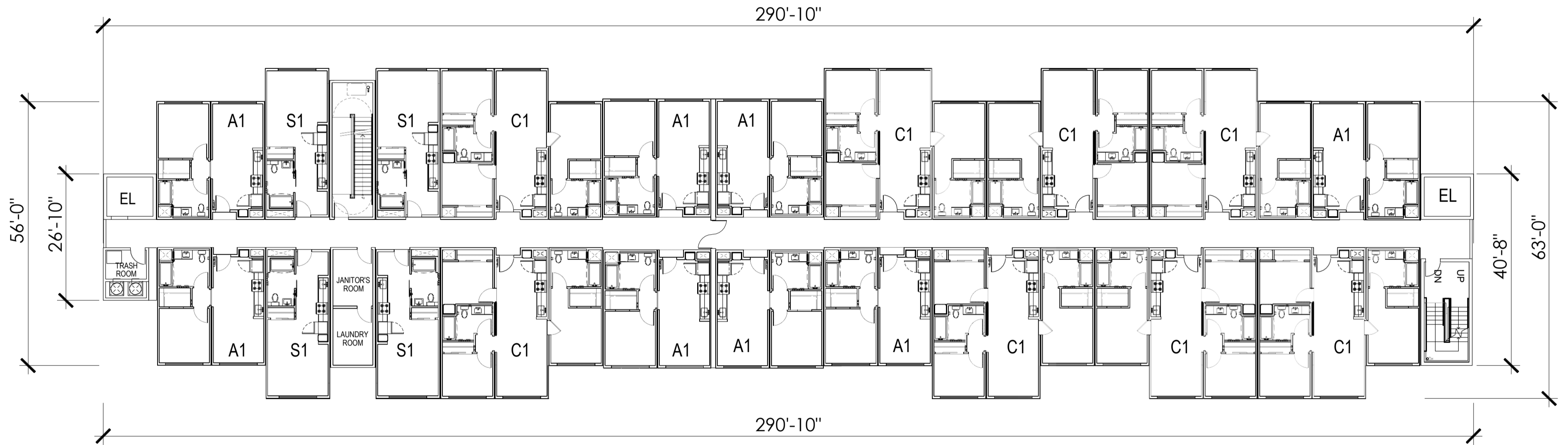
CONCEPTUAL BLDG. PLANS - BLDG. B

AO ARCHITECTS

144 NORTH ORANGE ST., ORANGE, CA 92866  
 (714) 639-9860

AR-2.3





TYPICAL UPPER FLOOR PLAN



1"=10'-0"

DATE: 05-12-2021  
JOB NO.: 2018-201

LA VISTA RESIDENTIAL  
PACIFIC WEST COMMUNITIES, INC

HAYWARD, CA

CONCEPTUAL BLDG. PLANS - BLDG. B

AO ARCHITECTS

144 NORTH ORANGE ST., ORANGE, CA 92866  
(714) 639-9860

AR-2.4





# CITY OF HAYWARD

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

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**File #:** CONS 22-624

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Finance

**SUBJECT**

Adoption of a Resolution Supporting Public Bank East Bay and Authorizing a Letter of Support to the Alameda County Board of Supervisors

**RECOMMENDATION**

That the Council adopts a resolution (Attachment II) approving support of Public Bank East Bay, and letter of support to the Alameda County Board of Supervisors supporting participation in Public Bank East Bay (Attachment III).

**SUMMARY**

This report provides an overview of Public Bank East Bay including a recommendation that Council adopts a resolution in support of the Public Bank East Bay and a letter of support to Alameda County Board of Supervisors. The Council Budget and Finance Committee reviewed this item on September 21, 2022 and recommended approval to Council.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	City Public Banking Letter of Support



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Finance

**SUBJECT:** Adoption of a Resolution Supporting Public Bank East Bay and Authorizing a Letter of Support to the Alameda County Board of Supervisors

## **RECOMMENDATION**

That the Council adopts a resolution (Attachment II) approving support of Public Bank East Bay, and letter of support to the Alameda County Board of Supervisors supporting participation in Public Bank East Bay (Attachment III).

## **SUMMARY**

This report provides an overview of Public Bank East Bay including a recommendation that Council adopts a resolution in support of the Public Bank East Bay and a letter of support to Alameda County Board of Supervisors. The Council Budget and Finance Committee reviewed this item on September 21, 2022 and recommended approval to Council.

## **BACKGROUND**

In September 2019, the California state legislature passed AB 857, the Public Banking Act. Public banking is a financial institution owned by public entities, such as cities and counties. Public banking is banking operated in the public interest, through institutions owned by the people through their representative governments. In November 2021, Public Bank East Bay provided the Council Budget and Finance Committee (Committee) with a presentation on its institution, an overview of how public banking works, and an overview of its model and next steps. In April 2022, Public Bank East Bay returned to the Committee with a presentation of the East Bay Viability Study and requested the Committee's support in moving forward with a draft resolution of support for the Public Bank East Bay and letter of support to the Alameda County Board of Supervisors. On September 21, 2022<sup>1</sup>, the Committee received staff-recommended revisions to the draft resolution and letter. The Committee reviewed the recommended revisions and recommended that the resolution and letter of support to the Alameda County Board of Supervisors be presented to the full City Council for consideration and adoption of the resolution.

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<sup>1</sup> [CITY OF HAYWARD - File #: ACT 22-087 \(Legistart.com\)](#)



## **DISCUSSION**

During the last fiscal year, Public Bank East Bay has presented the Committee with information about the services provided and requested support from the City of Hayward. In April 2022, a draft resolution in support of the Public Bank East Bay was presented to the Committee with a request to support the resolution and letter to be sent to the Alameda County Board of Supervisors on behalf of the City of Hayward. The Committee expressed support for the draft resolution and letter to the Alameda County Board of Supervisors fully supporting its participation in Public Bank East Bay, but did not support the commitment of the City of Hayward to participating in Public Bank East Bay at that time.

In September 2022, Public Bank East Bay returned to the Committee to review staff-recommended revisions to the draft resolution for consideration and feedback. During the September Committee meeting, staff recommended revisions to clarify the City's intentions and commitment to participating in Public Bank East Bay, while clearly defining the City's support for Alameda County in its participation in Public Bank East Bay.

This agenda item is a request for Council's consideration to adopt a resolution and letter to the Alameda County Board of Supervisors supporting participation in Public Bank East Bay. The resolution does not reflect the City's participation in Public Bank East Bay at this time.

## **ECONOMIC IMPACT**

This is an informational item and has no direct economic impact.

## **FISCAL IMPACT**

This is an informational item and has no direct fiscal impact at this point in time.

## **NEXT STEPS**

Should Council adopt the resolution and letter to the Alameda County Board of Supervisors supporting participation in Public Bank East Bay, staff will notify Public Bank East Bay of the actions taken by City Council and will share the resolution and letter with the Board of Supervisors.

*Prepared by:* Nicole Gonzales, Deputy Director of Finance  
Dustin Claussen, Director of Finance

*Reviewed by:* Dustin Claussen, Director of Finance

Approved by:

A handwritten signature in black ink, appearing to read "K. McAdoo", with a long horizontal stroke extending to the right.

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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING THE SUPPORT OF PUBLIC BANK EAST BAY AND  
LETTER OF SUPPORT TO ALAMEDA COUNTY BOARD OF SUPERVISORS  
FULLY SUPPORTING ITS PARTICIPATION IN PUBLIC BANK EAST BAY

WHEREAS, in 2019, the Governor signed AB 857, known as the Public Banking Act, which lays out the path for local governmental agencies to start public banks; and

WHEREAS, the State Department of Financial Protection and Innovation, the agency that licenses new banks, has issued its regulations for licensing public banks; and

WHEREAS, the Friends of the Public Bank East Bay have completed a Viability Study, and the Richmond City Council approved it on April 5, 2022; and

WHEREAS, Hayward may choose to become a member of Public Bank East Bay through contributions to the Bank's capital fund or movement of other City deposits to the Public Bank in due time; and

WHEREAS, the Friends of the Public Bank East Bay has not yet received firm commitments from the Alameda County Board of Supervisors.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Hayward supports further exploration of the creation of the Public Bank East Bay; and

BE IT FURTHER RESOLVED, that the City Council authorizes sending the attached letter of support for the Public Bank East Bay signed by the Mayor to the Alameda County Board of Supervisors.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022

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

November XX, 2022

Alameda County Board of Supervisors  
1221 Oak Street, #536  
Oakland, CA 94612

Dear County Supervisors,

The Hayward City Council supports the creation of the Public Bank East Bay and urges you to formally endorse it as well.

The Friends of the Public Bank, a 501(c)(3), in March completed the state-mandated Viability Study which lays out the high-level plan for the Bank, specifically that the Bank will partner with community-based lenders like community banks, credit unions, and Community Development Financial Institutions (CDFIs) to deliver affordable financing and emergency funding to small and worker-owned businesses in neighborhoods hit hardest by COVID-19 and environmental injustices. The Public Bank East Bay will invest in economic initiatives and projects that build wealth rather than extract it, such as permanently affordable housing, community-controlled renewable energy infrastructure, and refinancing municipal debt.

The Friends acknowledge that the governance plan for the Public Bank will have to be approved by the regulatory authorities, and therefore may change, but they are committed to ensuring that members of the most economically marginalized communities are represented on the Bank's Board and directly involved in shaping lending policies and governance. The Hayward City Council supports the mission of the Public Bank East Bay to democratize finance and use public money for the public good, and urges the Board to also support the creation of the Bank.

Sincerely,

Barbara Halliday,  
Mayor on behalf of the Hayward City Council



# CITY OF HAYWARD

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

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**File #:** PH 22-056

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Development Services Director and Fire Chief

**SUBJECT**

Building and Fire Code Updates: Introduction of Ordinances and Adoption of Resolutions Adopting the California Code of Regulations 2022 Edition of Title 24, Including the 2022 Building, Fire, Plumbing, Mechanical, Electrical, Energy and Green Building Codes, and Related Amendments

**RECOMMENDATION**

That the Council introduces the attached ordinances (Attachments II and V) and adopts the attached resolutions (Attachment III and IV) adopting the California Code of Regulations 2022 Edition of Title 24, including the 2022 Building, Fire, Plumbing, Mechanical, Electrical, Energy and Green Building Codes, and Related Amendments.

**SUMMARY**

Every three years, all of the codes that regulate construction in California (Title 24 of the California Code of Regulations) are comprehensively updated by the State of California. Jurisdictions throughout California adopt the State codes to serve as local codes, sometimes with amendments to the State codes, as Hayward has done historically. Regardless of local adoption, the 2022 State codes will be in effect throughout California on January 1, 2023.

This report, along with attached ordinances and resolutions, recommends that the Council adopts the State Codes with some amendments and codifies the Building Codes to become part of Chapter 9 (Building Regulations) of the Hayward Municipal Code. The recommended action will allow the code regulations to be more accessible and usable by the public.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Building Code Draft Ordinance
Attachment III	Building Code Resolution
Attachment IV	Fire Code Resolution
Attachment V	Fire Code Draft Ordinance

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**File #:** PH 22-056

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Development Services Director and Fire Chief

**SUBJECT:** Building and Fire Code Updates: Introduction of Ordinances and Adoption of Resolutions Adopting the California Code of Regulations 2022 Edition of Title 24, including the 2022 Building, Fire, Plumbing, Mechanical, Electrical, Energy and Green Building Codes, and Related Amendments.

## **RECOMMENDATION**

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## **SUMMARY**

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This report, along with attached ordinances and resolutions, recommends that the Council adopts the State Codes with some amendments and codifies the Building Codes to become part of Chapter 9 (Building Regulations) of the Hayward Municipal Code. The recommended action will allow the code regulations to be more accessible and usable by the public.

## **BACKGROUND**

The California Code of Regulations Title 24 is a comprehensive series of regulations that governs all aspects of construction. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety, and general welfare. This set of codes covers everything from fire safety to green building and energy efficiency. State law requires that all communities enforce these building standards in their entirety. The enforcement of these regulations is accomplished through a combination of permitting, plan review, and onsite field inspections. The Building Division of the Development Services Department is responsible for enforcing the majority of Title 24 in Hayward. The Hayward Fire Department



is specifically responsible for enforcing Part 9 of Title 24, which is the California Fire Code. Title 24 covers five broad topics:

- LIFE SAFETY (earthquake and fire safety through the Building Code and Fire Code)
- ENVIRONMENTAL QUALITY, SAFETY and SANITATION (core system functioning - through the Plumbing Code, Electrical Code, and Mechanical Code)
- CIVIL RIGHTS (disabled access provisions through the Building Code)
- ENERGY CONSERVATION (through the Energy Code)
- GREEN BUILDING (through the California Green Building Standards Code, or 'CalGreen').

## **DISCUSSION**

Most jurisdictions undergo a code adoption process every three years to formally incorporate the California Building Code and Fire Code into their municipal regulations. This local adoption process is not mandatory since state law automatically requires all jurisdictions in California to enforce the current version of Title 24 on the effective date. However, if the local jurisdiction chooses to modify the state codes in any way, this must be done through an ordinance. There are specific guidelines for this local adoption process in state law. The modifications proposed by any local jurisdiction must meet the following criteria:

- Local code amendments must not be less restrictive than the state codes.
- Technical modifications must have reasonable findings based on climatic, geological, or topographical conditions that impose particular constraints within the jurisdiction.
- Findings related to local conditions must be submitted to the California Building Standards Commission for recordation.
- Changes to the administrative sections of the code (non-technical components) do not require findings. Examples include policies related to refunds or plan review expiration.

### *Building Code (Attachments II and III)*

As part of this code cycle, staff is recommending making several changes to the administrative section of the Building Code and making three technical changes/amendments based on the City's seismic zone. To view these changes and a brief explanation of the rationale, please see the second page of Attachment II (2022 Building Code Ordinance) for a summary. For the full rationale, please see Attachment III (2022 Building Code Resolution).

### *Fire Code (Attachments IV and V)*

Staff is recommending that Council adopts the 2022 California Fire Code and local amendments to the Hayward Fire Ordinance, which can be seen in Attachment V. The amendments are designed to ease the approval for development review by standardizing Hayward's local code with neighboring jurisdictions and deleting sections where the State Fire Code has caught up with the local code. In the past, Council passed reach codes that exceeded State requirements. Since then, the State has incorporated these elements into the State Code. The amendments to the local ordinance also include cleanup language to incorporate previously adopted amendments designating a Hazardous Fire Area in the Hayward Hills and clarifying the construction method requirements within the Hazardous Fire Area.

## **ECONOMIC IMPACT**

The California Energy Commission (CEC) estimates that the new 2022 standards will increase the construction costs of a home; however, the secondary ownership benefits outweigh the costs of construction in energy and efficiency gains made to the structure. Heat pump technology with the added requirements for Electric Vehicle (EV) chargers and solar Photovoltaic (PV) systems will reduce gas usage. With additional restrictions on gas systems, Hayward will be moving towards the goals of electrification by 2045 and over the life of the structure the monetary savings will be recouped.

The remainder of the Building Code and Fire Code updates outside of the energy regulations are incremental in nature and do not represent any substantial changes that will have an economic impact.

## **FISCAL IMPACT**

With the increase in efficiency moving into Zero Net Energy standards (*ZNE*)<sup>1</sup>, enforcement of the new codes will have an impact on staff. Additional training is required, and projects will take longer to complete during the plan review and inspection stages. Staff does not foresee an immediate substantial fiscal impact from adopting the new codes; however, over the course of the code cycle, staffing may need to be adjusted (internally and/or through consulting services) to maintain present review timelines. There also may be a need to increase the training budget as staff learns and implements these new standards. Costs for additional staffing or consulting services are offset by revenues collected through permit fees.

## **STRATEGIC ROADMAP**

This agenda item does not directly relate to the Council's Strategic Roadmap.

## **SUSTAINABILITY FEATURES**

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<sup>1</sup> ***Zero Net Energy*** means that the total amount of energy consumed by a building on an annual basis is equal to the amount of renewable energy produced on site.

The 2022 update to the CEC's Building Energy Efficiency Standards focuses on several key areas to improve the energy efficiency of newly constructed buildings, as well as additions and alterations to existing buildings. The most significant efficiency improvements to the Residential Standards include: (1) encouraging electric heat pump technology and use; (2) establishing electric-ready requirements when natural gas is installed; (3) expanding solar photovoltaic (PV) system and battery storage standards; and (4) strengthening ventilation standards to improve indoor air quality. Significant efficiency improvements to the Nonresidential Standards include: (1) establishing combined solar PV and battery standards for select businesses; (2) establishing new efficiency standards for commercial greenhouses (primarily cannabis growing); and (3) improving efficiency standards for building envelope, various internal systems, and grid integration equipment, such as demand-responsive controls to buoy grid stability. The 2022 Energy Code update revises energy efficiency standards for newly constructed buildings, as well as alterations to existing buildings. The new goal for the CEC will be based on obtaining Zero Net Carbon by 2045 and dramatically reducing Green House Gases (GHG). The most notable shift will be to move away from the use of natural gas and fuel burning appliances, and utilizing heat pump technology for water and space heating.

**The following strategies represent the accomplishment of the 2022 Standards Goals-Path to the Future:**

- Increase building energy efficiency cost effectively by designing buildings that meet minimum **Energy Design Ratings (EDR)<sup>2</sup>**
- Contribute to the State's GHG reduction goals
- Substantially reduce the homes' impact on the grid through efficiency and PV
- Promote grid harmonization and self-utilization of PV generation
- \*Provide tools for title 24 Part 11 (CalGreen) Reach Codes.

\*NOTE: Reach codes for 100% electrification of new structures as well as provisions for enhanced EV charging readiness are currently being developed by the Environmental Services Division which will be introduced separately from this standard code adoption process. For more information on the subject please visit <https://www.hayward-ca.gov/reach-code>.

**PUBLIC CONTACT**

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<sup>2</sup> **\*Energy Design Rating** – According to the California Energy Commission, the Energy Design Rating (EDR) is a way to express the energy performance of a building using a scoring system where 100 represents the energy performance of a home designed to meet the 2006 Energy Code and 0 represents the energy performance of a home that combines high levels of energy efficiency with renewable generation to “zero out” its time-dependent value (TDV) of energy. As defined in the cost-effectiveness studies, the TDV calculation is “intended to capture the “societal value or cost” of energy use including long-term projected costs such as the cost of providing energy during peak periods of demand and other societal costs such as projected costs for carbon emissions, as well as grid transmission and distribution impacts. This metric values energy uses differently depending on the fuel source (gas, electricity, and propane), time of day, and season. Electricity used (or saved) during peak periods has a much higher value than electricity used (or saved) during off-peak periods (Horii et al., 2014). This is the methodology used by the Energy Commission in evaluating cost-effectiveness for efficiency measures in Title 24, Part 6.

Staff has directly contacted all developers with active projects that are nearing submittal to notify them of the upcoming code changes. Staff will also include notifications on the City's website and provide useful links for developers and homeowners to learn about the new codes.

## **NEXT STEPS**

If the Council adopts the attached resolutions, determining the need to modify the 2022 California Building Code and California Fire Code, and introduces the attached ordinances, the ordinances will be adopted on November 15, 2022, and the new 2022 codes with amendments will be in effect on January 1, 2023.

*Prepared by:* Omar Noorzad, Chief Building Official  
Miles Massone, Fire Marshal

*Recommended by:* Jennifer Ott, Assistant City Manager/Development Services Director  
Garrett Contreras, Fire Chief

Approved by:



---

Kelly McAdoo, City Manager

ORDINANCE NO. 22-

AN ORDINANCE ESTABLISHING A BUILDING CODE FOR THE CITY OF HAYWARD; REGULATING THE CONSTRUCTION, ALTERATION, REPAIR, AND MAINTENANCE OF STRUCTURES; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES; REPEALING CHAPTER 9 ARTICLE 1, AND ALL AMENDMENTS THERETO

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

Section 1. In accordance with state law, effective January 1, 2023, Chapter 9 Article 1 and all amendments thereto, is hereby repealed and in substitution thereof a new Building Code for the City of Hayward is hereby enacted to read as follows:

BUILDING CODE  
OF THE CITY OF HAYWARD

SECTION 1.00  
2022 CALIFORNIA BUILDING CODES, ADOPTION BY REFERENCE.

The 2022 California Building Code (Part 2 of C.C.R. Title 24, based on the 2021 International Building Code), the 2022 California Residential Code (Part 2.5 of C.C.R. Title 24 based on the 2021 International Residential Code), the 2022 California Electrical Code (Part 3 of C.C.R. Title 24 based on the 2020 National Electrical Code), The 2022 California Mechanical Code (Part 4 of C.C.R. Title 24 based on the 2021 Uniform Mechanical Code), the 2022 California Plumbing Code (Part 5 of C.C.R. Title 24 based on the 2021 Uniform Plumbing Code), the 2022 California Energy Code (Part 6 of C.C.R. Title 24), the 2022 California Historical Building Code (Part 8 of C.C.R. Title 24), the 2022 California Existing Building Code (Part 10 of C.C.R. Title 24 based on the 2021 International Existing Building Code), the 2022 California Green Building Standards Code (Part 11 of C.C.R. Title 24), published by the International Code Council, as amended by the State of California pursuant to Health and Safety Code section 17922, and as further modified by the amendments, additions, and deletions as set forth hereinafter, is hereby adopted by reference as the Building Code of the City of Hayward.

A printed copy of such 2022 California Building Codes together with the State and local amendments thereto, is on file in the office of the Building Official, to which reference is hereby made for further particulars.

SECTION 2.00  
SUMMARY OF LOCAL AMENDMENTS

CODE SECTION	Added to Code	Code Change	Deleted from Code	Notes / Justification
CBC 101.1 Title		X		Defines name of jurisdiction
CBC 101.2.1 Appendices		X		Specifies adopted appendices
CBC 103.1		X		Defines name of enforcement agency
CBC 105.1.1			X	Removes option for annual permits
CBC 105.1.2			X	Item is removed since it is related to previous item
CBC 105.3.1.1 Expedited Residential Solar Permitting	X			Establishes a requirement to expedite residential solar applications that meet specific criteria as mandated by AB 2188
CBC 105.3.1.2 Expedited Electric Vehicle Charging Station Permitting	X			Establishes a requirement to expedite electric vehicle charging station applications that meet specific criteria as mandated by AB 1236
CBC 105.3.2		X		Adds clarification to the expiration policy of applications in plan review
CBC 105.5.2 Completion Permits	X			Defines process for “completion permits” -- projects where inspections have been performed but the permit has expired
CBC 105.5.2.1 Completion Permit Fees	X			Establishes fee calculation formula for “completion permits”
CBC 109.2 Permit Fees		X		Makes reference to the Master Fee Schedule adopted by Council
CBC 109.4.1 Investigation Fees for Work Completed Without Permits		X		Clarifies policy for charging additional fees for work conducted without permits
109.6 Refunds		X		Establishes a refund process and percentage of money to be returned
CBC 111.3 Temporary Occupancy		X		Provides clarification on local policy related to “temporary certificate of occupancy”
CBC Ch. 4				See Hayward Fire Code Ordinance for changes related to Ch. 4
CBC Ch. 9				See Hayward Fire Code Ordinance for changes related to Ch. 9
CBC 1705.3 Concrete Construction		X		This amendment improves quality control during construction by modifying the type of exception from requiring special inspection for isolated spread concrete footings of buildings 3 stories or less. <i>Coordinated Regionally with other local jurisdictions. Findings submitted to Building Standards Commission based on geological conditions</i>
CBC 1905.1.7, ACI 318 Section 14.1.4		X		This amendment addresses the problem of poor performance of plain or under-reinforced concrete footings during a seismic event. <i>Coordinated Regionally with other local jurisdictions. Findings submitted to Building Standards Commission based on geological conditions (GC)</i>
CRC Table R602.10.3(3)		X		This amendment addresses the problem of poor performance of gypsum wallboard and Portland cement plaster as wall

				bracing materials in high seismic areas. Coordinated Regionally with other local jurisdictions. Findings submitted to Building Standards Commission based on GC
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SECTION 3.00  
LOCAL AMENDMENTS TO THE CODE BY CHAPTER

**CALIFORNIA BUILDING CODE CHAPTER 1: SCOPE AND ADMINISTRATION**  
**LOCAL AMENDMENTS**

*The administrative local amendments in this chapter shall also apply to the corresponding requirements in the administration chapters of the California Mechanical Code, the California Plumbing Code and the California Electrical Code.*

**101.1 Title.** This section is revised to read as follows:

These regulations shall be known as the Building Code of the City of Hayward. The provisions contained herein are adopted, and together with the local amendments, are referred to hereafter as “these regulations” or “these building standards” or “this code.”

**101.2.1 Appendices.** This section is revised to read as follows:

Wherever in this code reference is made to an appendix chapter, the provisions of the said appendix shall not apply unless specifically adopted by this code. The following appendix chapters are adopted:

1. California Building Code Appendix I: Patio Covers
2. California Building Code Appendix P: Emergency Housing (as amended)
3. California Residential Code Appendix AZ: Emergency Housing (as amended)
2. California Plumbing Code Appendix A: Rules for Sizing the Water Supply System
3. California Plumbing Code Appendix B: Notes on Combination Waste and Vent Systems
4. California Plumbing Code Appendix C: Alternate Plumbing Systems

**103.1 Creation of enforcement agency.** This section is revised to read as follows:

The Building Division of the Development Services Department is hereby created and the official in charge thereof shall be known as the building official.

**105.1.1 Annual permit.** This section is hereby deleted.

**105.1.2 Annual permit records.** This section is hereby deleted.

**105.3.1.1 Expedited Residential Solar Permitting.** A new section is added to read as follows:

The City of Hayward Building Division shall maintain expedited permitting and inspection services for small residential rooftop solar systems as required by AB 2188. This legislation is codified in Subsection (a) of Section 65850.5 of the California Government Code.

The following criteria must be met by the applicant to qualify for the expedited permitting process:

1. The installation must be on a one- or two-family dwelling.
2. The solar energy system shall not be larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
3. The submittal documents shall demonstrate compliance with all applicable codes and shall be legible. The design for the solar system shall include adequate details and/or calculations to confirm minimum code compliance for wind loads, dead loads and roof structure support, electrical system safety and plumbing systems for solar thermal.

The Building Division of the City of Hayward will provide the following services for qualified projects:

1. Checklist: A comprehensive checklist will be maintained on the City of Hayward website that covers the minimum code requirements. If a project submitted for review does not meet the minimum code items noted in the checklist, the applicant will be given a written list of comments specifying the required corrections.
2. Expedited plan review: Expedited plan review shall mean ½ of the normal plan review period for a project. The Building Division will make every effort to issue qualified residential solar permits on the same day as the application if staffing is available to complete the review.
3. Single Inspection: The Building Division and the Fire Prevention Office will coordinate to avoid separate inspection scheduling for small residential solar permits. The Fire Marshall or the building official may require additional inspections if the work inspected initially did not meet minimum code compliance.

**105.3.1.2 Expedited Electric Vehicle Charging Station Permitting.** A new section is added to read as follows:

The City of Hayward Building Division shall maintain expedited permitting for electric vehicle charging stations as required by California Government Code Section 65850.7 (AB 1236).

The Building Division of the City of Hayward will provide the following services for the permitting of Electric Vehicle Charging Stations:



1. Checklist: A link to a comprehensive guidebook and checklists will be maintained on the City of Hayward website that covers the minimum code requirements. If a project submitted for review does not meet the minimum code items noted in the checklists, the applicant will be given a written list of comments specifying the required corrections.
2. Expedited Plan Review: Expedited plan review shall mean one-half of the normal plan review period for a project. The Building Division will make every effort to issue residential (single family or duplex) electric vehicle charging station permits on the same day as the application is submitted if staffing is available to complete the review or will process such applications via electronic submittal. The Building Division will also make every effort to provide expedited plan reviews for commercial or multi-family (condominium or apartment complexes) electric vehicle charging station permits at no extra cost if staffing is available to meet the timelines.

**105.3.2 Time limitation of application.** This section is revised to read as follows:

An application for a permit for any proposed work submitted through the plan review process shall be deemed to have been abandoned 365 days after the date of filing if the plans are not approved. This timeline includes the responses to correction lists. Once the plans are approved, but the building permit has not yet been issued, the application for the permit shall be valid for an additional 180 days. The building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each when an application has expired. The extension shall be requested in writing and justifiable cause demonstrated.

**105.5.2 Completion permits.** A new section, 105.5.2 is added as follows:

In the event due to project abandonment that an initial or a renewed permit expires before the work is complete, the completion of the work shall require the issuance of a “completion” permit and the payment of an additional permit fee; moreover, the building official shall have the authority to require the resubmittal of plans, a new plan review, and/or the updating or reassessment of the valuation of the incomplete work. This completion permit will require that all incomplete work conform to the laws, regulations, rules, and ordinances in effect at the time of issuance and that all work be completed prior to the expiration date; no further extensions or renewals shall be allowed. The completion permit fee shall be established as indicated in Section 105.5.2.1 and in accordance with the schedule of previously completed and inspected work.

Notwithstanding the above, in the event that a permittee fails to complete the work and to obtain a completion permit within 1 year following the expiration of an initial or a renewal permit, the work may not be completed pending the issuance of a new permit. The building official shall have the authority to require the resubmittal of some or all of the plans and specifications, a partial or complete plan review, the payment of additional review and filing fees, and that all work conform to the laws, regulations, rules, and ordinances in effect at the time of the latest permit application.

**105.5.2.1 Fees for completion permits.** A new section, 105.5.2.1 is added as follows:

Fees for completion permits as described in Section 105.5.2 shall be based upon the percentage of work that has passed inspection prior to the expiration of the renewed permit. If either valuation or fees have changed since the original permit was issued, the fees or the valuation shall be updated to the new fees or valuations in effect at the time the completion permit is issued. The percentages to be charged will remain the same.

This schedule is intended to apply to conventional wood frame building construction. In the event that the work is not conventional wood frame construction, or does not constitute a complete building, or is a type of structure other than a building, the building official shall determine the fee based upon the number of the inspections remaining to be performed.

Completed Inspections	% of Updated Valuation
None	60
Foundation	55
Under-floor	50
Shear Wall	40
Rough Frame	30
Lath or Gypsum Board	20
All, except Final	10

**109.2 Schedule of permit fees.** This section is amended to read as follows:

Fees shall be as set forth in a fee schedule adopted, for this purpose, by resolution of the City Council. The said schedule shall establish, but not be limited to, fees for permit issuance and inspections and regular plan reviews. The fees for the plan checking and permit issuance of related items shall also be included in the said fee schedule.

**109.4.1 Investigation fees for work without a permit.** New Section 109.4.1 is added as follows:

Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, the building official shall perform an investigation prior to the issuance of the permit authorizing the work. An investigation fee shall be charged to offset the cost of the said investigation shall be established. This fee shall be in addition to any other regular plan review or permit fee and shall be collected whether or not a permit is then or subsequently issued. The amount of the investigation fee shall be assessed by the building official in accordance with the schedule described in Section 109.2 and based upon the circumstances and extent of the violation, but in no case shall be less than the amount of the permit fee required by this code. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

**109.6 Refunds.** This section is revised to read as follows:

The building official shall not authorize refunding of any fee paid to the Building Division except on written application filed by the original permittee.

The building official may authorize refunding of any fee paid under this code that was erroneously paid or collected.

The building official may authorize the refunding of a maximum of 60% of the initial permit fee paid to the Building Division when no work has been done under an unexpired permit issued in accordance with this code. If no work has been done and an issued permit has expired, the building official may authorize refunding of not more than 30% of the said permit fee, provided that the request for refund is submitted within 1 year following the permit expiration; after 1 year beyond the permit expiration date, no refund of the permit fee shall be authorized.

The building official may authorize the refunding of a maximum of 60% of the plan review fee paid to the Building Division if no plan review comments have been issued by the building official prior to the receipt of the request for refund. No refund of this fee shall be authorized following the issuance of the initial plan review comments by the building official.

**111.3 Temporary occupancy.** Two new paragraphs are added at the end of Section 111.3 as follows:

If the building official finds that no substantial hazard will result from occupancy or use of any building or structure, or portion thereof, before the same is completed, he/she may authorize such a temporary occupancy or use pending the completion of the entire building or structure.

The building official, in authorizing temporary occupancy or use, may impose any reasonable conditions that may be necessary to protect life, health, and property and may include a time limit on such occupancy or use. In the event that any such condition is violated, the building official may revoke a temporary occupancy or use. Failure to comply with conditions of said temporary occupancy may result in penalties and/or revocation of permit.

**CALIFORNIA BUILDING CODE CHAPTER 4: SPECIAL DETAILED  
REQUIREMENTS BASED ON USE AND OCCUPANCY LOCAL AMENDMENTS**

*See Hayward Fire Code Ordinance for Amendments*

**CALIFORNIA BUILDING CODE CHAPTER 9: FIRE PROTECTION SYSTEMS  
LOCAL AMENDMENTS**

*See Fire Hayward Code Ordinance for Amendments*

**CALIFORNIA BUILDING CODE CHAPTER 17: STRUCTURAL TESTS AND  
SPECIAL INSPECTIONS LOCAL AMENDMENTS**

**1705.3 Concrete construction.** Revise section 1705.3 Exception as follows:  
Special inspections and tests of concrete construction shall be performed in accordance with this section and Table 1705.3.

**Exception (1):** Special inspections and tests shall not be required for: 1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength,  $f'_c$ , no greater than 2,500 pound per square inch (psi) (17.2 Mpa).

### **CALIFORNIA BUILDING CODE CHAPTER 19: CONCRETE LOCAL AMENDMENTS**

Revise section 1905.1.7. ACI 318 section 14.1.4 that allows the use of plain concrete in residential structures assigned to Seismic Design Category C, D, E or F.

**1905.1.7 ACI 318, section 14.1.4.** Delete ACI 318, Section 14.1.4, and replace with the following:

14.1.4 - Plain concrete in structures assigned to Seismic Design Category C, D, E or F.

14.1.4.1 - Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

(a) Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

**Exception:** In detached one- and two-family dwellings three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.

(b) Plain concrete footing supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

**Exception:** In detached one- and two-family dwellings three stories or less in height and constructed with stud bearing walls, plain concrete footings with at least two continuous longitudinal reinforcing bars not smaller than No. 4 are permitted to have a total area of less than 0.002 times the gross cross-sectional area of the footing.

**CALIFORNIA BUILDING CODE APENDIX P: EMERGENCY HOUSING**

Adopt entire appendix as written and published in the 2022 California Building Code except as amended: Section P108 LOFTS IN EMERGENCY HOUSING shall not be adopted in this local ordinance.

**CALIFORNIA RESIDENTIAL CODE CHAPTER 6: WALL CONSTRUCTION LOCAL AMENDMENTS**

**Table R602.10.3(3)** Add a new footnote “i” to the end of the table to read:

**i.** In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, Method GB is not permitted, and the use of Method PCP is limited to one-story single-family dwellings and accessory structures.

Add the “i” footnote notation in the title of Table R602.10.3(3) to read:

**TABLE R602.10.3(3)<sup>i</sup>**

**R602.10.4.3.1 Limits on methods GB and PCP.** Add a new subsection R602.10.4.3.1, to read:

In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, Method GB is not permitted for use as intermittent braced wall panels, but gypsum board is permitted to be installed when required by this section to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, the use of Method PCP is limited to one-story single-family dwellings and accessory structures.”

**CALIFORNIA RESIDENTIAL CODE APENDIX AZ: EMERGENCY HOUSING AS AMENDED**

Adopt entire appendix as written and published in the 2022 California Building Code except as amended: Section AZ108 LOFTS IN EMERGENCY HOUSING shall not be adopted in this local ordinance.

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

Section 3. Effective Date. This ordinance shall become effective on January 1, 2023.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the st day of , 2022, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the  day of , 2022, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ATTEST: 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

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION FINDING AND DETERMINING THE NEED FOR CHANGES OR  
MODIFICATIONS TO THE 2022 CALIFORNIA BUILDING CODE

WHEREAS, section 17958 of the California Health and Safety Code requires the adoption by the City of Hayward of regulations imposing the same requirements of certain uniform industry codes as specified in Health and Safety Code section 17922 and the California Housing and Community Development Commission regulations promulgated thereunder; and

WHEREAS, Health and Safety Code section 17958.5 permits a city to make such changes or modifications to the uniform industry codes as are deemed reasonably necessary because of local conditions.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, pursuant to the requirements of Health and Safety Code section 17958.7, does hereby find and determine the need to adopt changes or modifications to the following sections of the 2022 California Building Code by reason of local climatic, geological, and topographical conditions:

**ADMINISTRATIVE CHANGES**

In accordance with Health and Safety Code section 18909(c), local ordinances necessary to carryout procedures by a city relating to administrative processes for enforcing building standards, and that do not establish building standards, may be enacted without meeting the requirements of the state laws governing amendments to Title 24.

**STRUCTURAL CHANGES**

**CODE REFERENCE:**

**2022 CBC 1705.3 Concrete construction.** Revise section 1705.3 Exception as follows: Special inspections and tests of concrete construction shall be performed in accordance with this section and Table 1705.3.

**Exception (1):** Special inspections and tests shall not be required for: 1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength, f'c, no greater than 2,500 pound per square inch (psi) (17.2 Mpa).

**ISSUES:**

The proposed amendment modifies the type of exceptions from requiring special inspection for isolated spread concrete footings of buildings three stories or less above grade plane.

**RATIONALE:**

Results from studies after the 1994 Northridge earthquake indicated that a lot of the damages were attributed to lack of quality control during construction. The proposed amendment improves quality control during construction and therefore needs to be incorporated into the Code. Revise CBC Section 1705.3 exception No. 1 to allow special inspection not to be required for isolated spread footing where the structural design of the footing is based on a specified compressive strength,  $f'_c$ , no greater than 2,500 psi. This proposed amendment is a continuation of an amendment adopted during the previous code adoption cycle.

**CODE REFERENCE:**

**2022 CBC 1905.1.7 ACI 318, section 14.1.4.** Delete ACI 318, Section 14.1.4, and replace with the following:

14.1.4 - Plain concrete in structures assigned to Seismic Design Category C, D, E or F.

14.1.4.1 - Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

**(a)** Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

**Exception:** In detached one- and two-family dwellings three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.

**(b)** Plain concrete footing supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than No. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.



**Exception:** In detached one- and two-family dwellings three stories or less in height and constructed with stud bearing walls, plain concrete footings with at least two continuous longitudinal reinforcing bars not smaller than No. 4 are permitted to have a total area of less than 0.002 times the gross cross-sectional area of the footing.

**ISSUES:**

Revise section 1905.1.7. ACI 318 section 14.1.4 that allows the use of plain concrete in residential structures assigned to Seismic Design Category C, D, E or F.

**RATIONALE:**

The proposed amendment addresses the problem of poor performance of plain or under-reinforced concrete footings during a seismic event. This amendment reflects the recommendations by the Structural Engineers Association of Southern California (SEAOSC) and the Los Angeles City Joint Task Force that investigated the poor performance of plain and under-reinforced concrete footings observed in 1994 Northridge earthquake. This proposed amendment is a continuation of an amendment adopted during the previous code adoption cycle.

**CODE REFERENCES:**

**2022 CRC Table R602.10.3(3)**

**ISSUES:**

Add a new footnote “i” to the end of the table to read:

i. In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, Method GB is not permitted, and the use of Method PCP is limited to one-story single-family dwellings and accessory structures.

Add the “i” footnote notation in the title of Table R602.10.3(3) to read:

**TABLE R602.10.3(3)<sup>i</sup>**

**R602.10.4.3.1 Limits on methods GB and PCP.** Add a new subsection R602.10.4.3.1, to read:

In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, Method GB is not permitted for use as intermittent braced wall panels, but gypsum board is permitted to be installed when required by this section to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D<sub>0</sub>, D<sub>1</sub>, and D<sub>2</sub>, the use of Method PCP is limited to one-story single-family dwellings and accessory structures.”

**RATIONALE:**

The proposed amendment addresses the problem of poor performance of gypsum wallboard and Portland cement plaster as wall bracing materials in high seismic areas. This amendment reflects the recommendations by the Structural Engineers Association of Southern California (SEAOSC) and the Los Angeles City Joint Task Force that investigated the poor performance of these bracing materials that were observed in 1994 Northridge earthquake. This proposed amendment is a continuation of an amendment adopted during the previous code adoption cycle.

BE IT FURTHER RESOLVED that the aforementioned amendments to the *2022 California Building Code*, are based on local climatic, geological, or topographical conditions. The "Findings of Facts" contained herein addresses present local conditions which either singularly or in combination cause the aforementioned amendments to be adopted.

1. CLIMATIC

Not applicable to proposed amendments.

## 2. TOPOGRAPHICAL

Not applicable to proposed amendments.

## 3. GEOLOGICAL

Seismic Activity: The City of Hayward is located in a zone of high seismic activity. A major seismic event may make roads impassable with damage so widespread that resources would not be available to meet all the anticipated needs. Buildings in this area need to be designed to ensure a higher degree of life safety of occupants and to minimize economic loss as the region struggles to overcome the devastation that would follow after such a seismic event.

## 4. CONCLUSION

Local geological conditions have a definite impact upon buildings in Hayward. Therefore, it is found to be reasonably necessary that the *2022 California Building Code* be changed or modified to mitigate the effects of the above conditions.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause a copy of this resolution, together with the modifications or changes to the *2022 California Building Code*, to be filed with the California Department of Housing and Community Development.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022.

ADOPTED BY THE FOLLOWING VOTE:

AYES:                    COUNCIL MEMBERS:  
                                 MAYOR:

NOES:                    COUNCIL MEMBERS:

ABSTAIN:                COUNCIL MEMBERS:

ABSENT:                 COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
                                 City Clerk of the City Of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION FINDING AND DETERMINING THE NEED FOR  
CHANGES OR MODIFICATION TO THE CALIFORNIA FIRE CODE,  
2022 EDITION

WHEREAS, California Health and Safety Code sections 13143.2 and 13143.5 permit a city to make such changes or modifications as deemed reasonably necessary because of local conditions to be made in specified uniform industry codes; and

WHEREAS, it is necessary that the City's Fire Code be revised to conform with parallel provisions in the City's Building Code as well as to address specialized needs presented by local conditions.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby find and determine as follows:

1. In connection with the adoption by reference of the California Fire Code, 2022 Edition, the City needs to adopt changes or modifications to the following sections of the California Fire Code, 2022 Edition, by reason of local conditions: 1, 2, 3, 4, 104.11.1, 107.2.1, 111.1, 202, 503.6.1, 505.1, 507.5.1, 903.2, 903.2.8.2, 903.2.22, 903.2.22.1, 903.2.23, 903.3.1.1, 903.3.1.3, 903.3.1.3.1, 903.3.5, 903.3.5.3, 903.3.5.3.1, 903.3.5.3.2, 903.3.5.4, 903.3.5.4.1, 903.3.10, 903.3.10.1, 903.3.10.2, 903.4.1, 903.4.2, 903.4.2.1, 903.4.2.2, 904.3.5, 4901.3, 4902, 4905.2.1, 4906.1, 5001.5.3, 5003.1.5, 5004.2.2, 5701.4.1, 5703.1.4, 5704.1.1, 5706.2.8, APPENDIX B Section B105.1 and B 105.2, APPENDIX C TABLE C102.1, APPENDIX D D103.2, D103.3, Sec 5, 6, 7, 8, 9 and 10.

2. The amendments to the California Fire Code, 2022 Edition (published by the International Code Council) have been recognized by the City of Hayward to address the fire problems, concerns, and future directions by which this City can establish and maintain an environment which will afford an acceptable level of fire and life safety to its citizens and guests.

3. The "Findings of Facts" contained herein addresses present local conditions which either singularly or in combination cause the aforesaid amendments to be adopted. The following local conditions have an adverse effect on the prevention and control of major loss fires, thereby making it necessary to adopt the above changes or modifications in the California Fire Code in order to provide a reasonable degree of fire and life safety in this community.

CLIMATIC

- (a) Precipitation: Precipitation ranges from 15 to 24 inches per year with an average of approximately 17.58 inches per year. 95 percent falls during the months of October through April, and five percent from May through September.
- (b) Relative Humidity: Humidity during May through November ranges from 20 to 40 percent going as low as 10 percent on an average of 10 days during this period. During December through April, the humidity ranges from 41 to 68 percent.
- (c) Temperatures: High temperatures have been recorded in the low 100's F. Average summer highs are in the 73 F. range with an average annual maximum temperature of 66 F.
- (d) Winds: Prevailing winds are from the west, northwest (WNW). However, winds are experienced from virtually every direction at one time or another. Velocities are generally in the 14 to 23 miles-per-hour range, gusting to 25 to 35 miles-per-hour. Forty miles-per-hour winds are experienced occasionally, and higher have been registered. During the winter half of the year, strong, dry, gusty winds from the north move through the area for several days, creating extremely dry conditions.
- (e) Summary: These local climatic conditions effect the acceleration, intensity, and size of fires in the community. Times of little or no rainfall, of low humidity, and high temperatures create extremely hazardous conditions, particularly as they relate to wood shake and shingle roof fires and fires involving buildings. During wildland and wood shake and shingle roof fires, winds can carry sparks and burning brands to other roofs, thus spreading the fire and causing conflagrations. In building fires, winds can literally force fire back into buildings and can create a blowtorch effect, in addition to preventing "natural" ventilation and cross-ventilation efforts.

GEOLOGICAL AND TOPOGRAPHIC

- (a) Vegetation: Dry grass and brush are common in the hills and open-space areas adjacent to built-up locations during six to eight months of each year. Many of these areas frequently experience wildland fires which threaten nearby buildings, particularly those with wood roofs or sidings.
- (b) Hills, Creeks, Canals, Freeways, Railways, Housing Tracts, Large Buildings, Building Complexes, and the Airport: All of these surface features, both

## ATTACHMENT IV

natural and man-made, have a major adverse effect upon the road and street layout in the City including major traffic routes. These conditions limit the number and cause indirect routing of major arterial streets for normal traffic as well as emergency vehicle response.

- (c) Terrain: Areas with buildings include level, sloping, and rolling terrain. This terrain is not dissimilar to terrain in other locations which have experienced major conflagrations.
- (d) Roads and Streets: As noted above, the limited number, and the indirect routing of roads and streets in the City create heavy, slow traffic conditions and excessively long travel routes from point to point.
- (e) Population: The current and rapidly growing population in the City creates two fire protection problems:
  - (1) The more people, the more emergency incidents requiring Fire Department response. The greater the frequency of alarms, the greater the chance there will be simultaneous emergency incidents requiring Fire Department response. This results in longer response times and/or fewer fire companies to respond to any emergency within the City; and
  - (2) The more people, the more traffic congestion during a greater part of the day. Such traffic congestion not only slows Fire Department response but often restricts access to fire scenes.
- (f) Buildings, Landscaping, and Clearances: Many building complexes are of designs which greatly limit the approach to and accessibility by Fire Department resources. Many houses and other buildings with wood roofs or sidings are close together, and fire will readily spread from one to another by both radiation and convection of flying brands.
- (g) Summary: Essentially, the above local geological and topographical conditions present fire frequency, magnitude, exposures, and accessibility problems and have a negative impact upon the response capability of the Fire Department. The quantity of Fire Department resources that can arrive within an effective time is limited. The time in which they can respond is extended due to lengthy travel distances and traffic congestion.

#### 4. CONCLUSION. Local climatic, geological, and topographic conditions

ATTACHMENT IV

have a definite impact upon the frequency, spread, acceleration, intensity, and size of fire involving buildings in Hayward. Furthermore, they have an adverse impact upon the number of Fire Department resources which can be brought to bear upon such fires within an expeditious period of time. Therefore, it is found to be reasonably necessary that the California Fire Code be changed or modified to adopt more stringent requirements to mitigate the effects of the above conditions.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause a copy of this resolution, together with the modifications or changes to the California Fire Code, to be filed with the State of California Department of Housing and Community Development, the state Building Standards Commission, and the State Fire Marshal, by registered mail.

BE IT FURTHER RESOLVED that, should any finding contained herein be declared for any reason invalid, it is the intent of the City Council that it would have passed all remaining portions of this resolution.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_, 2022

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. \_\_\_\_\_

AN ORDINANCE ESTABLISHING A FIRE PREVENTION CODE FOR THE CITY OF HAYWARD; ADOPTING THE CALIFORNIA FIRE CODE, 2022 EDITION, PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE OR EXPLOSION; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES; PROVIDING FOR PENALTIES FOR VIOLATION, AND REPEALING ORDINANCE NO. 19-20, AS AMENDED, AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH

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

Section 1. Effective January 1, 2023, Ordinance No. 19-20, and all amendments thereto, is hereby repealed and in substitution thereof a new fire code for the City of Hayward is hereby enacted to read as follows:

SEC. 1. FIRE PREVENTION CODE OF THE CITY OF HAYWARD, ADOPTION OF CALIFORNIA FIRE CODE. The City Council of the City of Hayward for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, hereby adopts that certain code and standards known as the 2022 California Fire Code and based on the International Fire Code being particularly the 2021 edition thereof and the whole thereof (including Appendices Chapter 4, B, C, D, E, F, G, I, K, N, O) save and except such portions as are hereunder deleted, modified, or amended as set forth hereinafter, as the Fire Code of the City of Hayward. A copy of each said California Fire Code is on file in the office of the Fire Marshal, to which reference is hereby made for further particulars.

Said code is adopted by reference pursuant to Section 50022.2 et seq. of the Government Code of the State of California, and the same is hereby adopted and incorporated as fully as if set out at length herein and, from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Hayward except as otherwise noted herein.

SEC. 2. ESTABLISHMENT AND DUTIES OF THE FIRE PREVENTION OFFICE.

- 2.1 The California Fire Code shall be enforced by the Fire Prevention Bureau and the Operations Division in the Fire Department of the City of Hayward.
- 2.2 The chief officer in charge of the Fire Prevention Bureau shall be appointed by the Fire Chief.



- 2.3 The Chief of the Fire Department shall recommend to the City Manager the employment of technical personnel responsible for code enforcement. The Chief of the Fire Department may also detail such members of the Fire Department as inspectors as shall from time to time be necessary.

SEC. 3. DEFINITIONS.

- 3.1 Whenever the word "jurisdiction" is used in the California Fire Code, it shall be held to mean the City of Hayward.
- 3.2 Whenever the term "Corporation Counsel" is used in the California Fire Code, it shall be held to mean the City Attorney of the City of Hayward.
- 3.3 Whenever the term "Fire Code Official" or "Fire Marshal" is used, it shall be held to mean the Chief Officer in charge of the Fire Prevention Bureau for the Fire Department or his/her designated representative.

SEC. 4. AMENDMENTS MADE IN THE CALIFORNIA FIRE CODE. The California Fire Code is amended in the following respects, with the reference numbers being taken from the California Fire Code, including deletions, additions and text changes.

**GENERAL  
CHAPTER 1 – SCOPE AND ADMINISTRATION  
DIVISION II- SCOPE AND ADMINISTRATION**

SECTION 104 - DUTIES AND POWERS OF THE FIRE CODE OFFICIAL

104.11.1 ASSISTANCE FROM OTHER AGENCY. Amend subsection to read:

104.11.1 ASSISTANCE FROM OTHER AGENCY. The Police Department shall assist the Fire Department in its investigations whenever requested to do so, unless otherwise directed by the Chief of Police.

SECTION 107 – FEES.

107.1.1 PERMIT FEES. The City Council of the City of Hayward may, if it so desires establish by resolution, permit fees in connection with any permits required or authorized to be issued by the Fire Chief or any other authorized representative of the Fire Department.

SECTION 111 - MEANS OF APPEALS.

111.1 BOARD OF APPEALS ESTABLISHED. Amend section to read:

111.1. BOARD OF APPEALS ESTABLISHED. In order to determine the suitability of alternate materials and type of construction, there shall be and hereby is created an appropriate board consisting of five members who are qualified by experience and training to pass judgment upon pertinent matters. The Fire Chief shall be an ex-officio member and shall act as secretary of the board. The Fire Appeal Board shall be appointed by the City Manager and shall hold office at his or her pleasure. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Fire Chief, with a duplicate copy to the appellant, and may recommend to the executive body such new legislation as is consistent therewith.

**CHAPTER 2 – DEFINITIONS**

SECTION 202 - GENERAL DEFINITIONS.

HIGH-RISE BUILDING. Add a paragraph to read:

The Fire Chief may determine that a building is a “high-rise structure” based on site/building configuration and the lack of viable exterior access to the upper floors for firefighting, rescue operations and where firefighters must place almost complete reliance on the building’s life safety features, fire protection systems and components of building construction.

**CHAPTER 5 - FIRE SERVICE FEATURES**

SECTION 503 - FIRE APPARATUS ACCESS ROADS.

Add new subsection 503.6.1 to read:

503.6.1 KEY SWITCHES. A key switch shall be provided and mounted on a stationary place on the outside of the security gate. The key switch shall be mounted on a permanently affixed monument three (3) to five (5) feet above ground.

SECTION 505 – PREMISES IDENTIFICATION

505.1 ADDRESS IDENTIFICATION. Amend section to read:

505.1 ADDRESS IDENTIFICATION. New and existing buildings shall have approved address numbers, building numbers or approved building identification plate in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the Fire Department, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6) high with a minimum stroke width of 0.5 inch

(12.7 mm) and installed on the front of the dwelling (R-3, R-3.1 and R-4) in a location so as to be visible from the street. Otherwise, minimum building address shall be 12” high with 1.5” stroke. When buildings are located greater than 50 feet from street frontage, address shall be minimum 16” high with 1.5” stroke. Tenant space number shall be 6” high with 0.75” stroke on a contrasting background as to be visible from the street. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

SECTION 507 - FIRE PROTECTION WATER SUPPLIES.

507.5 FIRE HYDRANT SYSTEMS.

507.5.1 WHERE REQUIRED. Amend subsection to read:

507.5.1 WHERE REQUIRED. Fire hydrant systems and fire hydrants shall be in accordance with Section 507.5. Hydrants shall be of the type approved in the City of Hayward and have not less than a six-inch connection with the mains. A shutoff valve shall be installed in the hydrant connection, a minimum distance of five feet from the hydrant. Hydrants should be tested annually for proper functioning in accordance with the requirements of the authority having jurisdiction or upon request of the Fire Chief.

Hydrants shall be placed at least 40 feet from the buildings to be protected. Where it is not feasible to place them at that distance, they may be in closer proximity in locations approved by the Fire Chief.

**CHAPTER – 9 FIRE PROTECTION AND LIFE SAFETY SYSTEMS**

SECTION 903 - AUTOMATIC SPRINKLER SYSTEMS.

903.2 WHERE REQUIRED. Amend 903.2 to read

903.2 WHERE REQUIRED. An automatic sprinkler system shall be installed in all new construction, regardless of occupancy classification, where the total floor area is 5,000 square feet (465 m<sup>2</sup>) or more (area separation walls may not be used in lieu of a sprinkler system except when buildings are separated by fire wall constructed in accordance with Section 706 FIRE WALLS of the 2022 California Building Code), building height exceeds two stories, or floor heights exceed 15 feet (4,572 mm) from the lowest level of Fire Department access and locations described in Section 903.2.1 through 903.2.22. In cases where multiple requirements may apply, the most restrictive requirement shall prevail. Floor areas of mezzanines shall be included in calculating the total floor area to be used in determining automatic fire-extinguishing requirements.

Add new subsection 903.2.8.2 to read:

903.2.8.2 GROUP R-2, R2.1, R4 MULTI-FAMILY RESIDENTIAL. In buildings with 3 or more Group R-3 dwelling units, or buildings with R-2.1 or R-4 uses, the automatic fire sprinkler systems shall be installed in accordance with Section 903.3.1.1.

Add new subsection 903.2.22 to read:

903.2.22 EXISTING BUILDINGS. An automatic sprinkler system shall be installed in an existing building when cumulative additions, repairs, or alterations are made to the building and such additions, repairs, or alterations meet any of the following conditions:

1. Additions to residential buildings (R-3, R-3.1, R-4) that increase the conditioned livable floor area of the existing structure by 50%. The increase in floor area shall be calculated cumulatively from July 1, 2010.
2. Any addition or additions to the original building which will add 10 percent or more to the total floor area of the existing building and the resulting floor area is 5,000 square feet (465 m<sup>2</sup>). The floor area shall be calculated in accordance with Section 903.2.
3. Additions, repairs, or alterations that will result in a change in occupancy or use and with the resulting floor area is 5,000 square feet (465 m<sup>2</sup>) or more and shall comply with the most current CBC and CFC edition. The floor area shall be calculated in accordance with Section 903.2.
4. Accumulative area of alteration, addition or repair is 5,000 square feet (465 m<sup>2</sup>) or more. Area of alteration, addition or repair area shall be calculated cumulatively from January 1, 2010. Building owners are to be held responsible.
5. Extensive remodeling in existing one- and two-family dwellings and townhouses, where roofs/ceilings are reconstructed or altered, and new sprinkler systems can be installed without inconvenience upon the Fire Chief's determination.

903.2.22.1 EXISTING BUILDINGS IN HAYWARD DOWNTOWN CORE AREA.

Alternative design in lieu of fire sprinkler systems in Hayward's Downtown Core Area shall be permitted when it satisfies all provisions established by the Hayward Fire Department.

1. The Hayward Downtown Core is bounded by A St., Foothill Blvd., D St., and Grand St. and includes a four- block strip along the south side of D St. and a two-block area west of Grand St.
2. The alternative design option is only available to a renovation, improvement, or redevelopment project on an existing building used as Group A, B, E, F, M, R and S.
3. The alternative design is not applicable to newly constructed projects.

4. The project shall satisfy all provisions listed in the supplemental document - *Alternative Design in Lieu of Fire Sprinkler Systems in Hayward's Downtown Core*.

Add new subsection 903.2.23 to read:

903.2.23 HILLSIDE DESIGN AND WILDLAND-URBAN INTERFACE. Developments located in the hillside wildland-urban interface zone identified in Section 4901.3 of the ordinance shall be fully sprinkler per NFPA 13. Single family residence fire sprinkler system shall be installed in accordance with NFPA 13D with modifications listed in Section 903.3.1.3.1.

### 903.3 INSTALLATION REQUIREMENTS

903.3.1.1 NFPA 13 SPRINKLER SYSTEMS. Add to the end of this section to read:

“When automatic sprinkler systems are required in buildings of undetermined use, they shall be designed and installed to have a sprinkler density of 0.33 GPM for 3,750 square feet with a maximum coverage of 100 square feet per head. Use is considered undetermined if not classified at time permit is issued. Where subsequent use requires a system with greater capability, the system shall be reinforced to the required code in order to obtain clearance for the new use.”

903.3.1.2 NFPA 13R SPRINKLER SYSTEM. Deleted.

903.3.1.2.1 BALCONIES AND DECKS. Deleted.

903.3.1.3 NFPA 13D SPRINKLER SYSTEMS. Amend 903.3.1.3 to read:

903.3.1.3 NFPA 13D SPRINKLER SYSTEMS. Automatic sprinkler systems installed in one- and two-family dwellings (R-3) and R-3.1 shall be permitted to be installed throughout in accordance with NFPA 13D. Sprinkler systems in Group R-3.1 facilities and R-3 buildings located in the Wildland Urban Interface Area shall be installed in accordance with this section, Section 903.2.8 and NFPA 13D with modifications listed in Section 903.3.1.3.1.

903.3.1.3.1 MODIFIED NFPA 13D SPRINKLER SYSTEMS.

NFPA 13D systems are required in the Wildland Urban Interface Area or areas identified as high hazard areas, the system shall be installed to meet the following requirements.

1. Complete sprinkler coverage shall be provided in attics, garages, decks, porches, foyers and crawl spaces 3 feet or higher or having storage.
2. For sprinkler systems in buildings with R-3.1 use, sprinkler coverage shall be provided in bathrooms and closets.

3. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any water flow activity in the fire sprinkler system.
4. Provide a minimum of two replacement sprinklers for emergency replacement along with an appropriate wrench for changing sprinkler heads.
5. Control valve shall be secured with a chain and breakaway lock.

903.3.5 WATER SUPPLIES. Amend 903.3.5 to read:

903.3.5 WATER SUPPLIES. Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in Section 903.3.1. Water supplies for automatic sprinkler systems shall be connected to the city water main. The potable water supply shall be protected against backflow in accordance with *Health and Safety Code, Section 13114.7*, NFPA 24, and the City of Hayward installation standards.

Add new subsections 903.3.5.3 to 903.3.5.4.2 to read:

903.3.5.3 FIRE SERVICE CONNECTIONS. Each fire service shall be installed in accordance with City of Hayward Standard Details.

903.3.5.3.1 FIRE SERVICE FOR NFPA 13 SPRINKLER SYSTEMS. Fire service for systems in accordance with NFPA 13 shall not be less than four inches in diameter. Fire service line smaller than four inches in diameter shall be permitted when all the following conditions are met:

- A fire service main is dedicated to supplying a single automatic fire sprinkler system in one building: and
- Hydraulic calculations shall show that the fire service line is able to supply the demand at the appropriate pressure for automatic fire sprinkler systems.

903.3.5.3.2 ONE- AND TWO- FAMILY RESIDENTIAL BUIDLINGS. When an application is made for one- and two- family residential fire service connection serving residential fire sprinkler systems installed in accordance with NFPA 13D including modified NFPA 13D, such fire service installation shall not be less than one inch in diameter. For an application utilizing existing underground water line, a minimum  $\frac{3}{4}$  inch in diameter shall be permitted.

903.3.5.4 WATER FLOW TEST DATA. Water flow test data applied in automatic fire sprinkler system design shall be less than five years old. Adjustments shall be made to the flow test results in order to take into account daily and seasonal fluctuations and uncertainties of overall water supply per the Hayward Public Works Department's recommendation of the maximum water pressure applied in the fire protection system design.

903.3.5.4.1 SAFETY MARGIN. A safety margin of 10% or 10 PSI may be used as a guideline. The projections prepared by the water utility shall be used when they are available.

Add new subsections 903.3.10 to 903.3.10.2 to read:

903.3.10 POST INDICATOR VALVES. One dedicated post indicator valve shall be provided for each sprinkler system water supply.

903.3.10.1 CONTROL INDICATOR VALVES. Use of control indicator valves which are parts of a backflow preventer assembly in lieu of the dedicated post indicator valve shall be allowed, subject to the approval of the Fire Department, when all of the following conditions are met:

1. The city water main is the only source of water supply to the fire service line.
2. The underground fire service line serves the wet fire sprinkler system(s) for only one (1) building.
3. The control valves of the backflow preventers are indicator valves, such as OS&Y valves.
4. A backflow preventer has at least one indicator valve not less than 40 feet away from the building, except in the following circumstances:
  - For buildings less than 40 feet in height, a backflow preventer with at least one indicator valve shall be permitted to be installed closer than 40 feet, but at least as far from the building as the height of the wall facing the backflow preventer.
  - For buildings located in the Hayward Downtown Area, a backflow preventer with at least one indicator valve shall be permitted to be installed closer than 40 feet but shall be at the farthest possible location from the building.
5. The backflow preventer is located no farther than 150 feet away from the building, measured by underground fire service line. The backflow preventer shall be located in a way to avoid confusion in the field.

903.3.10.2 OTHER TYPE POST INDICATOR VALVES. The following valves controlling fire service water supply shall also be allowed in lieu of the dedicated post indicator valves.

1. An approved wall-type post indicator valve; or
2. Control valves installed in a fire-rated room accessible from the exterior.

903.4.1 MONITORING. Amend 903.4.1 to read:

903.4.1 MONITORING. Alarm, supervisory and trouble signals shall be distinctly different from one another and shall be automatically transmitted to an approved central supervising station and shall sound an audible signal at a constantly attended location in accordance with Section 903.4.2. This system shall have a supervised alarm and local alarm signaling capability.

903.4.2 - ALARMS. Add new subsection 903.4.2.1 and 903.4.2.2 to this section to read:

903.4.2.1 COMMERCIAL OR INDUSTRIAL BUILDINGS. At least one interior audible alarm device shall be installed within each tenant space of the building at a constantly attended location in the building and shall be placed in a location so as to be heard throughout the constantly attended areas in accordance with NFPA 72. The device shall activate upon any water flow activity in the fire sprinkler system.

903.4.2.2 ONE- AND TWO- AND MULTI-FAMILY RESIDENTIAL BUILDINGS. At least one interior audible alarm device shall be installed within the dwelling units in a location so as to be heard throughout the home with bedroom doors closed. The device shall activate upon any water flow activity in the fire sprinkler system.

SECTION 904 – ALTERNATIVE AUTOMATIC FIRE-EXTINGUISHING SYSTEMS

904.3.5 MONITORING. Amend 904.3.5 to read:

904.3.5 MONITORING. Where a building fire alarm system or fire sprinkler monitoring system is installed, automatic fire-extinguishing systems shall be monitored by the building fire alarm system or the fire sprinkler monitoring system in accordance with NFPA 72. This system shall have a supervised alarm and local alarm signaling capability. Central station monitoring is required, which shall be done by an approved and/or listed central station monitoring company.

**CHAPTER 49 – WILDLAND-URBAN INTERFACE FIRE AREA**

SECTION 4901 – GENERAL

Add new subsection 4901.3 to read:

4901.3 WHERE REQUIRED. Development in the area east of Mission Boulevard from the south side of D Street to the city limits south to Union City shall be constructed in accordance with this chapter.

SECTION 4902 - DEFINITIONS

Amend “WILDLAND-URBAN INTERFACE FIRE AREA (WUI)” definition to read:

“WILDLAND-URBAN INTERFACE FIRE AREA (WUI)” is land designated which is covered with grass, grain, brush, or forest, whether privately or publicly owned, which is so situated or is of



such inaccessible location that a fire originating upon such land would present an abnormally difficult job of suppression or would result in great and unusual damage through fire or resulting erosion. Such areas are designated by the Fire Chief on a map maintained in the office of the Fire Chief. The "WILDLAND-URBAN INTERFACE FIRE AREA" has been defined as:

"The areas east of Mission Boulevard Blvd. from the south side of D Street to the city limits south to Union City."

Add new subsection 4905.2.1

4905.2.1 The building constructed shall comply with the following requirements:

1. Within ten feet of a structure, construct fences with an open wire mesh or non-combustible material to prevent fire from spreading to the structure.
2. Design roofs shall comply with a 'Class A' non-combustible roof rating as outlined in the California Building Code. (Do not use wood shake or treated wood shake roofs.)
3. Provide spark arrestors with 1/4" metal mesh screens on all chimneys. Homeowners should inspect spark arrestors every year to ensure mesh screen integrity.
4. Additions to existing decks are subject to review by the Fire Marshal and may be required to meet building construction and fire protection standards.
6. Restrict outdoor storage of firewood, kindling, or compost material within 30 feet of any structure, unless the material is stored in an approved bin or enclosure.
7. Locate chimney at least ten feet away from existing tree canopies.
8. Enclose all roof eaves.

SECTION 4906.1 - General. Amend Section 4906.1 to read:

SECTION 4906.1 - CITY OF HAYWARD HILLSIDE DESIGN AND URBAN/WILDLAND INTERFACE GUIDELINES. As adopted by Resolution No. 93-037.

Add new subsection 4906.1.1

4906.1.1 Preventive Measures Ordinance for the Wildland Urban Interface Area.

**CHAPTER 50 – HAZARDOUS MATERIALS - GENERAL PROVISIONS**

SECTION 5001 – GENERAL.

Add new subsection 5001.5.3 to read:

SECTION 5001.5.3 Hazardous Materials Business Plans (HMBP). - Shall be submitted annually. The frequency may be increased, modified or waived by the Fire Chief or their designee, but shall not exceed the time frames as established by the State of California laws and regulations.

SECTION 5003 - GENERAL REQUIREMENTS.

Add new subsection 2703.1.5 to read:

SECTION 5003.1.5 - PROHIBITED LOCATION. – Hazardous materials are not allowed below grade plane in buildings.

SECTION 5004.2.2 – SECONDARY CONTAINMENT FOR HAZARDOUS MATERIALS LIQUIDS AND SOLIDS. Where required by Table 5004.2.2, buildings, rooms or areas used for the storage of hazardous materials liquids or solids shall be provided with secondary containment in accordance with this section when the capacity of an individual vessel or aggregate capacity of multiple vessels equals or exceeds 55 gallons. Additionally, the Fire Chief or his designee may require secondary containment at quantities less than 55 gallons or as specified in Chapter 50 in order to protect life safety, emergency responders, or the environment.

**CHAPTER 57 – FLAMMABLE AND COMBUSTIBLE LIQUIDS**

SECTION 5701 - GENERAL.

5701.4 PERMITS.

Add new subsection 5701.4.1 to read:

5701.4.1 PLANS. Plans shall be submitted with each application for a permit to store more than 60 gallons of flammable and combustible liquids in drums or tanks. The plans shall indicate the methods of storage, quantities to be stored, distances from buildings and property lines, access ways, fire-protection facilities, and provisions for drainage and runoff. Storage shall be in accordance with approved plans.

SECTION 5703 - GENERAL REQUIREMENTS.

Add new subsection 5703.1.4 to read:

SECTION 5703.1.4 - PROHIBITED LOCATION. Flammable and combustible liquids are not allowed below grade plane in buildings.

SECTION 5704 - STORAGE.

Add new subsection 5704.1.1 to read:

5704.1.1 APPLICABILITY. Storage and use of flammable and combustible liquids in aboveground tanks over 60 gallons is prohibited within the city limits of Hayward unless approved by the Fire Chief upon a finding that such approval would minimize the danger to the health, safety, and welfare of the population of Hayward or to neighboring properties. When allowed, storage and use of flammable and combustible liquids in containers, cylinders, and tanks shall be in accordance with sections 5701 and 5704. For permits see Section 105.1 and 5701.4.

EXCEPTION: Allowance shall be granted in the industrial area of Hayward for stationary, monitored, and double-walled aboveground flammable and combustible liquid storage tanks as follows:

- a. Emergency power diesel generator tanks that do not exceed an aggregate site capacity of 5500 gallons. Tanks shall meet Underwriter Laboratory UL142 standard when manufactured as part of an emergency power generator package (generator belly tank) or Underwriter Laboratory UL2085 standard when tanks are separate from the generator package. Interstitial space shall be electronically monitored.
- b. Gasoline and diesel fueling tanks that meet the Underwriter Laboratory UL2085 standard and do not exceed a site capacity of 550 gallons. Interstitial space shall be electronically monitored.
- c. Combustible IIIB liquid storage tanks that do not exceed a site capacity of 5500 gallons. Tanks shall meet the Underwriter Laboratory UL142 standard.
- d. Hydraulic oil tanks for elevators that meet California Division of Industrial Safety standards.

For motor-vehicle-fuel-dispensing stations, see Chapter 23.

5706.2.8 DISPENSING FROM TANK VEHICLES.

Add item 9 and 10 to read:

9. Vapor-recovery systems are provided in accordance with Section 2306.7.9.
10. Tank vehicles shall not be permitted to serve as portable or temporary storage tanks.

**APPENDIX B  
FIRE-FLOW REQUIREMENTS FOR BUILDINGS**

SECTION B105 - FIRE-FLOW REQUIREMENTS FOR BUILDINGS. Amend subsections B105.1 and B105.2 to read:

B105.1 ONE- AND TWO-FAMILY DWELLINGS. The minimum fire-flow requirements for one- and two-family dwellings shall be 1,000 gallons per minute, at 20 PSI. (5,677.5 L/min.)

Table B105.2. Deleted

B105.2 BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 and R-4 BUILDINGS.

A reduction in required fire-flow of up to 50 percent, as approved by the Fire Chief, is allowed when the building is provided with an approved automatic sprinkler system. The resulting fire-flow shall not be less than 1,500 gallons per minute at 20 PSI. (5,677.5 L/min.).

**APPENDIX C  
FIRE HYDRANT LOCATIONS AND DISTRIBUTION**

TABLE C102.1 amended to read:

TABLE C102.1  
NUMBER AND DISTRIBUTION OF FIRE HYDRANTS

<b>FIRE FLOW REQUIREMENT (GPM)<sup>1</sup></b>	<b>MINIMUM NUMBER OF HYDRANTS</b>	<b>DISTRICT</b>	<b>AVERAGE SPACING BETWEEN HYDRANTS (FEET)<sup>2, 3, 4</sup></b>	<b>MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT<sup>5</sup></b>	<b>HYDRANT TYPE</b>
1,750 or less	1	Low Density Residential	400	225	Modified Steamer
		Median Density	400	200	Double Steamer
		Others	300	180	Double Steamer
2,000	2	Low Density Residential	400	225	Modified Steamer
		Median Density	400	200	Double Steamer
		Others	300	180	Double Steamer
2,500	3	Low Density Residential	400	225	Modified Steamer
		Median Density	400	200	Double Steamer
		Others	300	180	Double Steamer
3,500	4	Low Density Residential	400	225	Modified Steamer
		Median Density	400	200	Double Steamer
		Others	300	180	Double Steamer
4,500	5	All	300	180	Double Steamer
5,500	6	All	300	150	Double Steamer
6,500	7	All	250	150	Double Steamer
7,500 or more	8	All	250	120	Double Steamer

1. Measured at 20 PSI residual pressure.
2. Reduce by 100 feet for dead-end streets or roadways.

## ATTACHMENT V

3. Where streets are provided with median dividers or arterial streets are provided with four or more traffic lanes, hydrants spacing shall average 500 feet on each side.
4. Where new water mains are extended along streets, where hydrants are not needed for protection of structures or similar fire problems, fire hydrants should be provided at not less than 1,000-foot spacing to provide for transportation hazards.
5. Reduce by 50 feet for dead-end streets or roadways.

**APPENDIX D  
FIRE APPARATUS ACCESS ROADS**

**SECTION D103 MINIMUM SPECIFICATIONS**

D103.2 Grade. Fire apparatus access roads shall not exceed 10 percent.

Exception 1: Grades 10% to 15% shall be constructed with a minimum 6-inch-thick Portland Cement Concrete, upon approval from the Fire Marshal's Office.

Exception 2: Grades 15.1% to 20% shall be constructed with a minimum 6-inch-thick Portland Cement Concrete with grooves, upon Fire Chief's approval.

D103.3 TURNING RADIUS. Amend Section D 103.3 to read:

D103.3 TURNING RADIUS. The minimum inside turning radius shall be 17 feet. The minimum outside turning radius shall be 45 feet.

**SEC. 5. APPEALS.**

Whenever the Fire Chief shall disapprove an application or refuse to grant a permit or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the City Manager.

SEC. 6. FEES. Fees may be established by resolution of the City Council for permits required by the code, and the fee required for any permit shall accompany the application for such permit. Unless the permit specifies otherwise, the permit shall be issued for a one-year period.

**SEC. 7. PENALTIES.**

- 7.1 Any person who shall violate any of the provisions of this code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council of the City of Hayward or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a criminal offense and subject to the penalties set forth in the Hayward Municipal Code, Chapter 1, Article 3, Section 1-3.00 et. seq.
- 7.2 The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions or to prohibit the use of any other criminal or civil remedy.

SEC. 8. REPEAL OF CONFLICTING ORDINANCES. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the California Fire Code as adopted and amended herein are hereby repealed.

SEC. 9. SEVERABILITY Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

SEC.10. EFFECTIVE DATE. This ordinance shall become effective on January 1, 2023.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_ day of 2022, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_ day of 2022, 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





# CITY OF HAYWARD

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

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**File #:** PH 22-058

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT**

Reach Code: Introduction of Reach Code Ordinance: 1) Addressing New Building Electrification; 2) Addressing Electric Vehicle Charging Requirements; and 3) Repealing Current Reach Code (Ordinance 20-05)

**RECOMMENDATION**

That Council adopts a resolution (Attachment II) and introduces the Reach Code ordinance (Attachment III) to modify the California Green Building Standards Code. The ordinance includes: 1) electrification requirements for new buildings; 2) amendments to the Off-Street Parking Regulations to add electric vehicle charging requirements; and 3) repeal of the current Reach Code (Ordinance 20-05).

**SUMMARY**

Hayward's current Reach Code will expire on December 31, 2022. To continue the current requirements that prohibit or limit the use of natural gas in new buildings and to continue to require electric vehicle charging infrastructure beyond what is required in the State building code, new ordinances will need to be adopted. The recommended ordinances, to be effective on January 1, 2023, would require:

- All new residential buildings, including mixed-use buildings, to be all electric.
- All new non-residential buildings for which natural gas infrastructure is installed, but must be "electric ready", meaning they have the wiring, electrical capacity and space needed to be converted to an all-electric building in the future.
- All new buildings and modifications to existing buildings resulting in new parking spaces must have electric vehicle (EV) charging infrastructure installed above and beyond that required by the California Green Building Standards Code.

On June 14, 2022, Council considered potential elements that may be included in a new Reach Code. On October 6, 2022, the two draft Reach Code ordinances were considered and recommended by the Council Sustainability Committee (CSC).

**ATTACHMENTS**

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**File #:** PH 22-058

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Attachment I Staff Report

Attachment II Resolution

Attachment III Draft Ordinance



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works  
Director of Development Services

**SUBJECT:** Reach Code: Introduction of Reach Code Ordinance: 1) Addressing New Building Electrification; 2) Addressing Electric Vehicle Charging Requirements; and 3) Repealing Current Reach Code (Ordinance 20-05)

## RECOMMENDATION

That Council adopts a resolution (Attachment II) and introduces the Reach Code ordinance (Attachment III) to modify the California Green Building Standards Code. The ordinance includes: 1) electrification requirements for new buildings; 2) amendments to the Off-Street Parking Regulations to add electric vehicle charging requirements; and 3) repeal of the current Reach Code (Ordinance 20-05).

## SUMMARY

Hayward's current Reach Code will expire on December 31, 2022. To continue the current requirements that prohibit or limit the use of natural gas in new buildings and to continue to require electric vehicle charging infrastructure beyond what is required in the State building code, new ordinances will need to be adopted. The recommended ordinances, to be effective on January 1, 2023, would require:

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- All new buildings and modifications to existing buildings resulting in new parking spaces must have electric vehicle (EV) charging infrastructure installed above and beyond that required by the California Green Building Standards Code.

On June 14, 2022<sup>1</sup>, Council considered potential elements that may be included in a new Reach Code. On October 6, 2022, the two draft Reach Code ordinances were considered and recommended by the Council Sustainability Committee (CSC).

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<sup>1</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5690621&GUID=8DFEFCAD-5955-417E-98E6-9FA859F8C2EF&Options=&Search=>

## BACKGROUND

On March 3, 2020<sup>2</sup>, Council adopted a local amendment to the 2019 California Building Code known as a Reach Code. The Reach Code ordinance as well as checklists for builders and developers are available on the City's website<sup>3</sup>. The Code requires all new single-family homes and new low-rise multi-family buildings (up to 3 stories) to be all-electric. Non-residential and high-rise residential buildings can be either all-electric or mixed fuel (both electric and natural gas equipment). The Code also includes requirements for Electric Vehicle (EV) charging infrastructure. When Hayward's Reach Code was adopted in March 2020, there were twenty-eight such codes adopted by local jurisdictions throughout California. In December 2021, Contra Costa County became the 54<sup>th</sup> local jurisdiction to adopt an electrification reach code.

The California Building Code is updated every three years. The 2019 California Building Code and Hayward's Reach Code will both expire on December 31, 2022. The 2022 CalGreen Code will take effect on January 1, 2023. In order to continue Hayward's current Reach Code requirements, a new Reach Code must be adopted this year to be effective along with the 2022 California Building Code in January 2023.

Staff is working closely with a Bay Area working group<sup>4</sup> led by East Bay Community Energy (EBCE), Peninsula Clean Energy (PCE), Silicon Valley Clean Energy (SVCE), and their consultants to prepare Hayward's new Reach Code. The working group is developing model codes for local jurisdictions to consider. The draft model codes were used to develop preliminary considerations for Hayward's new reach code, which were presented to the CSC on March 14, 2022<sup>5</sup>. Following is a summary of the comments made by the CSC:

1. New Low Rise Residential Buildings – The CSC supported continuing the existing all-electric requirement for new Low Rise Residential Buildings.
2. New Non-residential & High-Rise Residential Buildings - The CSC supported staff's recommendation to remove the existing mixed-fuel pathway so that all new buildings would have to be all-electric. For new non-residential buildings, the CSC wants to allow some flexibility – especially for industrial uses.
3. New Accessory Dwelling Units – The CSC supported ending the current exemption for ADUs smaller than 400 square feet but asked about how it may impact the cost of building an ADU. (A cost-effectiveness study including an analysis for an all-electric ADUs should be available later this month.)
4. Existing Buildings – The CSC supported prohibiting gas extensions in older homes, however, doing so may make it difficult to build smaller attached ADUs. Regarding extensions of gas lines in older existing industrial buildings, the CSC asked staff to consult with the business community.
5. End of Flow – The CSC supported the concept of ending the flow of gas by 2045 but asked about the difficulty of enforcing such a policy and questioned community acceptance.

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<sup>2</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=4345454&GUID=25134FC7-B7A3-4060-955A-F7A30A27567A&Options=&Search=>

<sup>3</sup> <https://www.hayward-ca.gov/reach-code>

<sup>4</sup> <https://bayareareachcodes.org/>

<sup>5</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5523060&GUID=4A5988AD-D820-4426-9F53-9CC938F9C94F&Options=&Search=>

6. Existing Residential – The CSC agreed Hayward should wait for the California Air Resources Board (CARB) or the Bay Area Air Quality Management District (BAAQMD) to enact a ban on the sale of gas appliances.
7. EV Charging Requirements – The CSC would like to see robust requirements, but asked for more information about the costs of developing charging infrastructure.

On May 9, 2022<sup>6</sup>, the CSC considered a report with additional information regarding options for new non-residential buildings as well as alternatives and costs associated with EV charging requirements. Staff recommended that items 4, 5 and 6 in the list above be deferred to the next code cycle as more research is needed to evaluate costs and equity implications. CSC members provided the following comments:

- The Code should include limited exceptions that would allow gas for restaurants and life science-related industrial uses.
- EV charging is going to be in high demand in the future and the Code should require higher levels of charging capacity at multi-family properties.

On May 26, 2022, the Planning Commission considered a report<sup>7</sup> about the Reach Code update and had the following comments:

- A community member in attendance asked for clarification regarding the EV charging requirement for single family homes. The speaker noted that families can program their cars to charge at certain times and that only one charger is needed for two EVs.
  - The community member was correct. Compliance with the requirement for two Level 2 EV Ready spaces can be achieved with one circuit that provides sufficient amperage. The two spaces could be served by one receptacle and one charger that can charge two vehicles simultaneously. Some chargers have integrated automatic load management so that when only one car is charging, it will receive more amperage.
- Cooking - One Commissioner noted that single family residents can use an outdoor barbeque to cook outdoors when the grid is out and asked about a solution for people living in a high-rise apartment building.
  - People living in large apartment buildings typically have limited options for cooking outdoors; however, the 2022 Energy Code requires some solar photovoltaic (PV) panels and battery storage for high-rise apartments, which should ameliorate power outages. It should also be noted that for people who are unable to cook outdoors, a gas range should not be lit manually and should never be used when there is no electricity to provide for mechanical ventilation.
- Can renewable natural gas be used for certain industrial uses?
  - Renewable natural gas (RNG) is typically captured methane from farms, landfills, or wastewater treatment plants. The estimated RNG production potential in the United States is a small fraction of the current natural gas

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<sup>6</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5644449&GUID=373D251F-6874-4DC3-AF7B-299444A3DA9A&Options=&Search=>

<sup>7</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5658536&GUID=EF329D60-09D7-4B60-B855-E277BB29823F&Options=&Search=>

used by industry. Use of RNG should be prioritized for power generation or fueling stations at the site of the gas generators, as the distribution system to get renewable gas to buildings is extremely expensive.

- The EV charging requirements can add a significant electrical load to a building. When considering the necessary capacity of the electrical panel, does the Electrical Code consider the presence of an automatic load management system (ALMS)?
  - Yes, accounting for ALMS is a best electrical engineering practice, and is assumed in cost models.
- Regulations can be very complex. Reach Code should be simple.
- Are different chargers needed for low versus high power Level 2 charging? What is the cost of each type of charger?
  - The cost of a low power (20-amp) Level 2 charger with one plug is approximately \$500.
  - The cost of a high power (40-amp) Level 2 charger with one plug is approximately \$700
  - The cost of a high power (40-amp) Level 2 charger with two plugs is approximately \$1,600
- During a power outage, many people try to cook with gas indoors or in other poorly ventilated areas, which is very dangerous and can be deadly. Training should be provided so that people know what to do and not do during an outage.
- Perhaps the cost savings associated with not installing gas in a new building can offset the cost of the EV charging required.
- More charging should be required for new commercial buildings.
- Some housing developments have EV Ready infrastructure and years after the people move in, there are still no chargers. Perhaps there should be a condition of approval to require installation of chargers.

On June 14, 2022, Council held a work session<sup>8</sup> to review the components of the new Reach Code and staff made the following recommendations:

- Residential Buildings – All new residential buildings, including mixed-use buildings, must be all electric.
- Non-Residential Buildings – New non-residential buildings may be all electric or may have gas. If the building has gas installed, it must be “electric ready”, meaning they have the wiring, electrical capacity and space needed to be converted to an all-electric building in the future.
- EV Charging – Increased requirements for new multifamily development and continuing the current charging requirements for other land use types with minor changes.

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<sup>8</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5690621&GUID=8DFFECAD-5955-417E-98E6-9FA859F8C2EF&Options=&Search=>

Staff also requested Council comments regarding the possibility of lesser EV charging requirements or exemptions for affordable housing and noted the following pros and cons:

Arguments in Favor of Exemption	Arguments Against Exemption
If charging is not required, it can be incentivized for projects receiving City funding.	Equity. All residents should have same amenities.
All projects would still need to meet state code (charging for 40% of parking spaces).	Many more people will be driving EVs in coming years.
Affordable Housing is exempted from TIF, Park Fees, and sometimes CEQA.	Charging is an amenity that benefits residents.
HCD will be reviewing Housing Element for policies that facilitate housing.	Much cheaper to install at time of initial construction compared to retrofit.

There was one public comment from a person representing the Sierra Club who expressed support for the reach code and requested the most proactive approach possible.

Council made the following comments:

- The recommendations are a thoughtful and balanced approach.
- EV charging is needed for affordable housing, especially to promote equity among residents of different housing types.
- Requirements for more EV charging would be preferred.
- We can target non-residential construction during the next code cycle.
- Staff should continue engagement with the Sierra Club and affordable housing developers.

On October 6, 2022<sup>9</sup>, the two draft Reach Code ordinances were considered and recommended by the CSC. The CSC also supported the idea of a complete ban on new natural gas infrastructure in new buildings as of January 2026 and asked staff to do more promotion of existing rebates for electric appliances.

## DISCUSSION

Hayward’s current Reach Code requirements are included in Chapter 9, Article 1, of the Hayward Municipal Code. Staff recommends that the current requirements be repealed and that the new requirements (Attachment III) be addressed in two articles of the Municipal Code. The building electrification requirements would be Article 8 of Chapter 9 and the electric vehicle requirements would be amendments to the City’s Off-Street Parking Regulations (Chapter 10, Article 2) . Both articles would modify Part 11 (California Green Building Standards Code, aka CALGreen) of the California Building Code (Title 24 of the California Code of Regulations).

Listed below are the recommendations staff made to the CSC on October 6, 2022, with changes from those presented at the June 14 Council meeting shown with underlined text:

- Residential Buildings – All new residential buildings, including mixed-use buildings, must be all electric, including all ADUs. (Please see discussion below.)

<sup>9</sup> <https://hayward.legistar.com/LegislationDetail.aspx?ID=5860958&GUID=9B05DD9B-0286-4EBE-9667-911D613EF054&Options=&Search=>

- Non-Residential Buildings – New non-residential buildings may have gas, but must be “electric ready”, meaning they have the wiring, electrical capacity and space needed to be converted to an all-electric building in the future.
- EV Charging –
  - Increased requirements for new multifamily properties.
  - In response to Council comments at the June 14 meeting, the same charging requirements would apply to both market rate and affordable developments.
  - Continue current charging requirements for other land use types with minor changes.
  - Apply EV charging requirements when new parking spaces are added due to a change of use or addition to an existing building. (Staff added this provision partially in response to Council comments at the June 14 meeting and also because the development of new parking areas associated with a significant addition or change of use is an opportunity similar to new construction that should not be missed.)
  - A new requirement for hotels and motels. The state code requires a total of 40% of spaces to have charging readiness. The recommended percentage of spaces required to have EV charging presented to the CSC on October 6 was 35%. The recommended total has been revised to be 55%.

*New Accessory Dwelling Units* – The current reach code exempts ADUs less than 400 square feet, which means they can include natural gas appliances for water heating, space heating, etc. Smaller ADUs were exempt primarily due to the extra space required for an electric heat pump water heater, which has a tank compared to gas-fired tankless water heater. However, the new California Energy Code, effective in January 2023, specifically allows electric tankless water heaters (using electric resistance technology) in homes of 500 square feet or less. All requirements of the California Energy Code must be found to be cost effective before they become part of the Code. Given that an electric tankless water heater is a cost effective and space-saving option, staff recommend requiring all ADUs to be all electric.

*New Non-Residential and High-Rise Residential Buildings* – The current Reach Code allows non-residential and high-rise residential buildings to be either all-electric or mixed-fuel. The mixed fuel option includes a complex set of solar and energy efficiency requirements and no building permit applicants have opted to pursue this path. While staff previously recommended eliminating the mixed-fuel option and considering a gas ban, non-residential builders, Economic Development staff, and the CSC had all requested that there be exceptions to a gas ban – particularly for certain industrial uses and restaurants.

As noted in the June 14 Council report, exceptions that apply in limited cases would be difficult to articulate in an ordinance and would be time-consuming for Building Division staff to administer. Additionally, most new commercial and industrial buildings are speculative and are built without knowing the tenant(s) in advance. After many conversations with stakeholders, including City Building Division staff, staff recommended a simpler approach for new non-residential buildings.

The proposed requirements would allow gas in new non-residential buildings. For new buildings that do include gas, the draft code requires “electric-readiness”. This means that



wiring, panel capacity, electrical receptacles and physical space must be provided for future conversion to electric equipment. The Code adopted this year will be in place for calendar years 2023 through 2025. In 2025, the Reach Code can be re-evaluated and could include new requirements to take effect in January 2026.

*Air District California Environmental Quality Act (CEQA) Thresholds of Significance* – While Hayward’s code can allow the use of gas in new non-residential buildings, the Bay Area Air Quality Management District (BAAQMD) has a new standard that makes it more difficult to include natural gas infrastructure. On April 20, 2022, the BAAQMD’s Board of Directors adopted new thresholds of significance for use in environmental analyses prepared pursuant to the CEQA.

The thresholds are used to determine when an environmental impact is considered “significant”. If an impact is considered significant and it cannot be mitigated, then the project is required to have an environmental impact report prepared. While the previous thresholds were quantitative, such as a certain number of metric tons of carbon dioxide equivalent per year, the new thresholds are qualitative due to the state’s goal to be carbon neutral by 2045. The new thresholds are that any new building must either:

1. not include natural gas; or
2. be consistent with a local approved, *qualified* climate action plan (CAP).

Hayward’s CAP is not *qualified* because it only identifies the actions necessary to meet the 2020 greenhouse gas (GHG) reduction target; it does not include the required actions to meet specified targets. The CAP is currently being updated to include the actions needed to meet the 2030 target. In order for a project to avoid having a significant impact, Hayward’s CAP would need to identify a means for reducing or eliminating the GHG emissions from the gas use by 2045. Staff is currently working with a consultant team on an update of the CAP and anticipates including a provision that would allow the use of gas through 2025 while still maintaining a path toward carbon neutrality by 2045. The recommended CAP will likely call for a complete ban on new gas infrastructure effective in January 2026. Staff is seeking Council comments on this potential gas ban. A presentation to Council detailing the of the draft policies and programs for the updated CAP is tentatively scheduled for January 2023.

*EV Charging* – The recommended requirements for EV charging infrastructure are listed in Attachment III and are summarized below. In addition to requirements for new construction, the regulations have been amended so that the EV charging requirements would apply to new parking spaces that are required by the parking regulations as a result of a change in use or an addition to an existing building. The development of EV charging infrastructure does add cost to the new development and those costs have been detailed in the previous reports referenced above. It has also been recognized that installing charging at the time of new development is significantly less expensive than that doing so as a retrofit. Given the regulations recently adopted by the California Air Resources Board requiring that all new passenger vehicles be zero emission by 2035, there will be

significant demand for EV charging in the near future. Definitions for key terms are below<sup>10</sup>.

Land Use Type	Current Requirements	Recommended Requirements
Single Family & Townhome	Two Level 2 EV Ready spaces per dwelling unit	Two Level 2 EV Ready spaces per dwelling unit
Multi-Family Residential	25% Level 2 EV Capable; and 75% Level 2 EV Ready	20% of units with parking spaces, Level 2 EVCS; and 80% of units with parking spaces, Low Power Level 2 EV Ready.
Non-Res Office	20% Level 2 EVSE; and 30% Level 2 EV Capable	20% Level 2 EVCS; and 30% Level 2 EV Capable
Non-Res Non-Office	15% Level 2 EVSE	10% Level 2 EVCS; and 10% Level 2 EV Capable
Hotel/Motel	NA	5% Level 2 EVSE; and 25% Low Power Level 2 EV Ready

**Environmental Review**

Adoption of the proposed Reach Codes is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, “CEQA”), because it has no potential for resulting in a physical change to the environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action would have no or only a de minimis effect on the environment. The Ordinance is also exempt from CEQA under CEQA Guidelines section 15308, because it is a regulatory action for the protection of the environment.

<sup>10</sup> Definitions:

- **EV Capable** means the electric panel has necessary capacity and conduit is installed to parking spaces.
- **EV Ready** means EV Capable and wiring and outlet are installed.
- **EVCS** means Electric Vehicle Charging Station (charger) is installed.
- **Level 1:** 15-20 Amp, 120 Volt (standard household outlet). Driving distance provided: 3-4 miles per hour of charge. (Not recommended.)
- **Low Power Level 2:** 20 Amp, 208/240 Volt. Driving Distance provided: 10-15 miles per hour of charge.
- **Level 2:** 40+ Amp, 208/240 Volt. Driving Distance provided: 25-30 miles per hour of charge.
- **Level 3 (Direct Current or DC Fast Charging):** 80-400 Amp, 200-600 Volt DC. Driving Distance provided: 100+ miles per hour of charge. (Not recommended.)

## **FISCAL IMPACT**

Development of this year's Reach Code will not impact the City's General Fund. Time spent on research and writing of the Code will be completed by existing, budgeted staff. Enforcement of Hayward's current Reach Code has resulted in some impacts to staff as developers often have questions about compliance. Staff's recommendations for the new Reach Code, including allowing gas in non-residential buildings and eliminating the mixed-fuel pathway with additional solar and energy efficiency requirements, are expected to result in a Code that is simpler and easier to enforce. The current requirements are included over several pages in the municipal code and the proposed ordinance for building electrification is less than two pages.

## **ECONOMIC IMPACT**

The requirements for EV charging infrastructure will increase the cost of construction; however, future residents or employees can benefit from the cost savings of operating an EV compared to a gasoline vehicle. In addition, significant savings can be realized when installing EV Capable and EV Ready circuits at the time of new construction as compared with the retrofit of an existing building or existing parking lot. Previous reports to the CSC and Council included much more detail about the costs of EV charging infrastructure and are available on the City's website<sup>11</sup>.

Local amendments to the California Energy Code require documentation to ensure the proposed requirements are cost-effective, however, the recommended Reach Code is not an amendment to the Energy Code because it does not address energy efficiency. This approach does not require a cost-effectiveness study; however, the Statewide Codes & Standards Reach Codes team has prepared studies that may be used by local jurisdictions. Generally, the studies completed to date show that all-electric buildings are less costly to construct due to the avoided cost of installing gas infrastructure, but operational costs are higher compared to mixed-fuel buildings. However, if additional solar photovoltaic (PV) panels and/or energy efficiency measures are included, then an all-electric building is typically cost-effective over a 30-year period. All-electric buildings and those with EV charging will also be more marketable, and produce more returns, especially as the public learns more about the harmful impacts of natural gas inside the home. The most significant exception is that a new stand-alone restaurant is often found to be not cost-effective.

## **STRATEGIC ROADMAP**

This agenda item supports the Strategic Priority to *Confront Climate Crisis & Champion Environmental Justice* as included in the Strategic Roadmap adopted by Council on May 3, 2022. Specifically, this item is related to implementation of the following projects:

Project C1: Ban natural gas in new residential buildings (Completed with the March 2020 adoption of the Reach Code.)

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<sup>11</sup> <https://www.hayward-ca.gov/reach-code>

- Project C2: Require EV charging infrastructure in new construction (Completed with the March 2020 adoption of the Reach Code.)
- Project C10: Explore feasibility of banning natural gas in non-residential (commercial) buildings.

## **SUSTAINABILITY FEATURES**

The use of electric appliances in homes and businesses avoids indoor air pollution associated with the burning of natural gas. Ending the use of natural gas and providing the infrastructure needed for a transition to electric vehicles are both necessary to meet the City's long term GHG reduction goals, which include:

- 30% below 2005 levels by 2025
- 55% below 2005 levels by 2030
- work with the community to develop a plan that may result in the reduction of community based GHG emissions to achieve carbon neutrality by 2045

## **PUBLIC CONTACT**

The Bay Area working group hosted two workshops for building industry stakeholders and community members on February 15 and 16, 2022. Staff sent an email to 658 builders and developers to let them know about these workshops and the March 14 CSC meeting. At the February workshops, attendees were generally supportive of reach codes. Specific comments included:

- Automatic Load Management (for EV charging) is critical and still new, and more education is needed.
- Multi-family property owners said they do not want to be in the EV charging business. They requested that EV charging be required such that it is on the utility's side of the electric meter.

In addition, in early 2022, staff reached out to six representatives of affordable housing developers and had phone conversations with three to review existing and potential EV charging requirements.

On May 6, 2022, staff presented to the Hayward Chamber of Commerce's Government Relations Council. The Chamber members' comments included:

- Questions about the capacity of the electrical grid and its ability to accommodate the increased load that will result from electrification.
- People still love to cook with gas.
- More direct outreach is needed to get the word out to business owners and multi-family property owners.

In May and June, staff had conversations with four large commercial/industrial developers who indicated that most new buildings are developed on speculation and that they prefer to maximize flexibility to help with marketing the buildings to potential tenants.

In September, staff reached out to a variety of developers, including affordable housing developers, and the Sierra Club. No comments were received in response to the September communication and no public comments were made at the October 6 CSC meeting.

## **NEXT STEPS**

If Council approves the attached resolution and introduces the ordinance, a second reading of the ordinance will be scheduled for a subsequent meeting. If the ordinances are adopted, they will be filed with the California Building Standards Commission and then would become effective on January 1, 2023. The ordinances would apply to new building permits that are submitted after the effective date. Staff will work with EBCE to provide educational materials about the reach codes to contractors, developers, and building designers.

*Prepared by:* Erik Pearson, Environmental Services Manager

*Recommended by:* Alex Ameri, Director of Public Works  
Jennifer Ott, Assistant City Manager/Development Services Director

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member \_\_\_\_\_

RESOLUTION FINDING AND DETERMINING THE NEED FOR ADOPTION OF  
MODIFICATIONS TO THE 2022 CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, on September 8, 2016, California Governor Jerry Brown signed Senate Bill 32 (Pavley), setting a statewide greenhouse gas (GHG) reduction target of 40% below 1990 levels by 2030; and

WHEREAS, on September 18, 2018, California Governor Jerry Brown signed Executive Order B-55-18, committing California to achieving carbon neutrality no later than 2045, and achieving and maintaining net negative emissions thereafter; and

WHEREAS, on January 15, 2019, the Hayward City Council unanimously approved a resolution endorsing the declaration of a climate emergency. The Declaration states that climate change threatens our community, as well as cities across the globe, and requests regional collaboration in restoring a safe concentration of GHG in our atmosphere; and

WHEREAS, in June 2020, the Hayward City Council adopted goals to reduce GHG emissions by 30% below 2005 baseline levels by 2025, 55% by 2030, and to work with the community to develop a plan that may result in the reduction of community based GHG emissions to achieve carbon neutrality by 2045; and

WHEREAS, the City of Hayward targets utilize a baseline different from the State of California, but Hayward's GHG reduction targets are equivalent to the State's; and

WHEREAS, scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change; and

WHEREAS, the electric space heating, water heating, cooking appliances, and clothes drying equipment associated with all-electric, buildings is linked to significantly lower greenhouse gas emissions and reduced costs to build; and

WHEREAS, all-electric building design benefits the health, welfare, and resiliency of the City of Hayward and its residents; and

WHEREAS, the most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces can be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and venting for combustion air safety; and

WHEREAS, Hayward's current Reach Code was adopted by the City Council on March 2, 2020; and

WHEREAS, Hayward's current Reach Code will expire on December 31, 2022 and in order to continue Hayward's current Reach Code requirements, a new Reach Code must be adopted this year to be effective along with the 2022 California Building Code in January 2023; and

WHEREAS, the City Council Sustainability Committee received reports and presentations on building and vehicle electrification reach codes on March 14, 2022, and May 9, 2022; and

WHEREAS, the Planning Commission received a report and presentation on the proposed building and vehicle electrification reach codes on May 26, 2022; and

WHEREAS, the City Council received a report and presentation on the proposed building and vehicle electrification reach codes on June 14, 2022; and

WHEREAS, on October 6, 2022, Hayward's City Council Sustainability Committee recommended adoption the draft reach codes; and

WHEREAS, the provisions in this Ordinance are designed to reduce greenhouse gas emissions; increase resource conservation; provide durable and sustainable buildings that are efficient and economical to own and operate; promote the health and productivity of residents, workers, and visitors to the City recognize and conserve the energy and reduce the environmental footprint of new developments; and reduce disturbance of natural ecosystems; and

WHEREAS, adoption of the reach codes as part of the 2022 California Building Standards Code is consistent with and would advance goals and policies contained in the Hayward 2040 General Plan related to climate change, greenhouse gas reductions, and public health and safety; and

WHEREAS, California Health and Safety Code section 17958 requires that cities adopt building regulations that are substantially the same as those adopted by the California Building Standards Commission and contained in the California Building Standards; and

WHEREAS, California Health and Safety Code Sections 17958.5, 17958.7 and 18941.5 provide that the City may make changes or modifications to the building standards contained in the California Building Standards based upon express findings that such changes or modifications are reasonably necessary because of local climatic, geological or topographical

conditions; and

WHEREAS, the City Council of the City of Hayward finds that each of the amendments, additions and deletions to the 2022 California Building Standards Code contained in this ordinance are reasonably necessary because of local climatic, geological or topographical conditions described in Section 1.

NOW, THEREFORE, BE IT RESOLVED that the aforementioned amendments to the *2022 California Building Standards Code*, are based on local climatic, geological, or topographical conditions. The "Findings of Facts" contained herein addresses present local conditions which either singularly or in combination cause the aforementioned amendments to be adopted.

### **SECTION 1: FINDINGS AND DETERMINATIONS.**

The following local climatic, conditions justify modifications to the California Building Standards Code.

1. The City of Hayward is already experiencing the repercussions of excessive greenhouse gas emissions including increased temperatures and more extreme weather events, decreased precipitation, and increased wildfire risk.
2. Portions of the City of Hayward are situated along a wildland-urban interface and are extremely vulnerable to wildfires, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons—all of which contribute to the likelihood and consequences of fire.
3. The City of Hayward's natural gas building infrastructure is a potentially significant source of fire during earthquakes, fire, and other natural disaster events.
4. Marginalized communities in the City of Hayward and worldwide—including people of color, immigrants, indigenous communities, low-income people, those with disabilities, and the unhoused—are already disproportionately affected by climate change and are especially vulnerable to heat events.
5. City of Hayward residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas.
6. Structures in Hayward are located along or near the Hayward fault, which is likely to produce a large earthquake in the Bay Area.
7. Local conditions have a definite impact upon buildings in Hayward. Therefore, it is found to be reasonably necessary that the *2022 California Building Standards Code* be changed or modified to mitigate the effects of the above conditions.



**SECTION 2. CEQA Finding.**

The City Council finds that this Ordinance is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in a physical change to the environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action would have no or only a de minimis effect on the environment. The Ordinance is also exempt from CEQA under CEQA Guidelines section 15308, because it is a regulatory action for the protection of the environment. The foregoing determination is made by the City Council in its independent judgment.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause a copy of this resolution, together with the modifications or changes to the 2022 California Building Code, to be filed with the California Building Standards Commission.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2022.

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. 22-\_\_\_\_\_

AN ORDINANCE ESTABLISHING REACH CODES FOR THE CITY OF HAYWARD; REPEALING ORDINANCE 20-05; ADOPTING CHAPTER 9, ARTICLE 8 OF THE HAYWARD MUNICIPAL CODE TO AMEND PART 11 (CALIFORNIA GREEN BUILDING STANDARDS CODE) OF THE CALIFORNIA BUILDING STANDARDS CODE (TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS); AND AMENDING THE CITY'S OFF-STREET PARKING REGULATIONS (CHAPTER 10, ARTICLE 2) OF THE HAYWARD MUNICIPAL CODE

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

Section 1. Ordinance 20-05, adopted by the City of Hayward City Council on March 24, 2020, is hereby repealed.

Section 2. Purpose and Intent. It is the purpose and intent of this Ordinance to expressly enact local amendments to the 2022 California Building Code applicable to new construction to provide standards for new buildings to improve community health and safety while reducing greenhouse gas emissions.

Section 3. In accordance with state law, effective January 1, 2023, the following are hereby adopted as local amendments to Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations):

Chapter 9 of the Hayward Municipal Code  
(Building Code)

A new Article 8 is added to Chapter 9 to read as follows:

2022 All-Electric & Electric-Ready Ordinance – New Construction

9-8.100.000 – FUEL GAS PLUMBING INFRASTRUCTURE IN NEWLY CONSTRUCTED BUILDINGS

9-8.100.010 Applicability

- A. The requirements of this Chapter shall apply to the building permits for all *newly constructed buildings* proposed to be located in whole or in part within the City.
- B. The prohibition of *fuel gas infrastructure* shall apply to permit applications on or after the effective date of this Chapter, and in perpetuity.
- C. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking or heating.

- D. This chapter shall in no way be construed as amending California Energy Code requirements under California Code of Regulations, Title 24, Part 6, nor as requiring the use or installation of any specific appliance or system as a condition of approval.
- E. The requirements of this Article shall be deemed objective planning standards under Government Code Section 65913.4 and objective development standards under Government Code Section 65589.5.

#### 9-8.100.020 Definitions

- A. "Fuel Gas" shall be defined as natural, manufactured, liquefied petroleum, or a mixture of these, as defined in the California Mechanical Code.
- B. "Fuel Gas Infrastructure" shall be defined as fuel gas piping, other than service pipe, in or in connection with a building, structure or within the property lines of premises, extending from the point of delivery at the gas meter, service meter assembly, outlet of the service regulator, service shutoff valve, or final pressure regulator, whichever is applicable, as defined in the California Mechanical Code.
- C. "Newly Constructed" building shall be defined as a building that has never before been used or occupied for any purpose. New construction in existing buildings, such as alterations, additions, and tenant improvements, shall not be considered Newly Constructed.
- D. "Residential Building" shall be defined as a building, other than a hotel/motel, that is Occupancy Group R-2, multifamily, R-3, single-family; or U-building, located on a residential site. For the purposes of this Article, a Residential Building shall include accessory dwelling units and all portions of a mixed-use building, including those portions to be occupied by a non-residential use.
- E. "Non-Residential Building" shall be defined as any building which is classified as occupancy Group A, B, E, F, H, I, M, S, and/or U, as defined by Part 2 of Title 24 of the California Code or Regulation.

#### 9-8.100.030 Prohibited Fuel Gas Infrastructure in Newly Constructed Residential Buildings

- A. *Fuel Gas Infrastructure* shall be prohibited in *newly constructed residential buildings*.

#### 9-8.100.035 Electric Readiness in Newly Constructed Non-Residential Buildings

- A. Where *Fuel Gas Infrastructure* is installed as part of a *Newly Constructed Non-Residential Building*, the building shall be required to have sufficient electrical capacity, including reserved circuit breakers, electrical conduit, subpanels, panels, switchboards, and transformers, to facilitate future full building electrification in accordance with the California Electrical Code and manufacturer specifications, in addition to all other code requirements, and shall be depicted on the construction drawings.
- B. Physical space for future *electric heating appliances*, including equipment footprint and any associated ducting, shall be depicted on the construction drawings. The footprint necessary for future *electric heating appliances* may overlap with non-structural partitions and with the location of currently designed combustion equipment.

#### 9-8.100.040 Periodic Review of Ordinance

The City shall review the requirements of this ordinance every 18 months for consistency

with the California Energy Code and the Energy Commission's mid-cycle amendments and triennial code adoption cycle as applicable.

Chapter 10, Article 2 of the Hayward Municipal Code  
(Off-Street Parking Regulations)

Chapter 10, Article 2 is amended as follows:

Section 10-2.000 – Purpose. This section is amended by adding the following sections:

- f. To Implement the City's climate change, transportation, affordable housing, and economic development objectives established by the Hayward 2040 General Plan;
- g. To Provide for the safe, efficient, and equitable use of electric automobiles; and
- h. To Reduce the air pollution and greenhouse gas emissions generated by automobile use.

Section 10.2.100 – Definitions. This section is amended by adding the following definitions:

- a. 'Automatic Load Management Systems (ALMS).' The words 'Automatic Load Management Systems (ALMS)' shall mean a control system designed to manage load across one or more electric vehicle supply equipment (EVSE), circuits, or panels, and share electrical capacity and/or automatically manage power at each connection point. ALMS systems must be designed to deliver no less than 3.3 kVa (208/240 volt, 16-ampere) to each EV Capable, EV Ready or EVCS space served by the ALMS, and meet the requirements of California Electrical Code Article 625. The connected amperage to the building site for the EV charging infrastructure shall not be lower than the required connected amperage per California Green Building Standards Code, Title 24 Part 11.
- b. 'Direct Current Fast Charging (DCFC).' The words 'Direct Current Fast Charging (DCFC)' shall mean a parking space provided with electrical infrastructure that meets the following conditions:
  - 1) A minimum of 48 kVa (480 volt, 100-ampere) capacity wiring.
  - 2) Electric vehicle supply equipment (EVSE) located within three (3) feet of the parking space providing a minimum capacity of 80-ampere.
- c. 'Electric Vehicle Charging Station (EVCS).' The words 'Electric Vehicle Charging Station (EVCS)' shall mean a parking space that includes installation of electric vehicle supply equipment (EVSE) at an EV Ready space. An EVCS space may be used to satisfy EV Ready space requirements. EVSE shall be installed in accordance with the California Electrical Code, Article 625.
- d. 'Electric Vehicle Supply Equipment (EVSE).' The words 'Electric Vehicle Supply Equipment (EVSE)' shall mean the conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors,

attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

- e. 'Level 2 EV Capable.' The words 'Level 2 EV Capable' shall mean a parking space provided with electrical infrastructure that meets the following requirements:
  - 1) Conduit that links a listed electrical panel with sufficient capacity to a junction box or receptacle located within three (3) feet of the parking space.
  - 2) The conduit shall be designed to provide at least 8.3 kVa (208/240 volt, 40-ampere) per parking space. Conduit shall have a minimum nominal trade size of 1 inch inside diameter and may be sized for multiple circuits as allowed by the California Electrical Code. Conduit shall be installed at a minimum in spaces that will be inaccessible after construction, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits, and such additional elements deemed necessary by the Building Official. Construction documents shall indicate future completion of conduit from the panel to the parking space, via the installed inaccessible conduit.
  - 3) The electrical panel shall reserve a space for a 40-ampere overcurrent protective device space(s) for EV charging, labeled in the panel directory as "EV CAPABLE."
  - 4) Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.
  - 5) The parking space shall contain signage with at least a 12" font adjacent to the parking space indicating the space is EV Capable.
- f. 'Level 2 EV Ready.' The words 'Level 2 EV Ready' shall mean a parking space that is served by a complete electric circuit with the following requirements:
  - 1) A minimum of 8.3 kVa (208/240 volt, 40-ampere) capacity wiring.
  - 2) A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 30-ampere.
- g. 'Low Power Level 2 EV Ready.' The words 'Low Power Level 2 EV Ready' shall mean a parking space that is served by a complete electric circuit with the following requirements:
  - 1) A minimum of 4.1 kVA (208/240 Volt, 20-ampere) capacity wiring.
  - 2) A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
  - 3) Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.

Section 10.2.200 – Application. This section is amended by adding the following:

- a. The Off-Street Electric Vehicle Charging requirements in this Article shall apply:
  - 1) At the time of construction of any new building; or

- 2) At the time when new parking spaces are added due to a change of use or addition to an existing building. (The calculation of EV charging infrastructure required shall be based only on the number of parking spaces added.)

Chapter 10, Article 2 is further amended by adding a new Part VIII as follows:

**VIII. REQUIREMENTS FOR EV CHARGING INFRASTRUCTURE**

**SEC. 10-2.800 ELECTRIC VEHICLE (EV) CHARGING SPACES**

Electric vehicle (EV) charging infrastructure shall be provided and maintained for projects whenever off-street parking is provided. The infrastructure shall be provided in accordance with the requirements of the California Green Building Standards Code, Title 24 Part 11, and the requirements in this Section, whichever provides greater number of off-street parking spaces with access to EV charging infrastructure. All accessibility provisions shall meet California Building Code Chapters 11A and 11B and Part VII of this Article. All signage provisions shall meet Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and Pavement Markings) or its successor(s).

All such spaces shall count toward the minimum required parking spaces. Where two or more primary uses occupy a single site, the EV infrastructure required for each use shall be calculated separately. Calculations for the required minimum number spaces with EV infrastructure shall be rounded up to the nearest whole number. Requirements represent the minimum charging infrastructure required, and increases in installed infrastructure, such as EV Supply Equipment and delivered power, shall be permissible.

**SEC. 10-2.810 Electric Vehicle Charging Requirements by Use.**

Uses	EV Charging Infrastructure Required
Single-Family Dwellings and Townhomes	<ul style="list-style-type: none"> <li>• Each of the first two parking spaces per dwelling unit shall be provided with a Level 2 EV Ready space.</li> </ul>
Multiple-Family Dwellings	<ul style="list-style-type: none"> <li>• A minimum of 20% of dwelling units with parking spaces shall be provided with at least one Level 2 Ready and Electric Vehicle Charging Station (EVCS).); and</li> <li>• All remaining dwelling units with parking spaces shall be provided with at least one Low Power Level 2 EV Ready space.</li> <li>• The total number of EV charging spaces shall be equal to one-hundred percent (100%) of dwelling units or one-hundred percent (100%) of parking spaces, whichever is less.</li> <li>• Automatic Load Management Systems (ALMS) shall be permitted to reduce load when multiple vehicles are charging.</li> </ul>
Offices	<ul style="list-style-type: none"> <li>• A minimum of 20% of parking spaces provided shall be provided with a Level 2 Ready and EVCS; and</li> </ul>

	<ul style="list-style-type: none"> <li>• A minimum of 50% of parking spaces provided shall be provided with a Level 2 Ready and EVCS or are Level 2 EV Capable.</li> <li>• ALMS shall be permitted to reduce load when multiple vehicles are charging.</li> </ul>
Hotels and Motels	<ul style="list-style-type: none"> <li>• A minimum of 15% of parking spaces provided shall be provided with a Level 2 Ready and EVCS; and</li> <li>• A minimum of 40% of parking spaces provided shall be provided with a Low Power Level 2 Ready and EVCS or are Low Power Level 2 EV Ready.</li> <li>• ALMS shall be permitted to reduce load when multiple vehicles are charging.</li> </ul>
All Other Uses	<ul style="list-style-type: none"> <li>• A minimum of 10% of parking spaces provided shall be provided with a Level 2 Ready and EVCS; and</li> <li>• A minimum of 20% of parking spaces provided shall be provided with a Level 2 Ready and EVCS or are Level 2 EV Capable.</li> <li>• ALMS shall be permitted to reduce load when multiple vehicles are charging</li> </ul>

**SEC. 10-2.820 Direct Current Fast Charging stations.**

- a. One DCFC may be substituted for up to five (5) EVCS to meet the requirements of Section 10-2.810.
- b. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 2 spaces.

**SEC. 10-2.830 Non-Proprietary Infrastructure.**

- a. Electric vehicle supply equipment installed pursuant to this subsection shall be compatible with a broad range of electric vehicle makes and models.

**SEC. 10-2.840 Exceptions.**

- a. Where there is no local utility power supply, or the local utility is unable to supply adequate power.
- b. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements directly related to the implementation of Section 10-2.81081030-0.3 may increase construction cost by an average of \$4,500 per parking space. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service.
- c. Spaces accessible only by automated mechanical car parking systems are excepted from providing EV charging infrastructure.
- d. Decisions on the above exceptions may be appealed pursuant to Section 10-2.430.

Section 4. Enactment of Local Amendments to the California Building Standards Code, Title 24, Part 11 (Amendments to Chapters 9 and 10 of the Hayward Municipal Code).

The local amendments to the 2022 California Building Standards Code, Title 24, Part 11, are hereby enacted.

Section 5. Severability. The provisions of this Ordinance are severable, and if any clause, sentence, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is held to be invalid or preempted by state or federal law, such holding shall not impair or invalidate the remainder of this Ordinance. If any provision of this Ordinance is held to be inapplicable, the provisions of this Ordinance shall nonetheless continue to apply with respect to all other covered development projects and applicants. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from its coverage.

Section 6. Effective Date. The provisions of this Ordinance shall become effective on January 1, 2023.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 1st day of November, 2022, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the    th day of November, 2022, 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





# CITY OF HAYWARD

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

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**File #:** RPT 22-106

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**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** City Clerk, City Attorney, and City Manager

**SUBJECT**

Informational Report Describing the Appointment and/or Special Election Process for City Council Vacancy

That Council reviews the process for filling the anticipated unexpired term of Council Member Mark Salinas upon his election to Mayor on November 8 in advance of the decision-making process on Tuesday, December 13.

**SUMMARY**

The upcoming November General Municipal Election encompassed two races for vacancies for three positions on the Hayward City Council: Mayor and two (2) Council Members. Council Member Mark Salinas is currently running unopposed for Mayor. Council Member Salinas will take his seat as Mayor effective December 13, 2022, which will create a two-year vacancy on the Council. Section 501 of the City's Charter requires that the Council either fill the vacancy or proceed with a special election within 30 days following the occurrence of the vacancy. This report outlines the suggested process for appointing a Council Member to fill the anticipated vacancy resulting from Council Member Salinas becoming Mayor. The new Council would need to make a decision on December 13 regarding conducting an appointment process or calling for a special election.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Sample Application Form



**DATE:** November 1, 2022

**TO:** Mayor and City Council

**FROM:** City Manager  
City Clerk  
City Attorney

**SUBJECT:** Informational Report Describing the Appointment and/or Special Election Process for City Council Vacancy

### **RECOMMENDATION**

That Council reviews the process for filling the anticipated unexpired term of Council Member Mark Salinas upon his election to Mayor on November 8 in advance of the decision-making process on Tuesday, December 13.

### **SUMMARY**

The upcoming November General Municipal Election encompassed two races for vacancies for three positions on the Hayward City Council: Mayor and two (2) Council Members. Council Member Mark Salinas is currently running unopposed for Mayor. Council Member Salinas will take his seat as Mayor effective December 13, 2022, which will create a two-year vacancy on the Council. Section 501 of the City's Charter requires that the Council either fill the vacancy or proceed with a special election within 30 days following the occurrence of the vacancy. This report outlines the suggested process for appointing a Council Member to fill the anticipated vacancy resulting from Council Member Salinas becoming Mayor. The new Council would need to make a decision on December 13 regarding conducting an appointment process or calling for a special election.

### **BACKGROUND**

The upcoming November General Municipal Election encompassed two races for vacancies for three positions on the Hayward City Council: Mayor and two (2) Council Members. Council Member Mark Salinas is currently running unopposed for Mayor. Council Member Salinas will take his seat as Mayor effective December 13, 2022, which will create a two-year vacancy on the Council, as Mr. Salinas' term as Council Member runs from November 2020 through the date the next Council is seated in early December 2024.

Section 501 of the Charter of the City of Hayward ("Vacancy in Elective Office") provides guidance when an elective office becomes vacant: *"A vacancy in an elective office shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next General Municipal Election and until the officer's successor is elected and qualified. At the next General Municipal Election following any such appointment, the person so elected shall serve for the remainder of any unexpired term.*

*No appointment to fill a vacancy in an elective office shall be made during such time prior to a General Municipal Election that nomination papers may be filed for candidates seeking office at said election.*

*In the event that Council shall fail to fill a vacancy by appointment within thirty days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy (AMENDED: STATS. 1964 CH. 41; Amended on [November 3, 2020](#))"*

Council last experienced the need to engage in a similar process in July 2014 upon the election of Council Member Barbara Halliday to the position of Mayor. Links to two reports from that process are below<sup>1</sup>. Several Council Members requested that an informational report be prepared that outlines the process necessary to either appoint a Council Member to fill the unexpired term of Council Member Salinas or to hold a special election. Following the swearing in of the new Council on December 13, 2022, the new Council will need to act to either initiate an appointment process and/or consider a special election.

## **DISCUSSION**

There are two possible sequential steps to filling the current vacancy on Council as directed by Section 501 of the Charter: first, for Council to go through an appointment process; and second, to call for a special election if the appointment process is unsuccessful or does not occur within 30 days following the vacancy. To protect the second possible step for Council, the appointment process must either be concluded or declared unsuccessful and a formal call by Council for a "Special Municipal Election" well ahead of early March 2023, which would be the filing date for candidates in the upcoming June Primary Election<sup>2</sup>.

The timeline is very tight given the upcoming December holidays and City business closure.

*Appointment Process and Timeline:* The 2014 process included an application period for those interested in serving on Council; a process whereby Council determined who and how many applicants they wanted to consider; a public interview process; and a public action to appoint the selected candidate. The selected candidate was seated that same night. With this in mind, a calendar of the appointment process would look something like

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<sup>1</sup> July 8, 2014 meeting: [CITY OF HAYWARD - Meeting of City Council on 7/8/2014 \(legistar.com\)](#) and July 22, 2014 meeting: [CITY OF HAYWARD - Meeting of City Council on 7/22/2014 \(legistar.com\)](#)

<sup>2</sup> NOTE: June is a Statewide Primary Election and is not a "General Municipal Election" as defined by the Charter because Hayward has determined to hold our "General Municipal Elections" in November of each applicable year; with the next one being in November of 2024.

the schedule outlined in Table 1, starting with the December 13 meeting installing the new Mayor and Council. The schedule is a mixture of regular and special meetings, with all being held on a Tuesday. The 2014 application for those interested in being considered for appointment to Council is attached as Attachment II for Council's reference. Possible steps in the appointment process based on the 2014 process are defined in Table 1 along with suggested timelines.

<b>Table 1: Council Member Appointment Timeline (if special election option is not selected)</b> <b>DRAFT</b>		
<b>Nov 8</b>	<b>Tue</b>	<b>Municipal Election</b>
<b>Dec 13</b>	<b>Tue</b>	<b>Special Council Meeting: Certification of Election; seating of new Mayor and Two Council Members; election of Mayor Pro Tem; ceremonial matters; Council approves Council Member appointment process.</b>
<b>Dec 14</b>	<b>Wed</b>	<b>City Clerk issues a Notice of Vacancy and PIO prepares a press release. Council Member Applications available.</b>
<b>Dec 16</b>	<b>Fri</b>	<b>Notice of Vacancy is published in the Daily Review.</b>
<b>Dec 23 - Jan 2</b>		<b>Business/Holiday Closure</b>
<b>Jan 3</b>	<b>Tue</b>	<b>Council Member Applications due to the City Clerk by 9am.</b>
<b>Jan 3</b>	<b>Tue</b>	<b>Special Council Meeting: Staff report to Council regarding applicants and Council confirms interview process.</b>
<b>Jan 5</b>	<b>Thurs</b>	<b>Council Members individually select up to five applicants and notify their selections to the City Clerk by noon.</b>
<b>Jan 5</b>	<b>Thurs</b>	<b>City Clerk notifies selected applicants and creates interview schedule for following Tuesday.</b>
<b>January 10</b>	<b>Tue</b>	<b>Special Council Meeting: Council holds public interviews and appoints new Council Member to a two-year term; newly appointed Council Member takes the oath of office; OR Council directs City Clerk to prepare documents to call a Special Municipal Election to be consolidated with the June Primary Election.</b>

*Special Election:* Should Council be unable to achieve a majority vote<sup>3</sup> to appoint someone, the Charter requires that the matter go to election. In order for Council to accomplish that in a timely and fiscally responsible manner, Council would have to call for a Special Municipal Election to be consolidated with the upcoming June Primary Election. The Alameda County Registrar of Voters will not provide the official dates for the June Primary Election date until after the November 8 election. Staff will include these dates in the December 13 report on this topic. Generally, the City would need to call for the Special Municipal Election by mid-February 2023 in order to meet the public noticing requirements. Official filing for candidates also opens in mid-February 2023. These deadlines and the requirement that Council make a solid attempt to appoint a new member per the Charter before going to election puts pressure on the appointment timeline as captured in Table 1 above.

The City Clerk would not formally file the Call for Special Election with the County Registrar of Voters unless and until the appointment process fails within the 30-day period called for in the Charter or the Council chooses to proceed with the Special Election option.

Should Council not be successful in the appointment process and miss the deadline for consolidating with the June election, the option would remain to call for a Standalone Special Municipal Election, which would be at a time specified by Council after the June 2023 election. This would be very expensive and should be considered only as a last and remote possibility.

## **FISCAL AND ECONOMIC IMPACT**

There is no economic impact of the appointment process. There is a potentially significant fiscal impact to the General Fund if Council defaults to the Special Municipal Election consolidated with the June election. Generally, a special election would cost between \$300,000-500,000. Staff will provide official estimates of these costs in the December 13 report.

## **STRATEGIC ROADMAP**

This agenda item does not relate to any of the priorities in the Strategic Roadmap.

## **NEXT STEPS**

As approved by Council on December 13, 2022, staff will implement and publicize the appointment process and timeline and/or take the steps necessary to proceed with the Special Municipal Election option.

*Recommended by:* Miriam Lens, City Clerk  
Michael Lawson, City Attorney

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<sup>3</sup> A "majority vote" is four votes regardless of how many Council Members are in attendance at the meeting.

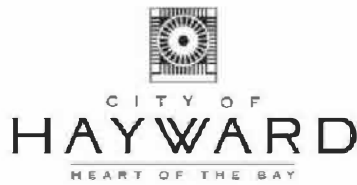
Kelly McAdoo, City Manager

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal flourish extending to the right.

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Kelly McAdoo, City Manager



**APPLICATION**  
For Appointment to Fill a Two- Year Term Vacancy on the  
**HAYWARD CITY COUNCIL**

This application will be forwarded to the City Council for consideration to fill the vacancy for the term ending June 2016.

**For Official Use**  
Resident of Incorporated Hayward Yes \_\_\_ No \_\_\_  
Registered Voter Yes \_\_\_ No \_\_\_

**Please type or print**

Name  Mr.  Ms. \_\_\_\_\_  
*Last* *First* *Middle Initial*

Home Address \_\_\_\_\_  
*Address* *City* *Zip*

Home Phone ( ) \_\_\_\_\_ Cell Phone ( ) \_\_\_\_\_

Work/Alternate Phone ( ) \_\_\_\_\_ Email \_\_\_\_\_

**Current Employment Information**

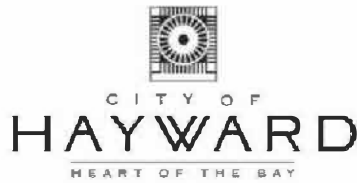
Employer: \_\_\_\_\_

Address: \_\_\_\_\_

Position: \_\_\_\_\_ Dates of Employment: \_\_\_\_\_

Responsibilities: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
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**Questionnaire**  
(A separate sheet may be attached)

Describe your education, training, and/or any special certifications relevant to serving on the City Council:

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Explain why you want to be appointed to the City Council and what your goals for the two years will be if you are selected:

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List any previous City of Hayward Board, Commission, or Committee on which you have served; and any other relevant Hayward community service in which you have been involved or are currently involved:

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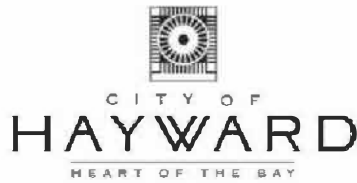
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Briefly, please provide information on any additional relevant experience you believe supports your qualifications for this appointment:

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I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed. I am also aware that this application is a public document. If appointed, I will file the necessary disclosure documents as required under the Political Reform Act.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Please return your application by **noon on Wednesday, July 16, 2014** to:

**Miriam Lens, City Clerk**  
**City of Hayward**  
**777 B Street, 4<sup>th</sup> Floor, Hayward, CA 94541**  
[Miriam.lens@hayward-ca.gov](mailto:Miriam.lens@hayward-ca.gov)  
**(510) 583- 4401**

No application will be accepted after the deadline.