



**DATE:** December 18, 2018

**TO:** Mayor and City Council

**FROM:** Director of Development Services

**SUBJECT:** Authorization to Negotiate and Execute a Management and Disbursement Agreement with The Downtown Hayward Improvement Association (DHIA), Non-Profit Public Benefit Corporation; to Appoint City Staff to the Downtown Hayward Improvement Association Board, and to Release the Downtown Community Benefit District Annual Assessment

### **RECOMMENDATION**

That Council takes the following actions related to the Downtown Hayward Community Benefit District (CBD):

1. Adopts a Resolution Authorizing the City Manager to Negotiate and Execute a Management and Disbursement Agreement with The Downtown Hayward Improvement Association, Non-Profit Public Benefit Corporation, and to appoint City staff, as primary and alternate Board of Director members to the Downtown Hayward Improvement Association.
2. Adopts a Resolution Authorizing the City Manager to release the Downtown Community Benefit District Annual Assessment in the amount of \$595,644 to the Downtown Hayward Improvement Association (DHIA), a California Non-Profit Public Benefit Corporation.

### **SUMMARY**

The Downtown Hayward Community Benefit District (CBD) is a property-based special benefit district in which the property owners within the district pay special assessments to fund supplemental improvements and services within the Downtown boundaries that are above and beyond general municipal service levels. On July 10, 2018, Council adopted resolution 18-151 approving the formation of the CBD and levying special property tax assessments as authorized by the property owners that will be used to fund enhanced services in the Downtown Hayward area. Downtown CBD property owners have established a non-profit management corporation to govern and manage the newly formed CBD. The interim Board of Directors has registered the Downtown Hayward Improvement Association (DHIA) with the Secretary of State of California Articles of Incorporation for a Non-profit Public Benefit Corporation.

This report requests Council action to negotiate an agreement with the newly formed DHIA, appoint City staff members to the Board of Directors, and release the first year of property assessments to the DHIA. These property assessments come to the City through the property tax receipts from Alameda County and must then be turned over to the DHIA for execution of the activities in the Downtown Community Benefit District Management Plan.

## **BACKGROUND**

On May 15, 2018, Council adopted Resolution of Intent 18-080 to form the Downtown Hayward Community Benefit District (CBD) and approved the Management District Plan and Engineer's Report, which are on file in the City Clerk's Office.

On July 10, 2018, Council adopted resolution 18-151 approving the formation of the CBD and levying special property tax assessments as authorized by the property owners that will be used to fund enhanced services toward sidewalk and gutter cleaning, security, graffiti removal, street-scape improvements, branding, marketing, and other promotional efforts.

On October 2, 2018 City Council adopted Resolution 18-208, authorizing the City Manager to execute a professional services agreement with New City America to serve as the interim administrator of the Hayward Downtown Community Benefit District. New City America and downtown CBD property owners have established a non-profit management corporation to govern and manage the newly formed CBD. The interim Board of Directors has registered the Downtown Hayward Improvement Association (DHIA) with the Secretary of State of California Articles of Incorporation for a Non-profit Public Benefit Corporation, and have been assigned entity number C4194690, (Attachment IV).

## **DISCUSSION**

The Downtown Hayward CBD is a property-based special benefit district in which the property owners within the district pay special assessments to fund supplemental improvements and services within the Downtown boundaries that are above and beyond general municipal service levels.

New City America and downtown CBD property owners have established a non-profit management corporation to govern and manage the newly formed CBD and have registered with the State of California as a Non-profit Public Benefit Corporation as the Downtown Hayward Improvement Association (DHIA).

The responsibilities of the DHIA are to implement the District Plan by creating a District budget, establishing policies to comply with the District Plan, preparing and filing quarterly and annual reports with the City verifying compliance with the District Plan, and overseeing the day to day implementation of the District Plan Improvements.

The recommended items being brought to the City Council, if adopted, will enable the DHIA interim Board of Directors the contractual and financial means to proceed with the

implementation and timeline defined within the 2018 CBD Management District Plan, (Attachment V).

### Agreement

The Management and Disbursement Agreement by and between the City of Hayward and The Downtown Hayward Improvement Association has been recommended and drafted in partnership with the Office of the City Attorney and New City America, Inc. This comprehensive agreement defines roles and responsibilities between agreement parties.

### District Assessment Disbursements

Adoption of the recommended resolution will grant the Office of City Manager the authority to execute the proposed agreement, and the City Manager to proceed and execute the disbursements for the District in accordance with the conditions of disbursements and assessment disbursement scheduled specified within the Management and Disbursement Agreement, pages 8 and 9, and sections (5.3) and (5.4): \

#### *5.3 Disbursements*

The annual District Assessments will be collected through the County property tax collection procedures and will be transmitted to the City pursuant to agreements between the City and County. Except for the costs defined in Paragraph 5.4 below, City shall disburse all of the Collected Assessments to DHIA pursuant to the terms and conditions of this Agreement. The City shall not be obligated to disburse Assessments which have not been collected. Upon request by DHIA and with approval of the City subject to compliance with this Agreement, any Assessments received by the City that are in excess of the annual Assessment (penalties, late payments, etc.) shall be disbursed to the DHIA upon receipt.

#### *5.4 Assessment Disbursement Schedule*

Contingent upon receipt of District Assessment funds from the County as well as collected by the City for those parcels that are tax-exempt and contingent upon DHIA's compliance with this Agreement and the District Plan, the City shall disburse to the DHIA the Assessments received from the County on or about the following dates and in accordance with the following percentages. Said disbursements shall include an accounting of the property Assessments paid per parcel. On or about:

**December 23rd** Fifty percent (50%) of annual Assessment received from the County, or the full amount transferred by the County to the City in the December installment, whichever is greater. Plus 50% of the annual Assessments received and collected by the City for tax-exempt and publicly owned parcels within the District. Nothing in this agreement shall prevent the City or its entities from paying its full assessments after the beginning of the fiscal year, (July 1st);

<b>May 10th</b>	Fifty per cent (50%) of the annual Assessment received from the County, or the full amount transferred by the County to the City in the April installment, whichever is greater. Plus 50% of the annual Assessments received and collected by the City for tax-exempt and publicly owned parcels within the District.
<b>June 20th</b>	Any additional Assessment amounts transferred to the City that were collected during the fiscal year (terminating on June 30th) and transferred to the City, shall be forwarded to DHIA based on the schedule set forth in 5.4 herein above. Said additional amounts may include any delinquency or penalty amounts from the late or non-payment of Assessments by any property owner in the District.

In order to initiate operations of the DHIA, staff recommends that the City advance the entire 2019-2020 assessment amount to the DHIA at this time. This will facilitate the organization's first year set up and associated expenses.

#### DHIA Board of Directors Appointment

The City of Hayward has an integral and vested interest in the property-based district as the single largest property owner, and as the largest stakeholder within the CBD, the Office of City Manager recommends that the City Council adopts the resolution that would grant the authority for the City Manager to appoint a primary and alternate board member to be an active contributor to DHIA Board of Directors. The initial primary staff appointments will be Sara Buizer, Planning Manager, as the primary and Jennifer Ott, Deputy City Manager, as the alternate board member.

#### **ECONOMIC IMPACT**

The Downtown Hayward Community Benefit District will raise \$596,000 annually to be spent for special benefit services in downtown for the purpose to promote downtown commerce and bolster curb-appeal focused on a clean, safe and walkable downtown district geared to improve the perception of a safe and family friendly environment.

#### **FISCAL IMPACT**

As a participating property owner within the CBD, the City's General Fund will continue to incur an annual levy assessment in the amount \$163,844.62. This amount is subject to change in accordance with an independent analysis identified within the District Assessment Engineer's Report.

#### **STRATEGIC INITIATIVES**

This agenda item supports the Complete Communities strategic initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities

to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. Specifically, this item supports the following goal and objectives:

**Goal 1:** Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

**Objective 1:** Increase neighborhood safety and cohesion.

**Objective 2:** Foster a sense of place and support neighborhood pride.

**Objective 3:** Increase collaboration with businesses.

### **NEXT STEPS**

Following Council adoption of the attached resolutions, staff will proceed with administering the contract and disbursements of the annual CBD special assessment fund to DHIA.

*Prepared by:* Anthony Sackett, Management Analyst

*Recommended by:* Laura Simpson, Director of Development Services

Approved by:



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Kelly McAdoo, City Manager