

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, June 21, 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 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/82697325767?pwd=MEhBV3IxM29VWXhhNTEaFZwYUlydz09>

Meeting ID: 826 9732 5767

Password: CC6/21@7pm

or

Dial: +1 669 900 6833 or +1 346 248 7799 or 833 548 0282 (Toll Free)

Meeting ID: 826 9732 5767

Password: 4425238971

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 Wahab

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION

Certificate of Commendation Presented to Hayward Chamber of Commerce
President and CEO Kim Huggett

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

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.

CITY COMMISSIONS

1. [APPT 22-001](#) Hayward Youth Commission: Adopt a Resolution Confirming the Appointment of Hayward Youth Commission Members (Report from City Clerk Lens)

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

2. [ACT 22-068](#) Adopt a Resolution Affirming the City's Support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement (Report from Library Director Addleman)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III LC Letter of Support](#)
[Attachment IV ALA Library Bill of Rights](#)
[Attachment V ALA Freedom to Read Statement](#)
[Attachment VI ALA Freedom to View Statement](#)

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

3. [MIN 22-084](#) Approve the City Council Meeting Minutes of the City Council Meeting on June 7, 2022
- Attachments:** [Attachment I Draft Minutes 6/7/2022](#)
4. [CONS 22-352](#) Adopt a Resolution (1) Authorizing the City Manager to Amend the Agreement with Tyler Technologies to Extend the Term of the Contract for Six Months and Reflect Revised Tasks, and (2) Authorize the Transfer of \$150,000 to Cover Previously Authorized and Appropriated Project Budget
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution](#)
5. [CONS 22-355](#) Adopt a Resolution Authorizing the City Manager to Amend the FY2022 Operating Budget for the Development Services Department Building Division for Outside Plan Check, Building Inspection, and Permit Technician Services
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution](#)
6. [CONS 22-358](#) Adopt a Resolution Awarding a Contract to GSW Construction, Inc., for the Trash Capture Device Installation on Cotter Way Project No. 07675 in the Amount of \$188,600, Approving \$18,900 Construction Contingency Budget, and Appropriating an Additional \$70,000 to the Project
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Location Map](#)
7. [CONS 22-360](#) Adopt a Resolution Awarding the Construction Contract to Rosas Brothers Construction, Inc., for the FY22 Sidewalk Rehabilitation and Wheelchair Ramps Project No. 05318 in an Amount Not-to-Exceed \$752,392
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Districts Map](#)
[Attachment IV District 2 & 3 Site Map](#)

8. [CONS 22-364](#) Adopt a Resolution Authorizing the City Manager to Accept and Appropriate Funds from the California Water and Wastewater Arrearage Payment Program (CWWAPP) for Wastewater Arrearages in an Amount Not-to-Exceed \$744,389

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

9. [CONS 22-366](#) Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Assessments for Fiscal Year 2023 for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 18, and Set July 5, 2022, as the Public Hearing Date

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

10. [CONS 22-369](#) Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Levy Assessments for Fiscal Year 2023 for Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit Located at Pacheco Way, Stratford Road and Ruus Lane, and Set July 5, 2022, as the Public Hearing Date

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Engineer's Report MD1](#)

11. [CONS 22-371](#) Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Levy and Assessments for Fiscal Year 2023 for Maintenance District No. 2 - Eden Shores Storm Water Facilities and Water Buffer, and Set July 5, 2022, as the Public Hearing Date

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Engineer's Report MD2](#)

12. [CONS 22-370](#) Adopt Resolutions Authorizing the City Manager to Establish a Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program in the Amount of \$10,000 per Qualified Candidate and Authorizing the Establishment of a Hiring Incentive Referral Program (HIRP) in the Amount of \$2,000 to Be Paid to Qualifying City of Hayward Employees Who Successfully Refer Communications Operator Candidates

Attachments: [Attachment I Staff Report](#)
[Attachment II COLE Bonus Program Resolution](#)
[Attachment III COLE HIRP Resolution](#)
[Attachment IV COLE Hiring Bonus Agreement](#)
[Attachment V HIRP Referral Application](#)

13. [CONS 22-390](#) Adopt a Resolution Authorizing an Amendment to the FY 2022 Operating Budget for Fleet Management Fund (Fund 735) to Increase the Annual Appropriation in the Maintenance Services Department Budget by \$195,000 Through Use of Existing Funds

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

14. [CONS 22-395](#) Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

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

15. [CONS 22-399](#) Adopt a Resolution Calling for the City of Hayward General Municipal Election to be Consolidated with the General Election to Be Held on November 8, 2022, for the Purpose of Electing Two Council Members and One Mayor for Full Terms of Four Years; and Adopt a Resolution Setting Regulations for Candidates Pertaining to Candidate Statements

Attachments: [Attachment I Staff Report](#)
[Attachment II Election Resolution](#)
[Attachment III Candidate Statement Resolution](#)
[Attachment IV General Municipal Election Calendar](#)

WORK SESSION

Work Session items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.

16. [WS 22-024](#) Police Department Dash Cameras: Work Session to Review a Proposed Hayward Police Department Capital Improvement Project Regarding the Purchase of Axon Fleet Vehicle Dash Cameras with Automated License Plate Reading (ALPR) Technology (Report from Police Chief Chaplin)

Attachments: [Attachment I Staff Report](#)
 [Attachment II Policy 429](#)

LEGISLATIVE BUSINESS

17. [LB 22-016](#) Military Equipment Use Policy: Introduction of an Ordinance Approving Military Equipment Use Policy No. 706 Regarding the Hayward Police Department's Funding, Acquisition, and Use of "Military Equipment," as Defined by Assembly Bill 481 (Report from Police Chief Chaplin)
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Military Equipment Use Policy 706](#)
[Attachment III Ordinance](#)
[Attachment IV Equipment List](#)
18. [LB 22-014](#) Unrepresented Salary and Benefits: Adopt a Resolution Amending the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager, Human Resources, and City Attorney Employees (Report from Assistant City Manager/Interim HR Director Youngblood)
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Unrepresented Salary and Benefits Resolution](#)
19. [LB 22-015](#) Council-Appointed Officers' Employment Agreements: Adopt Resolutions Approving Amendments to the Employment Agreements Between the City of Hayward and the City Attorney, City Clerk, and City Manager and Authorizing the Mayor to Execute the Agreements (Report from Assistant City Manager/Interim HR Director Youngblood)
- Attachments:** [Attachment I Staff Report](#)
[Attachment II Resolution - City Attorney](#)
[Attachment III Resolution - City Clerk](#)
[Attachment IV Resolution - City Manager](#)
[Attachment V Contract Amendment - City Attorney](#)
[Attachment VI Contract Amendment - City Clerk](#)
[Attachment VII Contract Amendment - City Manager](#)

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, June 28, 2022, 7:00 PM****PUBLIC COMMENT RULES**

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

PLEASE TAKE NOTICE

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

PLEASE TAKE FURTHER NOTICE

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

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

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

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



CITY OF HAYWARD

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

File #: APPT 22-001

DATE: June 21, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Hayward Youth Commission: Adopt a Resolution Confirming the Appointment of Hayward Youth Commission Members

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) confirming the appointment to the Hayward Youth Commission of six (6) voting members and eleven (11) alternate members.

SUMMARY

The City conducted its annual recruitment for the Hayward Youth Commission (HYC) between March 11, 2022 and May 20, 2022, and a panel of representatives from the three local agencies (City of Hayward, Hayward Area Recreation and Park District (HARD), and the Hayward Unified School District (HUSD)) reviewed forty-nine (49) applications and interviewed forty-one (41) eligible applicants on June 2, 2022. The panel selected a total of seventeen (17) regular voting and alternate members.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution



DATE: June 21, 2022

TO: Mayor and Council Members

FROM: City Clerk

SUBJECT: Hayward Youth Commission: Adopt a Resolution Confirming the Appointment of Hayward Youth Commission Members

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) confirming the appointment to the Hayward Youth Commission of six (6) voting members and eleven (11) alternate members.

SUMMARY

The City conducted its annual recruitment for the Hayward Youth Commission (HYC) between March 11, 2022, and May 20, 2022, and a panel of representatives from the three local agencies (City of Hayward, Hayward Area Recreation and Park District (HARD), and the Hayward Unified School District (HUSD)) reviewed forty-nine (49) applications and interviewed forty-one (41) eligible applicants on June 2, 2022. The panel selected a total of seventeen (17) regular voting and alternate members.

BACKGROUND

On June 2, 2022, an interview panel comprised of representatives from the three local public agencies (City of Hayward, HARD, and HUSD) interviewed forty-one candidates to fill vacancies on the HYC. The agency representatives were: Council Member Francisco Zermeño and Council Member Salinas from the City of Hayward; Board Vice-President Rick Hatcher and Board Director Peter Rosen from HARD; and Board Vice-President Peter Bufete and Board Clerk Gabriel Chaparro from HUSD.

The interview panel unanimously selected seventeen regular voting and alternate members as provided in Table 1 and Attachment II. It is worth noting that, three former alternate members (*) who were seeking to continue serving on the HYC, were promoted to voting members. The panel also discussed the attendance of a voting member who was recommended to continue serving and declared the seat of one voting member vacant due to attendance concerns.

TABLE I: Selected Voting and Alternate Members

VOTING MEMBER	SCHOOL	SUCCEEDS	TERM EXPIRES
Diego F. Barcenas (*)	Impact Academy of Arts & Technology	Ivan Arroyo	6/30/2024
Crystal Guerrero-Lopez	Tennyson High School	Joshua Linares	6/30/2024
Shreya K. Rathaur	Martin Luther King Jr. Middle School	Jema J. Reyes	6/30/2024
Penelope L. Reynoso	Hayward High School	Dulce Rivera Flores	6/30/2024
Alicia C. Saenz (*)	Leadership Public School	Sruthy Sabesan	6/30/2024
Ananya Suresh (*)	Challenger School Ardenwood	Myldret Vazquez-Bejar	6/30/2024
ALTERNATE MEMBER	SCHOOL		TERM EXPIRES
Hulissa H. Aguilar	Arroyo High School		6/30/2023
Josue S. Barrera	Martin Luther King Jr. Middle School		6/30/2023
Taylor Y. Chaplin	Bishop O' Dowd Catholic High School		6/30/2023
Giselle De Casas	Winton Middle School		6/30/2023
Damian A. Diaz	Bret Harte Middle School		6/30/2023
Isa Yusuf Khan	Cesar Chavez Middle School		6/30/2023
Zoe N. Kyama	Anthony Ochoa Middle School		6/30/2023
Liliana Lopez Ceja	Silver Oak High School		6/30/2023
Britany Ruiz	Impact Academy of Arts & Technology		6/30/2023
Ronak Sharma	Leadership Public School		6/30/2023
Michael D. Williams Jr.	San Leandro High School		6/30/2023

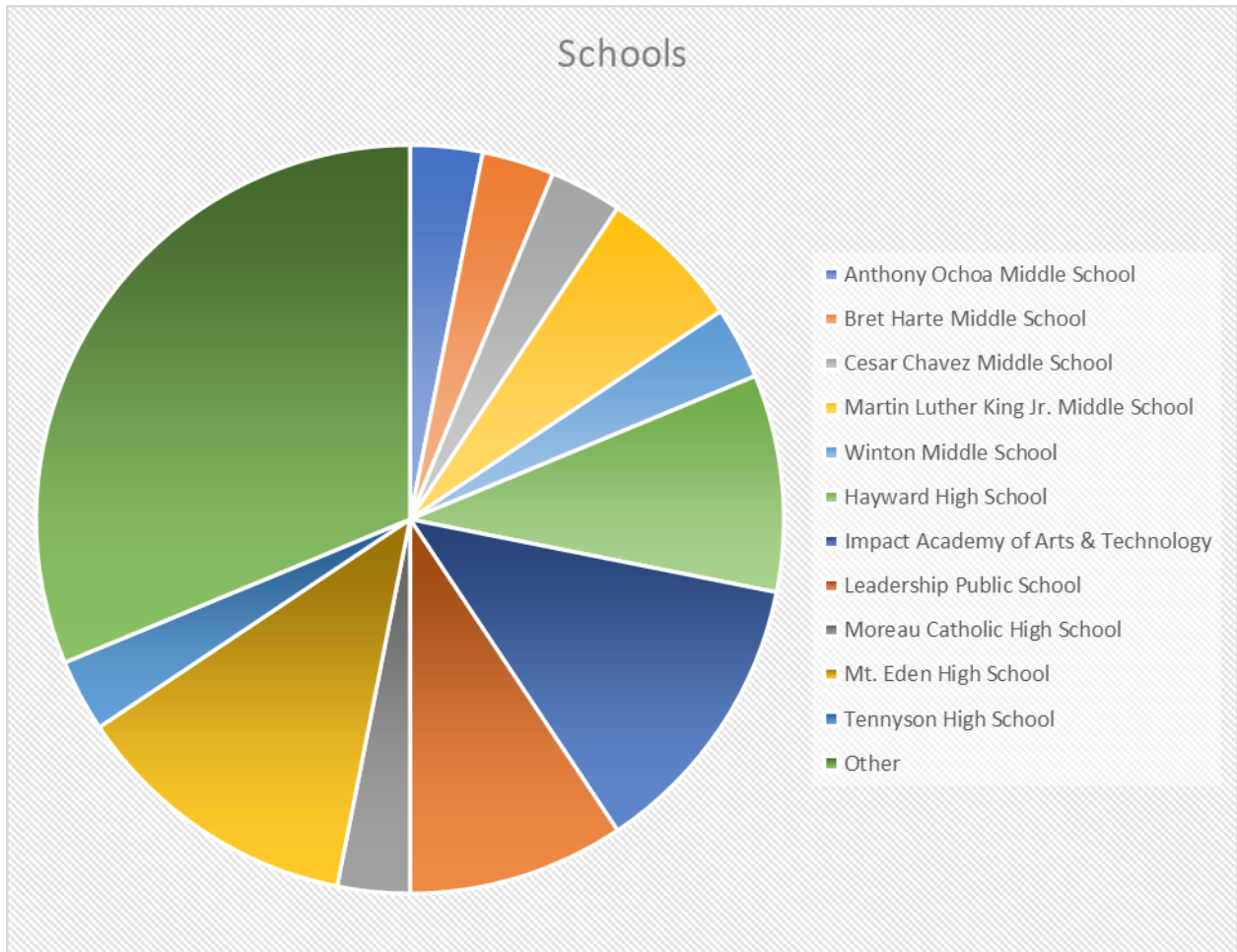
*Former alternate members promoted to voting members

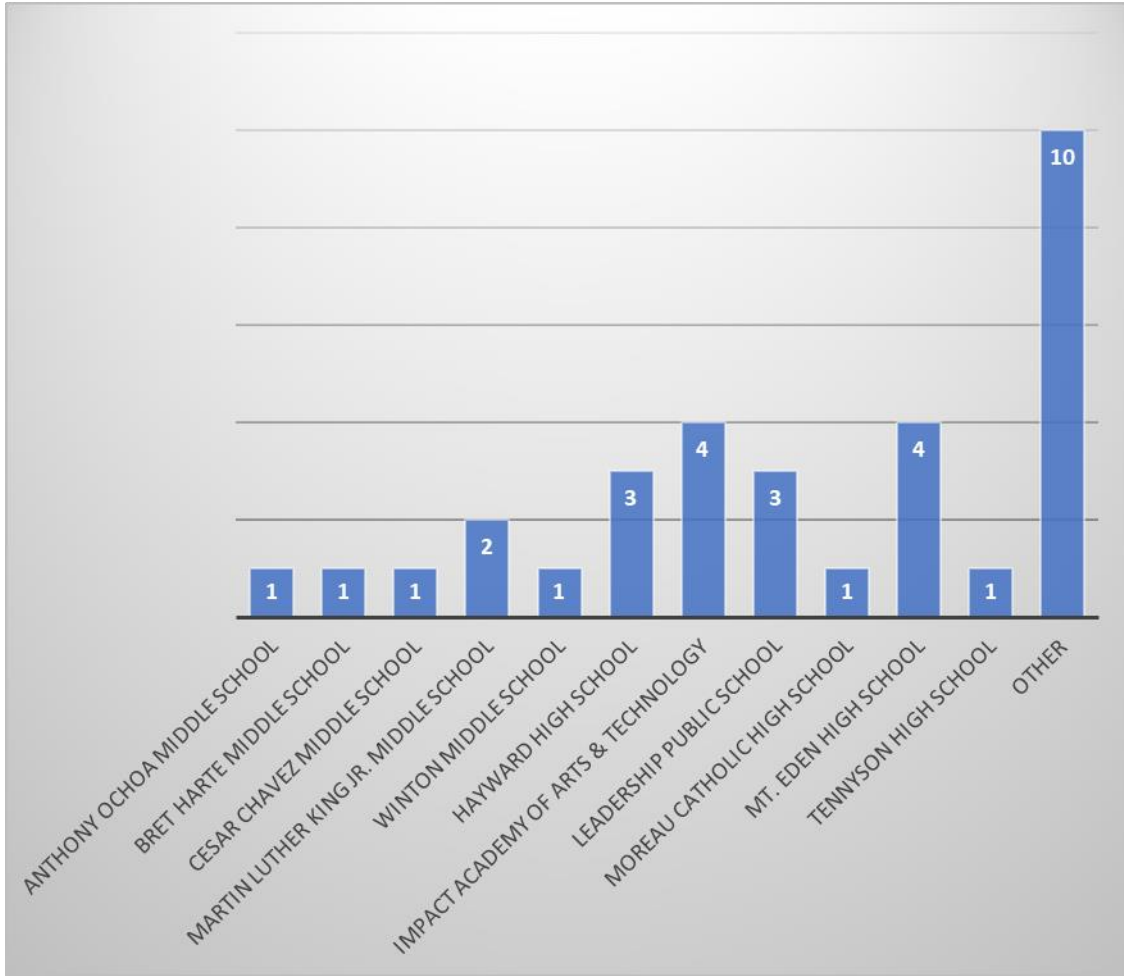
TABLE II: Current Members

VOTING MEMBER	SCHOOL	TERM EXPIRES
Sophia Araujo	Redwood Christian MSHS	6/30/2023
Alessandra Eiras	Mt. Eden High School	6/30/2023
Phylis A. Essandoh	Hayward High School	6/30/2023
Rachel M. Fryer	Mt. Eden High School	6/30/2023
Harnoor Gill	UC Berkeley	6/30/2023
Athena C. Herrera	Encinal High School	6/30/2023
Samiksha Lingan	Impact Academy of Arts and Technology	6/30/2023
Arianna Mendoza	Mt. Eden High School	6/30/2023
Isabelle A. Milanes	Leadership Public School	6/30/2023
James Mira	Moreau Catholic High School	6/30/2023
Pooja Rathaur	UC Berkeley	6/30/2023
Sharana Sabesan	Impact Academy of Arts and Technology	6/30/2023
Anna Tran	Hayward High School	6/30/2023
Vanna Van	Mt. Eden High School	6/30/2023
Savannah J. Wong	The Athenian School	6/30/2023

The current 2022 membership consists of thirty-two (32) representatives from Hayward schools as depicted in the chart below. As vacancies occur throughout the year, appointments will be made from the alternate list.

CHART I: 2022 HAYWARD YOUTH COMMISSION





OTHER - Hayward Residents Attending Other Schools:

- Arroyo High School
- Bishop O' Dowd Catholic High School
- Challenger School Ardenwood
- Encinal High School
- Redwood Christian MSHS
- San Leandro High School
- Silver Oak High School
- The Athenian School
- UC Berkeley (2)

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

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

PUBLIC CONTACT

Information about the annual recruitment was disseminated through various channels.

TABLE III: Summary of Outreach Efforts

2022 Outreach Efforts	Date	Attendance/Reach
City Newsletter - The Stack	3/14/22- 5/20/22	63,746 recipients
49 th Annual Hawaiian May Day	5/7/22	Citywide
2022 Hayward Youth Conference – Learning Today, Leading Tomorrow	4/30/22	Citywide
HUSD Youth Enrichment Program (YEP)	3/15/22- 5/20/22	HUSD's five middle and three high schools
HUSD Community Update Newsletter	4/22/22	HUSD parents
Earth Day Poster & Writing Contest Distribution	4/29/22	Hayward middle and high schools (29 teachers) and contest applicants (79)
April 23 Earth Poster Day – Weekes Park	4/23/22	80 attendees
Student and Parent Support Program (HUSD)	2/23; 3/16; 5/17	Parent Ambassador group; Family Engagement Specialist group
Tennyson High School Voter Registration Event	5/20/22	Senior class
Arbor Day – Cesar Chavez Middle School	5/18/22	Puente teacher, office/campus staff
Hayward Schools	3/14/22- 5/19/22	Information disseminated to principals, teachers, and counselors
Social Media: Facebook	3/15/22 - 5/20/22	7,177 followers
Social Media: Twitter	3/15/22 - 5/20/22	6,221 followers
Social Media: NextDoor	3/17/22	35,728 followers
Social Media: Instagram	3/15/22 - 5/20/22	3,761 followers
PeachJar	3/21/22- 4/19/22	8,770 deliveries

NEXT STEPS

Following Council's action, oaths of affirmation will be administered to newly appointed members.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION CONFIRMING THE APPOINTMENT OF MEMBERS OF THE
HAYWARD YOUTH COMMISSION

WHEREAS, the City conducted its annual recruitment for the Hayward Youth Commission from March 11, 2022 to May 20, 2022; and

WHEREAS, a panel of representatives from the three local agencies (City of Hayward, Hayward Area Recreation and Park District (HARD), and the Hayward Unified School District (HUSD)) reviewed forty-nine (49) applications and interviewed forty-one (41) eligible applicants on June 2, 2022; and

WHEREAS, the panel selected a total of seventeen (17) regular voting and alternate members.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby confirm the appointment of the below-named persons as members of the Hayward Youth Commission, for the terms as designated.

VOTING MEMBER	SCHOOL	SUCCEEDS	TERM EXPIRES
Diego F. Barcenas	Impact Academy of Arts & Technology	Ivan Arroyo	6/30/2024
Crystal Guerrero-Lopez	Tennyson High School	Joshua Linares	6/30/2024
Shreya K. Rathaur	Martin Luther King Jr. Middle School	Jema J. Reyes	6/30/2024
Penelope L. Reynoso	Hayward High School	Dulce Rivera Flores	6/30/2024
Alicia C. Saenz	Leadership Public School	Sruthy Sabesan	6/30/2024
Ananya Suresh	Challenger School Ardenwood	Myldret Vazquez-Bejar	6/30/2024

ALTERNATE MEMBER	SCHOOL	TERM EXPIRES
Hulissa H. Aguilar	Arroyo High School	6/30/2023
Josue S. Barrera	Martin Luther King Jr. Middle School	6/30/2023
Taylor Y. Chaplin	Bishop O' Dowd Catholic High School	6/30/2023
Giselle De Casas	Winton Middle School	6/30/2023
Damian A. Diaz	Bret Harte Middle School	6/30/2023
Isa Yusuf Khan	Cesar Chavez Middle School	6/30/2023
Zoe N. Kyama	Anthony Ochoa Middle School	6/30/2023
Liliana Lopez Ceja	Silver Oak High School	6/30/2023
Britany Ruiz	Impact Academy of Arts & Technology	6/30/2023
Ronak Sharma	Leadership Public School	6/30/2023
Michael D. Williams Jr.	San Leandro High School	6/30/2023

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

File #: ACT 22-068

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Library Services
Library Commission

SUBJECT

Adopt a Resolution Affirming the City's Support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement

RECOMMENDATION

That Council adopts a resolution (Attachment II) affirming the City's support for the Library Bill of Rights, Freedom to Read, and Freedom to View Statements.

SUMMARY

The freedom to read, along with the freedom to speak, hear, and view, is protected by the First Amendment of the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. On February 28, 2022, the Library Commission unanimously affirmed its support for the Hayward Public Library's commitment to intellectual freedom by endorsing three statements from the American Library Association: the Library Bill of Rights, The Freedom to Read Statement, and The Freedom to View Statement.

The Library Commission, along with the Library Department, respectfully asks the Mayor and City Council to adopt a resolution affirming the City's support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Library Commission Letter of Support
Attachment IV	ALA Library Bill of Rights
Attachment V	ALA Freedom to Read Statement
Attachment VI	ALA Freedom to View Statement

File #: ACT 22-068



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Library Commission
Director of Library Services

SUBJECT: Adopt a Resolution Affirming the City's Support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement

RECOMMENDATION

That Council adopts a resolution (Attachment II) affirming the City's support for the Library Bill of Rights, Freedom to Read, and Freedom to View Statements.

SUMMARY

The freedom to read, along with the freedom to speak, hear, and view, is protected by the First Amendment of the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. On February 28, 2022, the Library Commission unanimously affirmed its support for the Hayward Public Library's commitment to intellectual freedom by endorsing three statements from the American Library Association: the Library Bill of Rights, The Freedom to Read Statement, and The Freedom to View Statement.

The Library Commission, along with the Library Department, respectfully asks the Mayor and City Council to adopt a resolution affirming the City's support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement.

BACKGROUND AND DISCUSSION

The freedom to read, along with the freedom to speak, hear, and view, is protected by the First Amendment of the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Around the country, activists, school board officials, and lawmakers have been challenging books and audiovisual materials at a pace not seen in decades. The majority of Americans still favor free enterprise in ideas and expression, and want to be trusted to exercise critical judgment, recognize propaganda and misinformation,

make their own decisions about what they read, view, and believe, and exercise the responsibilities that accompany this freedom. This is the bedrock of our democracy.

On February 28, 2022, the Library Commission unanimously affirmed its support for the Hayward Public Library's commitment to intellectual freedom by endorsing three statements from the American Library Association. These statements, described in detail in the March 22nd letter from the Library Commission (Attachment III), include the Library Bill of Rights (Attachment IV), The Freedom to Read Statement (Attachment V), and The Freedom to View Statement (Attachment VI). The California Library Association also supports the work of library staff, and library advocates everywhere, in affirming the freedom to read, view, inquire, explore, learn, and share ideas and perspectives.

The Library Commission, along with the Library Department, respectfully asks the Mayor and City Council to support the right of all Hayward residents to unfettered access to information by adopting a resolution affirming the City's support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not directly relate to one of the Council's Strategic Initiatives.

FISCAL IMPACT

There is no fiscal impact from affirming these statements.

Prepared by: Brad Olson, Management Analyst II

Recommended by: Jayanti Addleman, Director of Library Services

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-____

Introduced by Council Member _____

ADOPT A RESOLUTION AFFIRMING THE CITY'S SUPPORT FOR THE LIBRARY
BILL OF RIGHTS, THE FREEDOM TO READ STATEMENT, AND THE FREEDOM
TO VIEW STATEMENT

WHEREAS, The freedom to read, along with the freedom to speak, hear, and view, is protected by the First Amendment of the Constitution of the United States; and

WHEREAS, In a free society, there is no place for censorship of any medium of expression; and

WHEREAS, Around the country, activists, school board officials, and lawmakers have been challenging books and audiovisual materials at a pace not seen in decades; and

WHEREAS, The majority of Americans still favor free enterprise in ideas and expression, and want to be trusted to exercise critical judgment, recognize propaganda and misinformation, make their own decisions about what they read, view, and believe, and exercise the responsibilities that accompany this freedom; and

WHEREAS, On February 28, 2022, Library Commission unanimously affirmed its support for the Hayward Public Library's commitment to intellectual freedom by endorsing three statements from the American Library Association: the Library Bill of Rights, The Freedom to Read Statement, and The Freedom to View Statement; and

WHEREAS, The California Library Association also supports the work of library staff, and library advocates everywhere, in affirming the freedom to read, view, inquire, explore, learn, and share ideas and perspectives;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward adopts a resolution affirming the City's support for the Library Bill of Rights, the Freedom to Read Statement, and the Freedom to View Statement.

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



COMMISSIONERS

Priscilla Banks
Carl Gorringer
Shonda Goward
Sofy Navarro
Anika Patterson
Suresh Sangiah
Kelly Sullivan
Andrea Wong

March 22, 2022

Hayward City Council
% Hayward City Clerk's Office
777 B Street
Hayward, CA 94541

Re: Library Bill of Rights, Freedom to Read & Freedom to View

Dear Members of the Hayward City Council,

Around the country, parents, activists, school board officials, and lawmakers have been challenging books at a pace not seen in decades.¹ In a preliminary report, the American Library Association indicated that they received an “unprecedented” 330 reports of book challenges—each of which can include multiple books—in Fall 2021. There have even been efforts to press criminal charges against school and public librarians. The rise in book bans points to a growing—and disturbing—movement by certain groups to use local and state governance to control teachers and public libraries; limit what children learn about American culture, society, and history; and constrain expression and ideas.

On February 28, 2022, the Library Commission unanimously affirmed its support for the Hayward Public Library's commitment to intellectual freedom by endorsing these three statements from the American Library Association, summarized thusly:

- **Library Bill of Rights:**
 - I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
 - II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
 - III. Libraries should challenge censorship in the fulfillment of the responsibility to provide information and enlightenment.

- **The Freedom to Read Statement:** “The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in

¹ Elizabeth A. Harris and Alexandra Alter, January 30, 2022, “Book Ban Efforts Spread Across the U.S.”, nytimes.com



HAYWARD

LIBRARY COMMISSION

COMMISSIONERS

Priscilla Banks
Carl Gorringer
Shonda Goward
Sofy Navarro
Anika Patterson
Suresh Sangiah
Kelly Sullivan
Andrea Wong

various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label ‘controversial’ views, to distribute lists of ‘objectionable books or authors, and to purge libraries.’”

- **The Freedom to View Statement:** “The Freedom to View, along with the freedom to speak, to hear, and to read, is protected by the First Amendment of the Constitution of the United States. In a free society, there is no place of censorship of any medium of expression.” This statement affirms the principle “to provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantee of freedom of expression.”

We respectfully ask the City Council to join us in showing support for the right of Hayward residents to have free and unfettered access to the information and materials they need through your endorsement of the Library Bill of Rights, Freedom to Read Statement, and Freedom to View Statement.

Thank you for your consideration.

Sincerely,
Hayward Library Commissioners

CC Jayanti Addleman

Library Bill of Rights

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.

IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.

V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.

VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

VII. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

Adopted June 19, 1939, by the ALA Council; amended October 14, 1944; June 18, 1948; February 2, 1961; June 27, 1967; January 23, 1980; January 29, 2019.

Inclusion of "age" reaffirmed January 23, 1996.

Although the Articles of the *Library Bill of Rights* are unambiguous statements of basic principles that should govern the service of all libraries, questions do arise concerning application of these principles to specific library practices. See the documents designated by the Intellectual Freedom Committee as [Interpretations of the Library Bill of Rights](#).

<https://www.ala.org/advocacy/intfreedom/librarybill>

The Freedom to Read Statement

The freedom to read is essential to our democracy. It is continuously under attack. Private groups and public authorities in various parts of the country are working to remove or limit access to reading materials, to censor content in schools, to label "controversial" views, to distribute lists of "objectionable" books or authors, and to purge libraries. These actions apparently rise from a view that our national tradition of free expression is no longer valid; that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals. We, as individuals devoted to reading and as librarians and publishers responsible for disseminating ideas, wish to assert the public interest in the preservation of the freedom to read.

Most attempts at suppression rest on a denial of the fundamental premise of democracy: that the ordinary individual, by exercising critical judgment, will select the good and reject the bad. We trust Americans to recognize propaganda and misinformation, and to make their own decisions about what they read and believe. We do not believe they are prepared to sacrifice their heritage of a free press in order to be "protected" against what others think may be bad for them. We believe they still favor free enterprise in ideas and expression.

These efforts at suppression are related to a larger pattern of pressures being brought against education, the press, art and images, films, broadcast media, and the Internet. The problem is not only one of actual censorship. The shadow of fear cast by these pressures leads, we suspect, to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials.

Such pressure toward conformity is perhaps natural to a time of accelerated change. And yet suppression is never more dangerous than in such a time of social tension. Freedom has given the United States the elasticity to endure strain. Freedom keeps open the path of novel and creative solutions, and enables change to come by choice. Every silencing of a heresy, every enforcement of an orthodoxy, diminishes the toughness and resilience of our society and leaves it the less able to deal with controversy and difference.

Now as always in our history, reading is among our greatest freedoms. The freedom to read and write is almost the only means for making generally available ideas or manners of expression that can initially command only a small audience. The written word is the natural medium for the new idea and the untried voice from which come the original contributions to social growth. It is essential to the extended discussion that serious thought requires, and to the accumulation of knowledge and ideas into organized collections.

We believe that free communication is essential to the preservation of a free society and a creative culture. We believe that these pressures toward conformity present the danger of limiting the range and variety of inquiry and expression on which our democracy and our culture depend. We believe that every American community must jealously guard the freedom to publish and to circulate, in order to preserve its own freedom to read. We believe that publishers and librarians have a profound responsibility to give validity to that freedom to read by making it possible for the readers to choose freely from a variety of offerings.

The freedom to read is guaranteed by the Constitution. Those with faith in free people will stand firm on these constitutional guarantees of essential rights and will exercise the responsibilities that accompany these rights.

We therefore affirm these propositions:

1. *It is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those that are unorthodox, unpopular, or considered dangerous by the majority.*

Creative thought is by definition new, and what is new is different. The bearer of every new thought is a rebel until that idea is refined and tested. Totalitarian systems attempt to maintain themselves in power by the ruthless suppression of any concept that challenges the established orthodoxy. The power of a democratic system to adapt to change is vastly strengthened by the freedom of its citizens to choose widely from among conflicting opinions offered freely to them. To stifle every nonconformist idea at birth would mark the end of the democratic process. Furthermore, only through the constant activity of weighing and selecting can the democratic mind attain the strength demanded by times like these. We need to know not only what we believe but why we believe it.

2. *Publishers, librarians, and booksellers do not need to endorse every idea or presentation they make available. It would conflict with the public interest for them to establish their own political, moral, or aesthetic views as a standard for determining what should be published or circulated.*

Publishers and librarians serve the educational process by helping to make available knowledge and ideas required for the growth of the mind and the increase of learning. They do not foster education by imposing as mentors the patterns of their own thought. The people should have the freedom to read and consider a broader range of ideas than those that may be held by any single librarian or publisher or government or church. It is wrong that what one can read should be confined to what another thinks proper.

3. *It is contrary to the public interest for publishers or librarians to bar access to writings on the basis of the personal history or political affiliations of the author.*

No art or literature can flourish if it is to be measured by the political views or private lives of its creators. No society of free people can flourish that draws up lists of writers to whom it will not listen, whatever they may have to say.

4. *There is no place in our society for efforts to coerce the taste of others, to confine adults to the reading matter deemed suitable for adolescents, or to inhibit the efforts of writers to achieve artistic expression.*

To some, much of modern expression is shocking. But is not much of life itself shocking? We cut off literature at the source if we prevent writers from dealing with the stuff of life. Parents and teachers have a responsibility to prepare the young to meet the diversity of experiences in life to which they will be exposed, as they have a responsibility to help them learn to think critically for themselves. These are affirmative responsibilities, not to be discharged simply by preventing them from reading works for which they are not yet prepared. In these matters values differ, and values cannot be legislated; nor can machinery be devised that will suit the demands of one group without limiting the freedom of others.

5. *It is not in the public interest to force a reader to accept the prejudgment of a label characterizing any expression or its author as subversive or dangerous.*

The ideal of labeling presupposes the existence of individuals or groups with wisdom to determine by authority what is good or bad for others. It presupposes that individuals must be directed in making up their minds about the ideas they examine. But Americans do not need others to do their thinking for them.

6. *It is the responsibility of publishers and librarians, as guardians of the people's freedom to read, to contest encroachments upon that freedom by individuals or groups seeking to impose their own standards or tastes upon the community at large; and by the government whenever it seeks to reduce or deny public access to public information.*

It is inevitable in the give and take of the democratic process that the political, the moral, or the aesthetic concepts of an individual or group will occasionally collide with those of another individual or group. In a free society individuals are free to determine for themselves what they wish to read, and each group is free to determine what it will recommend to its freely associated members. But no group has the right to take the law into its own hands, and to impose its own concept of politics or morality upon other members of a democratic society. Freedom is no freedom if it is accorded only to the accepted and the inoffensive. Further, democratic societies are more safe, free, and creative when the free flow of public information is not restricted by governmental prerogative or self-censorship.

7. *It is the responsibility of publishers and librarians to give full meaning to the freedom to read by providing books that enrich the quality and diversity of thought and expression. By the exercise of this affirmative responsibility, they can demonstrate that the answer to a "bad" book is a good one, the answer to a "bad" idea is a good one.*

The freedom to read is of little consequence when the reader cannot obtain matter fit for that reader's purpose. What is needed is not only the absence of restraint, but the positive provision of opportunity for the people to read the best that has been thought and said. Books are the major channel by which the intellectual inheritance

is handed down, and the principal means of its testing and growth. The defense of the freedom to read requires of all publishers and librarians the utmost of their faculties, and deserves of all Americans the fullest of their support.

We state these propositions neither lightly nor as easy generalizations. We here stake out a lofty claim for the value of the written word. We do so because we believe that it is possessed of enormous variety and usefulness, worthy of cherishing and keeping free. We realize that the application of these propositions may mean the dissemination of ideas and manners of expression that are repugnant to many persons. We do not state these propositions in the comfortable belief that what people read is unimportant. We believe rather that what people read is deeply important; that ideas can be dangerous; but that the suppression of ideas is fatal to a democratic society. Freedom itself is a dangerous way of life, but it is ours.

This statement was originally issued in May of 1953 by the Westchester Conference of the American Library Association and the American Book Publishers Council, which in 1970 consolidated with the American Educational Publishers Institute to become the Association of American Publishers.

Adopted June 25, 1953, by the ALA Council and the AAP Freedom to Read Committee; amended January 28, 1972; January 16, 1991; July 12, 2000; June 30, 2004.

A Joint Statement by:

American Library Association
Association of American Publishers

Subsequently endorsed by:

American Booksellers for Free Expression
The Association of American University Presses
The Children's Book Council
Freedom to Read Foundation
National Association of College Stores
National Coalition Against Censorship
National Council of Teachers of English
The Thomas Jefferson Center for the Protection of Free Expression

www.ala.org/advocacy/intfreedom/freedomreadstatement

Freedom to View Statement

The **FREEDOM TO VIEW**, along with the freedom to speak, to hear, and to read, is protected by the First Amendment to the Constitution of the United States. In a free society, there is no place for censorship of any medium of expression. Therefore these principles are affirmed:

1. To provide the broadest access to film, video, and other audiovisual materials because they are a means for the communication of ideas. Liberty of circulation is essential to insure the constitutional guarantee of freedom of expression.
2. To protect the confidentiality of all individuals and institutions using film, video, and other audiovisual materials.
3. To provide film, video, and other audiovisual materials which represent a diversity of views and expression. Selection of a work does not constitute or imply agreement with or approval of the content.
4. To provide a diversity of viewpoints without the constraint of labeling or prejudging film, video, or other audiovisual materials on the basis of the moral, religious, or political beliefs of the producer or filmmaker or on the basis of controversial content.
5. To contest vigorously, by all lawful means, every encroachment upon the public's freedom to view.

This statement was originally drafted by the Freedom to View Committee of the American Film and Video Association (formerly the Educational Film Library Association) and was adopted by the AFVA Board of Directors in February 1979. This statement was updated and approved by the AFVA Board of Directors in 1989.

Endorsed January 10, 1990, by the ALA Council

<https://www.ala.org/advocacy/intfreedom/freedomviewstatement>



CITY OF HAYWARD

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

File #: MIN 22-084

DATE: June 21, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve the City Council Meeting Minutes of the City Council Meeting on June 7, 2022

RECOMMENDATION

That the Council approves the City Council meeting minutes of June 7, 2022

SUMMARY

The City Council held a meeting on June 7, 2022.

ATTACHMENTS

Attachment I Draft Minutes of June 7, 2022



**SPECIAL JOINT HAYWARD CITY COUNCIL/HAYWARD REDEVELOPMENT
SUCCESSOR AGENCY/HAYWARD HOUSING AUTHORITY MEETING**
777 B Street, Hayward, CA 94541
Council Chamber and Virtual Platform (Zoom)
<https://hayward.zoom.us/j/84654762687?pwd=RkpDR3FaMIRnMUNBU2t4Q0xZMxFudz09>
Tuesday, June 7, 2022, 7:00 p.m.

The Special Joint City Council/Hayward Redevelopment Successor Agency (HRSA)/Hayward Housing Authority (HHA) meeting was called to order by Mayor/Chair Halliday at 7:00 p.m. The City Council held a hybrid meeting in Council Chambers and virtually via Zoom.

Pledge of Allegiance: Council/HRSA/HHA Member Márquez

ROLL CALL

Present:

Council Chamber: Council/HRSA/HHA Members Lamnin, Salinas, Zermeño
Mayor/Chair Halliday

Virtual Platform (Zoom): Council/ HRSA/HHA Members Andrews, Márquez, Wahab

Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session on June 7, 2022, at 5:15 p.m., with all members present, regarding three items: 1) conference with legal counsel pursuant to Government Code section 54957(a) concerning a matter posing a threat to the security of essential public service; 2) conference with legal counsel pursuant to Government Code section 54956.9 regarding Stoddard-Nunez v. City of Hayward U.S. District Court, N.D. CA, No. 4:13-cv-04490; and 3) conference with property negotiators pursuant to Government Code 54956.8 regarding Caltrans Parcel Group 8, Grove Way; APNs: 415-0180-070-00, 415-0180-068-01, 415-0180-076-00, 415-0180-084-01, 415-0180-073-00, 415-0180-074-00, 415-0180-075-00, 415-0180-072-00, 415-0180-071-00, 415-0180-069-01, 415-0190-064-00, 415-0180-083-01, 415-0180-080-00, 415-0180-082-01, 415-0180-081-01. City Attorney Lawson reported the Council discussed the items and took no reportable action. It was noted the closed session adjourned at 6:25 p.m.

PRESENTATIONS

Mayor Halliday read a proclamation declaring June 2022 as Elder Abuse Awareness Month and June 15, 2022, as Elder Abuse Awareness Day in recognition of the City's valued elders. The proclamation was presented to Deputy District Attorney Cheryl Poncini with Alameda County District Attorney's Office Elder Protection Unit who thanked the City for the recognition. Chris Chin, with Alameda County District Attorney's Office Elder Protection Unit; Vince Gordon, Supervisor, Alameda County Adult Protective Services; and Maria Palazzolo, Staff Attorney for Legal Assistance for Seniors, spoke about their work related to elder abuse prevention and thanked the City for the proclamation and continued partnership.

Mayor Pro Tempore Lamnin read a proclamation declaring the month of June 2022 as Lesbian, Gay, Bisexual, Transgender, Questioning, Queer, Intersex, 2-Spirit, and Gender Non-Conforming Pride Month. The proclamation was presented to Prevention Specialist Robert Lopez, Prevention Specialist, Project Eden, Rochelle Collins, Program Director, Project Eden and Ms. Venus Rivera, program participant with Project Eden, who thanked Council for the recognition and continued support of Project Eden.

PUBLIC COMMENTS

Ms. Juana Gonzalez, Arandas City Treasurer, via Spanish-English interpreter Janette Hernandez, on behalf of a delegation from Arandas, Jalisco, Mexico, spoke about the visit to Hayward, the sisterhood among the cities of Hayward and Arandas and shared a video from the Mayor of Arandas, Ms. Ana Isabel Banuelos Ramirez. Ms. Gonzalez introduced the delegates: Council Member Luz Adriana Vivanco Gonzalez; Council Member Veronica Hernandez Bustos; Council Member Juan Varela Jimenez; Director of Medical Services Kenia Yolanda Davalos Vivanco; Director of Women's Institute, Giselle Morales Ramirez; and Director of Fire Protection Miguel Angel Lopez Plasencia. Members of the delegation presented the Council with gifts from Mexico and underscored their gratitude toward Council Member Zermeño for his support. Mayor Halliday thanked the delegates from Arandas, reciprocated with tokens of appreciation and hoped they could take ideas from Hayward and implement them in Arandas.

CITY MANAGER'S COMMENTS

Assistant City Manager Youngblood did not have any comments.

CONSENT

1. Approve the City Council Meeting Minutes of the City Council Meeting on May 17, 2022
MIN 22-078

It was moved by Council Member Zermeño, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council Meeting on May 17, 2022.

2. Adopt a Resolution Accepting the Resignation of Mr. Edward Moore from the Keep Hayward Clean and Green Task Force, Effective Immediately **CONS 22-341**

Staff report submitted by City Clerk Lens, dated June 7, 2022,
was filed.

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



**SPECIAL JOINT HAYWARD CITY COUNCIL/HAYWARD REDEVELOPMENT
SUCCESSOR AGENCY/HAYWARD HOUSING AUTHORITY MEETING**
777 B Street, Hayward, CA 94541
Council Chamber and Virtual Platform (Zoom)
<https://hayward.zoom.us/j/84654762687?pwd=RkpDR3FaMIRnMUNBU2t4Q0xZMXFudz09>
Tuesday, June 7, 2022, 7:00 p.m.

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

Resolution 22-135, "Resolution Accepting the Resignation of Mr. Edward Moore from the Keep Hayward Clean and Green Task Force"

3. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Savant Solutions for Information Technology Department Infrastructure Security Services in an Amount Not-to-Exceed \$466,000 **CONS 22-304**

Staff report submitted by CIO/ Director of Information Technology Kostrzak, dated June 7, 2022, was filed.

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

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

Resolution 22-136, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Savant Solutions for Information Technology Department Infrastructure Security Services in An Amount Not to Exceed \$466,000"

4. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Assignment/Assumption of Lease with Friends of Bud Field, LLC, for Property located at 22005 SkyWest Drive **CONS 22-329**

Staff report submitted by Director of Public Works Ameri, dated June 7, 2022, was filed.

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

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

Resolution 22-137, "Resolution Authorizing the City Manager to Negotiate and Execute an Assignment/Assumption of Lease with Friends of Bud Field, LLC, for the Property Located at 22005 SkyWest Drive"

5. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Assignment/Assumption of Lease with Savage Aviation, Inc., for Property Located at 21593 SkyWest Drive **CONS 22-330**

Staff report submitted by Director of Public Works Ameri, dated June 7, 2022, was filed.

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

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

Resolution 22-138, "Resolution Authorizing the City Manager to Negotiate and Execute an Assignment/Assumption of Lease to the Ground Lease with Savage Aviation, Inc."

6. Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 4 to the Professional Services Agreement with Pavement Engineering, Inc., Increasing the Agreement by \$392,825, to Provide Engineering Services for the FY23 Pavement Improvement Project for a Total Not-to-Exceed Amount of \$1,755,495 **CONS 22-331**

Staff report submitted by Director of Public Works Ameri, dated June 7, 2022, was filed.

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



**SPECIAL JOINT HAYWARD CITY COUNCIL/HAYWARD REDEVELOPMENT
SUCCESSOR AGENCY/HAYWARD HOUSING AUTHORITY MEETING**
777 B Street, Hayward, CA 94541
Council Chamber and Virtual Platform (Zoom)
<https://hayward.zoom.us/j/84654762687?pwd=RkpDR3FaMIRnMUNBU2t4Q0xZMXFudz09>
Tuesday, June 7, 2022, 7:00 p.m.

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

Resolution 22-139, “Resolution Authorizing the City Manager to Execute Amendment No. 4 to Professional Services Agreement with Pavement Engineering, Inc., to Provide Engineering Services for the FY23 Pavement Improvement Project, Project No. 05240”

7. Adopt a Resolution Awarding a Contract to The Garland Company for the Hayward Executive Airport - Hangars F, G, H, and I Roof Repair Project, Project No. 06826, in an Amount Not-to-Exceed \$600,000 **CONS 22-337**

Staff report submitted by Director of Public Works Ameri, dated June 7, 2022, was filed.

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

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

Resolution 22-140, “Resolution Authorizing the City Manager to Negotiate and Execute a Contract with the Garland Company for the Hayward Executive Airport – Hangars F, G, H, and I Roof Repair Project, Project No. 06826, in an Amount Not-to-Exceed \$600,000”

8. Adopt a Resolution Authorizing the City Manager to Appropriate Additional Funds in the Amount of \$20,000 from Sewer Replacement Fund 611 for the Water Pollution Control Facility (WPCF) Effluent Pond Weed Removal Project No. 07630, and Award a Contract to McNabb Construction Inc., to Implement the Project in an Amount Not-to-Exceed \$220,000 **CONS 22-338**

Staff report submitted by Director of Public Works Ameri, dated June 7, 2022, was filed.

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

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

Resolution 22-141, “Resolution Authorizing the City Manager to Appropriate Additional Funds in the Amount of \$20,000 from Sewer Replacement Fund 611 for the Water Pollution Control Facility (WPCF) Effluent Pond Weed Removal Project No. 07630 and Award a Contract to McNabb Construction, Inc., (Dk Environmental) to Implement the Project in an Amount Not-to-Exceed \$220,000”

9. Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Primary Diagnostics, Inc. (“Primary”) in an Amount Not-to-Exceed \$90,000 to Continue to Provide the City’s Software Platform for Maintaining Vaccine Records and COVID-19 Testing Results Through December 31, 2022 **CONS 22-340**

Staff report submitted by Assistant City Manager/ Interim Human Resources Director Youngblood, dated June 7, 2022, was filed.

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

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

Resolution 22-142, “Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Primary Diagnostics, Inc. (“Primary”) in an Amount Not to Exceed \$90,000 to Continue to Provide the City’s Software Platform for Maintaining Vaccine Records and Covid-19 Testing Results through December 31, 2022”



**SPECIAL JOINT HAYWARD CITY COUNCIL/HAYWARD REDEVELOPMENT
SUCCESSOR AGENCY/HAYWARD HOUSING AUTHORITY MEETING**
777 B Street, Hayward, CA 94541
Council Chamber and Virtual Platform (Zoom)
<https://hayward.zoom.us/j/84654762687?pwd=RkpDR3FaMlRnMUNBU2t4Q0xZMlRudz09>
Tuesday, June 7, 2022, 7:00 p.m.

10. Adopt a Resolution Authorizing the City Manager to Accept and Appropriate up to \$10,000 in Funding from First 5 of Alameda County to Support Library Services and Programs **CONS 22-342**

Staff report submitted by Director of Library Services Addleman, dated June 7, 2022, was filed.

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

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

Resolution 22-143, "Authorize the City Manager to Accept and Appropriate up to \$10,000 in Funding from First 5 of Alameda County to Support Library Services and Programs"

11. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc., for Outside Airport Planning and Environmental Services and Appropriate Funds in an Amount Not-to-Exceed \$700,000 **CONS 22-356**

Staff report submitted by Director Public Works Ameri, dated June 7, 2022, was filed.

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

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

Resolution 22-144, “Resolution Authorizing the City Manager to Appropriate Funds in Support of and Execute a Two-Year Agreement with Kimley-Horn and Associates, Inc., for Outside Planning and Environmental Services at Hayward Executive Airport in an Amount Not-to exceed \$700,000”

PUBLIC HEARING

12. Gann Appropriations Limit for Fiscal Year 2023: Adopt Appropriations Limit for Fiscal Year 2023 Pursuant to Article XIII B of the Constitution of the State of California PH 22-026

Staff report submitted by Finance Director Claussen, dated June 7, 2021, was filed.

Finance Director Claussen announced the report and introduced Deputy Finance Director Gonzales who provided a synopsis of the staff report.

Mayor Halliday opened the public hearing at 7:47 p.m.

Ms. Happy Gill asked why there was a Gann appropriations limit and suggested the City could invest in local businesses and help develop the business community in the Tennyson and South Hayward BART areas.

Finance Director Claussen responded the law was established to limit agencies from overtaxing its constituents.

Mayor Halliday commented the Gann limit was based on progressive increases and added that American Rescue Plan Act (ARPA) funds were used to help businesses and residents in the community.

Mayor Halliday closed the public hearing at 7:51 p.m.

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

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

Resolution 22-145 “Adoption of Appropriations Limit for Fiscal Year 2023 Pursuant to Article XIII B of the Constitution of the State of California”



**SPECIAL JOINT HAYWARD CITY COUNCIL/HAYWARD REDEVELOPMENT
SUCCESSOR AGENCY/HAYWARD HOUSING AUTHORITY MEETING**
777 B Street, Hayward, CA 94541
Council Chamber and Virtual Platform (Zoom)
<https://hayward.zoom.us/j/84654762687?pwd=RkpDR3FaMIRnMUNBU2t4Q0xZMXFudz09>
Tuesday, June 7, 2022, 7:00 p.m.

13. FY 2023 Budget/CIP Public Hearing and Adoption: Public Hearing for the Proposed FY 2023 Operating Budgets for the City of Hayward, Hayward Redevelopment Successor Agency, and Hayward Housing Authority; FY 2023 Capital Improvement Program Budget; Adoption of the FY 2023 Operating Budgets and Appropriations for FY 2023; Adoption of the FY 2023 Capital Improvement Program Budget and Appropriations for FY 2023; Adoption of the Hayward Redevelopment Successor Agency Budget; and Adoption of the Hayward Housing Authority Budget **PH 22-024**

Staff report submitted by Finance Director Claussen, dated June 7, 2021, was filed.

Finance Director Claussen announced the report and introduced Deputy Finance Director Gonzales who provided a synopsis of the staff report.

Mayor/HRSA/HHA Chair Halliday noted the Council held two budget work sessions and the budget public hearing was a culmination of the City budget process.

Discussion ensued among members of the City Council/HRSA Board/HHA Board and City staff: regarding the City's Sales Tax revenue (23% of General Fund) as compared to comparable communities; the report on Property Tax and Sales Tax revenue reviewed by the Council Budget and Finance Committee and its frequency; the economic outlook and viability of businesses and potential revenue generation being primarily assessed by the Economic Development team and Development Services Department with some assistance with analysis by the Finance Department; vacancies in the organization and how the City is actively trying to reduce the number of vacancies across the organization; and the role of State and Federal lobbyists in bringing additional funds to the city to offer new programs and services or supplement existing ones.

There being no public comment, Mayor/HRSA/HHA Chair Halliday opened and closed the public hearing at 8:13 p.m.

Council/HRSA/HHA Member Zermeño thanked City staff for their excellent work on the proposed budget.

Council/HRSA/HHA Member Wahab made a motion per staff's recommendation and Council/HRSA/HHA Member Lamnin seconded the motion.

Mayor/HRSA/HHA Chair Halliday noted Council/HRSA/HHA Member Wahab, Council/HRSA/HHA Member Lamnin and herself comprise the Council Budget and Finance Committee and were also able to review the budget proposal.

Council/HRSA/HHA Member Márquez thanked City staff for their work on the proposed budget and employees for helping the organization provide excellent service to the community.

Mayor/HRSA/HHA Chair Halliday stated the FY2023 Budget document reflected the great work that was done throughout the entire organization, noted the bottom line was encouraging in part due to ARPA funds and policies/goals set by Council to build for long-term liabilities and reserve funds. Finance Director Claussen and his team were commended for the work done with the budget document.

It was moved by Council/HRSA/HHA Member Wahab, seconded by Council/HRSA/HHA Member Lamnin, and carried by the following roll call vote, to approve the resolutions.

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

Resolution 22-146 “Resolution Approving the Operating Budget of the City of Hayward for Fiscal Year 2023; Adopting Appropriations for Fiscal Year 2023, Except for General Fund Community Agency Funding”

RSA Resolution 22-01 “Resolution of the City Council of the City of Hayward, acting as the Governing Board of the Successor Agency for the Redevelopment Agency of the City of Hayward, Approving the Budget of the Redevelopment Successor Agency of the City of Hayward and Adopting Appropriations for Fiscal Year 2023”

HA Resolution 22-03 “Resolution Confirming the Proposed Hayward Housing Authority Budget for Fiscal Year 2023”

Resolution 22-147 “Resolution Approving Capital Improvement Projects for Fiscal Year 2023”

Resolution 22-148 “Resolution Approving and Appropriating the Community Agency Funding Recommendations for Fiscal Year 2023”



**SPECIAL JOINT HAYWARD CITY COUNCIL/HAYWARD REDEVELOPMENT
SUCCESSOR AGENCY/HAYWARD HOUSING AUTHORITY MEETING**
777 B Street, Hayward, CA 94541
Council Chamber and Virtual Platform (Zoom)
<https://hayward.zoom.us/j/84654762687?pwd=RkpDR3FaMlRnMUNBU2t4Q0xZMlRudz09>
Tuesday, June 7, 2022, 7:00 p.m.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Salinas made three announcements: the return of the Words for Lunch program for free lunch and story time for kids from June 22, 2022 through July 22, 2022, at the Hayward Public Library/Heritage Plaza and Mia's Dream Come True playground; Fresh Food for Families will be distributing shelf secure foods and produce from June through December; and the Cobbler's Car Show and Open House was occurring on June 12, 2022 at the Cobbler.

Council Member Andrews made two announcements: the Hope for Hank fundraiser event on June 11, 2022, to support Hank and help in his battle with Neuroblastoma; and the Super Saturday panel presented by BWOPA on June 11, 2022, where she will discuss issues related to Black maternal health in California.

COUNCIL REFERRALS

14. City Council Referral: Request for Use of Council Member Funds for Reimbursement Related to Juneteenth Hayward Event Coordination **RPT 22-061**

Referral memorandum submitted by Council Member Andrews, and Márquez, dated June 7, 2022, was filed.

Council Member Andrews announced the Juneteenth Wellness Festival on June 18, 2022 at the Heritage Plaza will include activities by three fitness instructors from Paradise Dance Studio and Trap Yoga Bae and resources for the community; and requested use of \$1,000 from her Council Member fund for reimbursement of expenses including operations, entertainment, and marketing.

Council Member Márquez thanked Council Member Andrews for her leadership helping organize the free family event and added the event will be a great opportunity to showcase the Heritage Plaza.

There being no public comment, Mayor Halliday opened and closed public comment at 8:28 p.m.

Council Member Andrews moved the referral and Council Member Márquez seconded it.

Council Member Lamnin appreciated the Juneteenth event was happening as it was responsive to the needs of the community; encouraged residents to attend the event; supported the use of unspent training budget allocated for Council's use; and urged Council to reevaluate how unused funds are used in the future.

Mayor Halliday suggested the evaluation of unspent Council funds could start with the Budget and Finance Committee.

Council Member Márquez suggested the concerns raised be revisited when the Council Member Handbook is reviewed next year.

In response to Council Member Salinas' inquiry, Council Member Andrews clarified the requested funds would come from her unspent allocated budget.

It was moved by Council Member Andrews, seconded by Council Member Márquez, and carried by the following roll call vote, to approve the use of \$1,000 from Council Member Andrews's unspent funds for reimbursement of expenses related to the Juneteenth Hayward event including but not limited to operations, entertainment, and marketing.

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

ADJOURNMENT

Mayor Halliday congratulated all candidates running for public office in the June 7, 2022 Primary Election and wished them well; and adjourned the meeting at 8:34 p.m.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

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

File #: CONS 22-352

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Acting Assistant City Manager

SUBJECT

Adopt a Resolution (1) Authorizing the City Manager to Amend the Agreement with Tyler Technologies to Extend the Term of the Contract for Six Months and Reflect Revised Tasks, and (2) Authorize the Transfer of \$150,000 to Cover Previously Authorized and Appropriated Project Budget

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to: 1) amend the agreement with Tyler Technologies to extend the term for six months and reflect the revised tasks; and 2) authorize the transfer of \$150,000 from the General Fund to the Information Technology Capital Fund to account for previously authorized and appropriated project budget for Project Number 07267 - the EnerGov Online Permitting project. The transfer of \$150,000 from the General Fund will be funded using department operational savings.

SUMMARY

In 2019, the City entered into a contract with Tyler Technologies for the purchase of a new software solution for online permitting (EnerGov), as well as associated implementation costs. When the project was first approved, it was anticipated that year three costs would be paid for when that year arrived and, as such, the project was originally underfunded. In addition, the delays in full implementation have resulted in additional hours needed to get the new software launched, which is now slated for October 2022. Staff recommends extending the contract with Tyler Technologies for up to an additional six months or until May 1, 2023 to allow for the go live and any follow-up troubleshooting once launch in October occurs and to amend the contract to include the additional hours needed to do so. Staff also recommends that \$150,000 in department operational budget savings in the General Fund be transferred to the Information Technology Capital Fund to account for the previously authorized and appropriated project budget.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution

File #: CONS 22-352



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Acting Assistant City Manager

SUBJECT: Adopt a Resolution (1) Authorizing the City Manager to Amend the Agreement with Tyler Technologies to Extend the Term of the Contract for Six Months and Reflect Revised Tasks, and (2) Authorize the Transfer of \$150,000 to Cover Previously Authorized and Appropriated Project Budget

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to: 1) amend the agreement with Tyler Technologies to extend the term for six months and reflect the revised tasks; and 2) authorize the transfer of \$150,000 from the General Fund to the Information Technology Capital Fund to account for previously authorized and appropriated project budget for Project Number 07267 - the EnerGov Online Permitting project. The transfer of \$150,000 from the General Fund will be funded using department operational savings.

SUMMARY

In 2019, the City entered into a contract with Tyler Technologies for the purchase of a new software solution for online permitting (EnerGov), as well as associated implementation costs. When the project was first approved, it was anticipated that year three costs would be paid for when that year arrived and, as such, the project was originally underfunded. In addition, the delays in full implementation have resulted in additional hours needed to get the new software launched, which is now slated for October 2022. Staff recommends extending the contract with Tyler Technologies for up to an additional six months or until May 1, 2023 to allow for the go live and any follow-up troubleshooting once launch in October occurs and to amend the contract to include the additional hours needed to do so. Staff also recommends that \$150,000 in department operational budget savings in the General Fund be transferred to the Information Technology Capital Fund to account for the previously authorized and appropriated project budget.

BACKGROUND

On November 20, 2019, the City entered into an Agreement with Tyler Technologies, Inc. to acquire, install, implement, and receive technical services for a new EnerGov online

permitting software solution. In September 2020, during the Assess & Define phase of the EnerGov project, it was determined that adjustments to the Tyler Technologies, Inc. contract were needed to ensure that the City's permitting needs were met. The additional Business License Module was necessary for current Code Enforcement processes and workflows and additional funding was required and identified to complete the project. City Council approved these changes on December 1, 2020. As the Assess and Define phase was wrapping up and the Configuration stage began in late 2020 and into 2021, it became clear that there were necessary upgrades to the EnerGov software needed to ensure compatibility with the existing version of the City's current Enterprise system (MUNIS), which required additional hours dedicated to bridging that connection. This resulted in the need to augment the budget for Tyler Technologies, Inc's contract to reflect the additional labor hours to ensure compatibility. Staff also recognized that the project was underfunded and requested that Council transfer Development Services Department Salary and Budget savings of up to \$363,469 to the project. The City Council approved these changes in June 2021. However, only about \$325,000 in salary and budget savings was transferred to cover the contract expenses.

Since then, additional delays in the project configuration ensued primarily due to key staffing losses on both the Tyler and City side as well as delays related to data conversion of MUNIS data into the EnerGov system. This has resulted in a delay in the scheduled "go-live" until October 2022. Due to these delays, there are additional hours required for Tyler to finalize the configuration, data conversion, and ultimate launch of the new system. However, staff was able to negotiate and will receive credit for a portion of hours due to the delays caused by staffing issues within Tyler. Separately, staff clarified the exact number and type of licenses needed to ensure City users will have appropriate access. Lastly, there was a need to purchase hardware for processing payments. All of these modifications require an amendment to the agreement with Tyler Technologies, and result in additional costs to the City.

DISCUSSION

The comprehensive, inter-departmental Energov online permitting project was initiated in January 2019 and staff from various departments including Development Services, Public Work, and Fire have engaged in the configuration and testing for the last several years. Due to delays stemming from loss of staff and complications related to converting MUNIS data to EnerGov, the entire project implementation and "go-live" has been delayed until October 2022. This has resulted in a need to amend the contract with Tyler Technologies to capture the additional costs and to extend the contract term for up to six months to ensure the City receives the support needed post system "go-live." The original contract with Tyler Technologies was approved for \$1,085,881 and was amended in late 2020 by \$235,138 for a not to exceed amount of \$1,321,019. In order to complete the project, staff is recommending an additional amendment to reflect the additional hours required to support final configuration and launch, as well as to cover the additional license types needed for all system users and to purchase necessary hardware for the permit payments. The sum total of these project augmentations is approximately \$97,000, resulting in a not to exceed contract amount of \$1,418,019. Council previously authorized a total project budget of \$1,726,988 so these changes are still within the previously authorized project budget.

While the contract amendment is within the authorized project budget amount, a transfer of funds to the Information Technology Capital Fund from the General Fund is required to fully account for the previously authorized project budget amount.

Staff is recommending a transfer of \$150,000 of department operational budget savings in the General Fund to the Information Technology Capital Fund in FY 2022 to account for previously authorized and appropriated project budget.

FISCAL IMPACT

Based on previous Council action, the current project budget has been approved for \$1,726,988, with the Tyler Technologies contract accounting for \$1,321,019. As discussed above, there is a need for additional licenses and hours to help ensure the system will function efficiently for all system users, resulting in an amendment to the Tyler Technologies contract by \$97,000, for a total not to exceed contract amount of \$1,418,019. While there is sufficient budget authority to cover the cost of the amendment with Tyler Technologies, staff is recommending the transfer of \$150,000 from the General Fund to the Information Technology Capital Fund to ensure that the project budget authority is fully accounted for within the Information Technology Capital Fund.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Organizational Health. Specifically, this item relates to the implementation of the following project:

- Project 15, Part 15.b: Implement new online planning and permitting solution

NEXT STEPS

If Council adopts the attached resolution, staff will take the following steps:

- Prepare and execute an amendment to the agreement with Tyler Technologies to reflect the changes in the project as well as extend the term of the contract by up to six months.
- Request Finance transfer \$150,000 from the department operational budget savings in salaries and supplies and services to the Information Technology Capital Fund for the EnerGov online permitting system project.

Once an amended agreement has been executed, the project will continue to move forward towards an anticipated system “go-live” date in October 2022.

Prepared by: Sara Buizer, AICP, Deputy Development Services Director

Recommended by: Dustin Claussen, Acting Assistant City Manager/Development Services Director

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONTRACT WITH TYLER TECHNOLOGIES TO EXTEND THE TERM BY SIX MONTHS AND TO REFLECT ADDITIONAL TASKS, AND AUTHORIZING A TRANSFER OF \$150,000 FROM THE GENERAL FUND TO THE INFORMATION TECHNOLOGY CAPITAL FUND TO COVER PREVIOUSLY AUTHORIZED AND APPROPRIATED PROJECT BUDGET FOR THE ONLINE PERMITTING PROJECT

WHEREAS, On November 20, 2019, the City entered into an Agreement with Tyler Technologies, Inc., in a not to exceed amount of \$1,085,881 to acquire, install, implement and receive technical services for EnerGov online permitting Software as a Solution; and

WHEREAS, in December 2020, the City Council approved an amendment to the Tyler Technologies contract in an amount of \$235,138 for a total not to exceed contract amount of \$1,321,019 to reflect some additional costs including a Business License Module to support Code Enforcement activities, additional case types, report writing and data conversion; and

WHEREAS, in June 2021, the City Council approved a project budget amendment to increase the total EnerGov project budget to \$1,726,988 and authorized a transfer of up to \$363,469 of Development Services Department budget savings to cover additional project costs; and

WHEREAS, due to staff changes on both the City and Tyler Technologies as well as issues associated with data conversion and necessary hardware purchases for payments have created additional project delays necessitating additional hours to finalize implementation in an amount of \$97,000; and

WHEREAS, the agreement with Tyler Technologies will be amended to reflect the additional services and corresponding costs in a revised not to exceed contract budget of \$1,418,019 as well as have it's term extended by up to six months to support post go live activities; and

WHEREAS, funding for these additional EnerGov project costs will be covered from the Development Services Department approved operating budget to include salary, supplies and services savings, and will have no negative impact on the General Fund.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Hayward hereby authorizes and directs the Finance Director to transfer \$150,000 from the

ATTACHMENT II

Development Services Department approved operating budget savings to the Information Technology Capital Fund Project Number 07267, Online Permitting, to support the previously approved and appropriated project budget for the EnerGov project.

BE IT FURTHER RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager to negotiate and execute an amendment to the agreement with Tyler Technologies to extend the term of the agreement by up to six months and reflect the additional services and corresponding costs not to exceed \$1,418,019, in a form approved by the City Attorney.

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

File #: CONS 22-355

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Acting Assistant City Manager / Development Services Director

SUBJECT

Adopt a Resolution Authorizing the City Manager to Amend the FY2022 Operating Budget for the Development Services Department Building Division for Outside Plan Check, Building Inspection, and Permit Technician Services

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving an amendment to the FY2022 budget for the Development Services Department (DSD) - Building Division, increasing the appropriation from \$800,000 to \$1,270,000 for consulting services for outside plan check, building inspections, and permit technician services.

SUMMARY

The City currently has executed agreements with five outside consulting firms to augment DSD Building Division staff by providing plan check, inspection, and permit technician services. The compensation for these agreements is for an amount not-to-exceed the annual budget appropriation (distributed as appropriate amongst the consultants for work performed) for FY 2022, and for a term up to three years or until 2024.

The additional \$470,000 of appropriated funds in the General Fund will be offset by fees paid for building plan check by permit applicants at the time plans and applications are submitted and permit fees for inspections are collected. To date, approximately \$3.5 million in revenue has been collected for permit and inspection fees. Staff is requesting an additional appropriation of \$470,000 in the General Fund to cover the cost of outside plan checking, building inspections, and permit technician services for a total of \$1,270,000. The additional appropriation will be funded by an offset in fees collected through permit applications for building plan check and inspection services.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Acting Assistant City Manager/Development Services Director

SUBJECT: Adopt a Resolution Authorizing the City Manager to Amend the FY2022 Operating Budget for the Development Services Department Building Division for Outside Plan Check, Building Inspection, and Permit Technician Services

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving an amendment to the FY2022 budget for the Development Services Department (DSD) - Building Division, increasing the appropriation from \$800,000 to \$1,270,000 for consulting services for outside plan check, building inspections, and permit technician services.

SUMMARY

The City currently has executed agreements with five outside consulting firms to augment DSD Building Division staff by providing plan check, inspection, and permit technician services. The compensation for these agreements is for an amount not-to-exceed the annual budget appropriation (distributed as appropriate amongst the consultants for work performed) for FY 2022, and for a term up to three years or until 2024.

The additional \$470,000 of appropriated funds in the General Fund will be offset by fees paid for building plan check by permit applicants at the time plans and applications are submitted and permit fees for inspections are collected. To date, approximately \$3.5 million in revenue has been collected for permit and inspection fees. Staff is requesting an additional appropriation of \$470,000 in the General Fund to cover the cost of outside plan checking, building inspections, and permit technician services for a total of \$1,270,000. The additional appropriation will be funded by an offset in fees collected through permit applications for building plan check and inspection services.

BACKGROUND

The City of Hayward has maintained agreements with multiple firms to provide plan check and inspection services to support customer demand that exceeds the availability or workload capacity of Building Division staff.

This approach toward managing plan review applications disperses the workload between City staff and consultants and provides the flexibility to augment staff as necessary to cover

increases in permit applications and long-term absences of permanent staff. Agreements with multiple outside firms also allow staff to ensure that large projects, such as complex commercial and industrial projects or subdivisions, involving multiple sets of plans can be reviewed and inspected in a timely manner.

Retaining several firms under contract who are available to respond on short notice also provides the City the flexibility to use qualified firms or persons that are best suited, based on specific areas of specialization and availability of personnel. The City currently has executed agreements with five outside consulting firms to provide these services:

- 4 Leaf Inc.
- CSG Consultants
- Independent Code Consultants
- Shums Coda Associates
- West Coast Code Consultants

Each year, staff requests that Council approve an amendment to the fiscal year budget appropriation for Consulting Services in the Building Division based on the receipts received by the City to perform these services. Staff is seeking Council approval to amend the FY2022 Operating Budget for the DSD Building Division for outside plan check, building inspection and permit technician services based on collected revenues for these specific services.

DISCUSSION

The continued rise in demand for permits and inspection services necessitates the utilization of outside services, resulting in increased costs that have surpassed the original FY 2022 budget appropriation of \$330,000 established by Resolution 21-042. As of the end of April 2022, staff anticipates approximately \$370,444 will be charged by outside consultants for plan check, building inspection, and permit technician services. These charges are largely due to several large projects, including Lincoln Landing, SOHAY, Legacy Partners, Hines, Berkeley Farms, and Mission Crossings.

The additional \$470,000 of appropriated funds will be offset by fees paid for building plan check by permit applicants at the time plans and applications are submitted and permit fees for inspections are collected. The City will not incur these expenses if fee revenues are not generated. To date, approximately \$3.5 million in total revenue has been collected for permit and inspection fees.

Staff seeks Council approval to increase the expenditure appropriation for Consultant Services in the Building Division by an additional \$470,000, for a total revised budget of \$1,270,000, to cover the cost of outside plan check, building inspection, and permit technician services.

FISCAL IMPACT

The additional appropriation of \$470,000 in the General Fund will be offset by fees collected for building plan by permit applicants at the time plans and applications are submitted, and permit fees collected for inspection services. The City will not incur these expenses if fee revenues are not generated. To date, approximately \$3.5 million in total revenue has been collected for permit and inspection fees. The agreements are structured to ensure costs for plan check and inspection fees incurred by the consultants shall not exceed the City's plan check and inspection fees collected by the City and shall not exceed the budget appropriation for the fiscal year. All anticipated costs associated with consultant services are fully cost recoverable and will be fully borne by permit applicants and permittees.

STRATEGIC ROADMAP

This agenda item is a routine operational item that does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap.

NEXT STEPS

Should Council approve this action, staff will prepare a Budget Revision Form to request the appropriation of funds.

Prepared by: Tera Maroney, Management Analyst
Sara Buizer, AICP, Deputy Development Services Director

Recommended by: Dustin Claussen, Acting Assistant City Manager/Development Services Director

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION APPROPRIATING AN ADDITIONAL \$470,000 FOR CONSULTING SERVICES FOR PLAN CHECK, BUILDING INSPECTION, AND PERMIT TECHNICIAN SERVICES FOR FISCAL YEAR 2022

WHEREAS, the Development Services Department- Building Division received an initial budget appropriation of \$330,000 for consulting services for outside plan check, building inspection and permit technician services in the FY22 Operating Budget; and

WHEREAS, each year staff requests that Council approve an amendment to the fiscal year budget appropriation for Consulting Services based on the receipts received by the City to perform outside plan check, building inspection, and permit technician services; and

WHEREAS, on January 25, 2022, Council adopted resolution 22-023 approving an amendment to the FY2022 budget for the Development Services Department (DSD) - Building Division, increasing the appropriation from \$330,000 to \$800,000 for consulting services for outside plan check, building inspections, and permit technician services; and

WHEREAS, maintaining agreements with multiple firms maintains the continuity of the stipulations within these agreements; and

WHEREAS, the Development Services Department has received permit applications for several large projects including but not limited to Lincoln Landing, SOHAY, Legacy Partners, Hines, Berkeley Farms, and Mission Crossings; and

WHEREAS, the Development Services Department anticipates invoices for these projects will total approximately \$370,444; and

WHEREAS, the additional appropriation of \$470,000 in the General Fund will be offset by fees paid for building plan check by permit applicants at the time plans and applications are submitted and permit fees for inspections are collected, of which, approximately \$3.5 million in revenue has been collected for permit and inspection fees; and

WHEREAS, the cost of contracting for consultant plan check, building inspection, and permit technician services is offset by those fees paid for by the permit applicant at the time plans are submitted, having no impact to the General Fund.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that an amendment to the FY 2022 Budget Resolution, Resolution 21-100, for an increase in appropriation in the amount of \$470,000 in the General Fund, for a revised budget appropriation of \$1,270,000, is hereby approved.

IN COUNCIL, HAYWARD, CALIFORNIA, _____.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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

File #: CONS 22-358

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Awarding a Contract to GSW Construction, Inc., for the Trash Capture Device Installation on Cotter Way Project No. 07675 in the Amount of \$188,600, Approving \$18,900 Construction Contingency Budget, and Appropriating an Additional \$70,000 to the Project

RECOMMENDATION

That Council adopts a (Attachment II) approving Addendum No. 1 to the specifications, which included rescheduling the pre-bid meeting for the Cotter Way Project, Project No. 07675 (Project), and awarding the construction contract to GSW Construction, Inc., (GSW) in the amount of \$188,600, approving a construction contingency budget of \$18,900, and approving an additional appropriation of \$70,000 to the Project.

SUMMARY

The proposed Project would install a continuous deflective separator (CDS) unit in the existing storm drain under Cotter Way for trash capture from the stormwater system as part of the City's trash reduction mandate from the San Francisco Regional Water Quality Control Board (Water Board). The CDS unit creates a continuous swirl of stormwater to concentrate and separate trash and debris. This project would be funded by the US Environmental Protection Agency (EPA) Water Quality Improvement Fund grant awarded to the City in January 2015.

In May 2022, the City released a call for bids and received two competitive bids. Staff recommends awarding the contract to GSW Construction, Inc., in the amount of \$188,600 and a contingency budget of \$18,900 for a total amount not-to-exceed \$207,500.

This project is categorically exempt from 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.

ATTACHMENTS

File #: CONS 22-358

Attachment I Staff Report
Attachment II Resolution
Attachment III Location Map



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Awarding a Contract to GSW Construction, Inc., for the Trash Capture Device Installation on Cotter Way Project No. 07675 in the Amount of \$188,600, Approving \$18,900 Construction Contingency Budget, and Appropriating an Additional \$70,000 to the Project

RECOMMENDATION

That Council adopts a (Attachment II) approving Addendum No. 1 to the specifications, which included rescheduling the pre-bid meeting for the Cotter Way Project, Project No. 07675 (Project), and awarding the construction contract to GSW Construction, Inc., (GSW) in the amount of \$188,600, approving a construction contingency budget of \$18,900, and approving an additional appropriation of \$70,000 to the Project.

SUMMARY

The proposed Project would install a continuous deflective separator (CDS) unit in the existing storm drain under Cotter Way for trash capture from the stormwater system as part of the City's trash reduction mandate from the San Francisco Regional Water Quality Control Board (Water Board). The CDS unit creates a continuous swirl of stormwater to concentrate and separate trash and debris. This project would be funded by the US Environmental Protection Agency (EPA) Water Quality Improvement Fund grant awarded to the City in January 2015.

In May 2022, the City released a call for bids and received two competitive bids. Staff recommends awarding the contract to GSW Construction, Inc., in the amount of \$188,600 and a contingency budget of \$18,900 for a total amount not-to-exceed \$207,500.

This project is categorically exempt from 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.

BACKGROUND

The Water Board adopted the current Municipal Regional Stormwater Permit (MRP 2.0) in December 2015. The MRP 2.0 covers storm water discharges from municipalities and local agencies (also called permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara counties, and the cities of Fairfield, Suisun, and Vallejo. Under the MRP 2.0, permittees are required to reduce trash from entering the waters of the state by 100% by 2022 from each jurisdiction's Municipal Separate Storm Sewer Systems (MS4s).

In January 2015, Region 9 of the EPA awarded the City \$800,000 to fund the Hayward Youth-Based Trash Capture, Reduction and Watershed Education Project. The four-year project includes a school curriculum for first through twelfth grade students for watershed and trash pollution awareness education, as well as engineered trash reduction facilities with the installation of large trash capture devices as a demonstration of the City's commitment to trash reduction and compliance with the Water Board mandate. Work funded by the grant is largely complete. The proposed project on Cotter Way would spend the remainder of the grant funds and close out the Hayward Youth-Based Trash Capture, Reduction and Watershed Education Project.

For further background regarding the EPA grant project and the City's trash reduction mandate please refer to the Council Sustainability Committee reports entitled:

- USEPA Region IX Trash Reduction Grant (March 23, 2015)¹
- Update on EPA Trash Reduction Grant (December 10, 2015)²
- Municipal Regional Permit 2.0 (March 14, 2016)³
- Municipal Regional (Stormwater) Permit-MRP 3.0 (March 14, 2022)⁴

DISCUSSION

This Project would install one large trash capture device on Cotter Way in an existing storm drain box to treat storm water to partially meet the Water Board's requirements. The installation of the CDS trash capture unit is part of the Hayward Youth-Based Trash Capture, Reduction and Watershed Education Project. In 2021, staff evaluated various locations and selected the Cotter Way location. The location on Cotter Way is near the Alameda County's flood control channel, a strategic location to install a trash capture device since it encompasses a large drainage for trash reduction and can be installed within the project budget. As a result, a large trash capture device at this location can capture trash from approximately 138 acres of storm water runoff area.

The City currently has a large CDS unit manufactured by Contech Stormwater Solutions (Contech) at the intersection of Tyrrell Avenue and West Tennyson Road, which was installed

¹ <https://hayward.legistar.com/MeetingDetail.aspx?ID=530699&GUID=176DAFD5-E4D9-4DB7-ACCE-3FD49ED3900B&Options=info&Search=&Refresh=1>

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=2530035&GUID=202918BE-E3DF-4B27-B9B8-80A8438039D5&Options=&Search=>

³ <https://hayward.legistar.com/LegislationDetail.aspx?ID=2602635&GUID=EF759AB7-14B2-4440-9EFC-D53DE6583D0F&Options=&Search=>

⁴ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5523059&GUID=7112B7B8-AC21-4EC5-9289-D35DC0FCDE01&Options=&Search=>

in 2012, and one installed on Patrick Avenue, which was installed in 2017. Contech is the only company that manufactures this type of device using the CDS technology. Staff's experience with the above projects has been successful both for trash capture and for maintenance ease. Staff believes that the Contech CDS unit is the most appropriate device to capture the trash from storm water runoff at Cotter Way. If approved, staff will purchase the Contech CDS unit directly from Contech. The installation of the CDS unit requires hiring a contractor to complete. A competitive bid was released on May 2, 2022 after Council approved the release of bids on April 19, 2022. Two bids were received for the Project. The lower bid was received from GSW. Installation at the Cotter Way location will entail excavation in the street, installing the diversion box and CDS unit in-line with the storm drain and backfilling the area, and repairing the street to pre-construction conditions. Prior to backfilling and street repair, the CDS unit will be leak-tested to assure water tightness at all the joints.

Long-term maintenance of the Cotter Way CDS unit will include annual cleaning to remove the trash using the City's Streets and Maintenance crew and equipment. The Cotter Way CDS unit cleaning will be scheduled typically in the spring or summer months prior to the rainy season as with the Patrick and Tyrrell CDS units.

On November 15, 2016, Council adopted a resolution authorizing a Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC), which applies to City projects with construction costs of \$1,000,000 or more. 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 to this project.

ECONOMIC AND FISCAL IMPACT

The estimated project costs are as follows:

Design and Construction Administration - City Staff	\$15,000
Construction Inspection (Estimated)	\$15,000
Construction Contract	\$188,600
Administrative Change Order (Estimated)	\$18,900
Trash Capture Devices (Contech)	<u>\$150,000</u>
Total:	\$387,500

In the recently adopted FY 2023 Capital Improvement Program, Trash Capture Device and Litter Reduction Education Project, Project No. 07675, has an adopted budget of \$925,000 in Sewer Replacement Fund 611. The project is funded by an EPA Region 9 grant of \$800,000 and a transfer of \$125,000 from Stormwater Operating Fund (Fund 615) programmed in FY 2023. As of June 2022, approximately \$608,000 was expended and a remaining balance of \$317,000 available in FY 2023. Due to the rising cost of construction labor and materials, Staff is requesting an additional appropriation of \$70,000 in the Stormwater Fund 615 to be transferred and appropriated in the Sewer Replacement Fund 611 to support the project.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority to Invest in Infrastructure. Specifically, this item relates to:

- N22 Meet regulatory requirements for zero trash in stormwater by installing trash capture devices
- N22a Install trash capture devices

SUSTAINABILITY FEATURES

The CDS unit, along with the existing trash capture devices in the City's storm drain system will help to limit the pollutants that enter local creeks and the San Francisco Bay.

PUBLIC CONTACT

Prior to and during construction, notices will be provided to affected residents, property, and business owners to inform them of the nature and purpose of the work, potential impacts, work schedule and City contact for additional information. In addition, staff will work closely with residents on Cotter Way, to minimize potential impacts.

NEXT STEPS

If Council approves the award of contract, staff will prepare the construction contract and issue a notice to proceed. The following schedule has been developed for this project:

Award Construction Contract	June 21, 2022
Notice to Proceed	July 2022
Construction Completion	August 2022

Additional trash capture devices will be needed to achieve a 100% reduction in trash entering the waters of the state by 100% by 2022. Staff is investigating the feasibility of installing a CDS unit on Arf Avenue and Tennyson Road; however, this project would be more complicated as it will be on facilities owned by the Alameda County Flood Control District. The Arf Avenue and Tennyson Road CDS units will be larger than the unit on Cotter Way. The added complexity of this project and the larger size will make the installation at Arf Avenue and Tennyson Road more expensive. A cooperative agreement has been executed between the City and the California Department of Transportation (Caltrans), who will fund both the Arf and Tennyson CDS installation projects.

Prepared by: Elisa Wilfong, Water Pollution Control Administrator
Saeed Saebi, Associate Civil Engineer
Erik Pearson, Environmental Services Manager
Kathy Garcia, Deputy Public Works Director

Recommended by: Alex Ameri, Director of Public Works

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION AWARDED THE CONTRACT FOR THE TRASH CAPTURE DEVICE INSTALLATION ON COTTER WAY PROJECT NO. 07675, TO GSW CONSTRUCTION, INC., APPROVING A CONSTRUCTION CONTINGENCY BUDGET, AND APPROPRIATING AN ADDITIONAL \$70,000 TO THE PROJECT

WHEREAS, by Resolution No. 22-091 on April 19, 2022, the City Council approved the plans and specifications for the Trash Capture Device Installation on Cotter Way, Project No. 07675, and called for bids to be received on May 17, 2022; and

WHEREAS, on May 17, 2022, two(2) bids were received ranging from \$188,600 to \$325,000; GSW Construction, Inc., of San Francisco, CA, submitted the low bid in the amount of \$188,600, which is 16% percent below the Engineer's Estimate of \$225,000; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that GSW Construction, Inc., is hereby awarded the contract for the Trash Capture Device Installation on Cotter Way, Project No. 07675, for \$188,600 in accordance with the plans and specifications adopted therefore and on file in the office of the City Clerk of the City of Hayward, at and for the price named and stated in the final proposal of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that a 10% contingency budget of \$18,900 is hereby approved for the project.

BE IT FURTHER RESOLVED that the City Manager is hereby directed to execute an agreement with GSW Construction, Inc., for the project specified herein, in a form to be approved by the City Attorney.

BE IT FURTHER RESOLVED that an additional \$70,000 is appropriated in the Stormwater Fund 615 to transfer and appropriate in the Sewer Replacement Fund 611 to support the Project.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

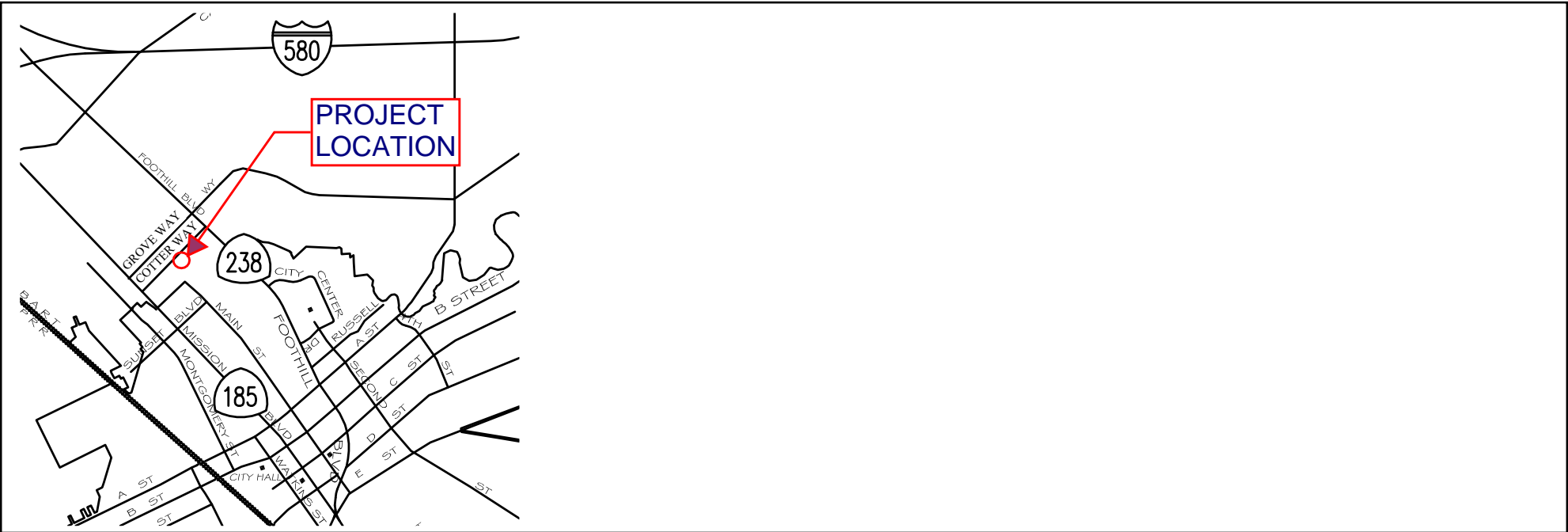
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

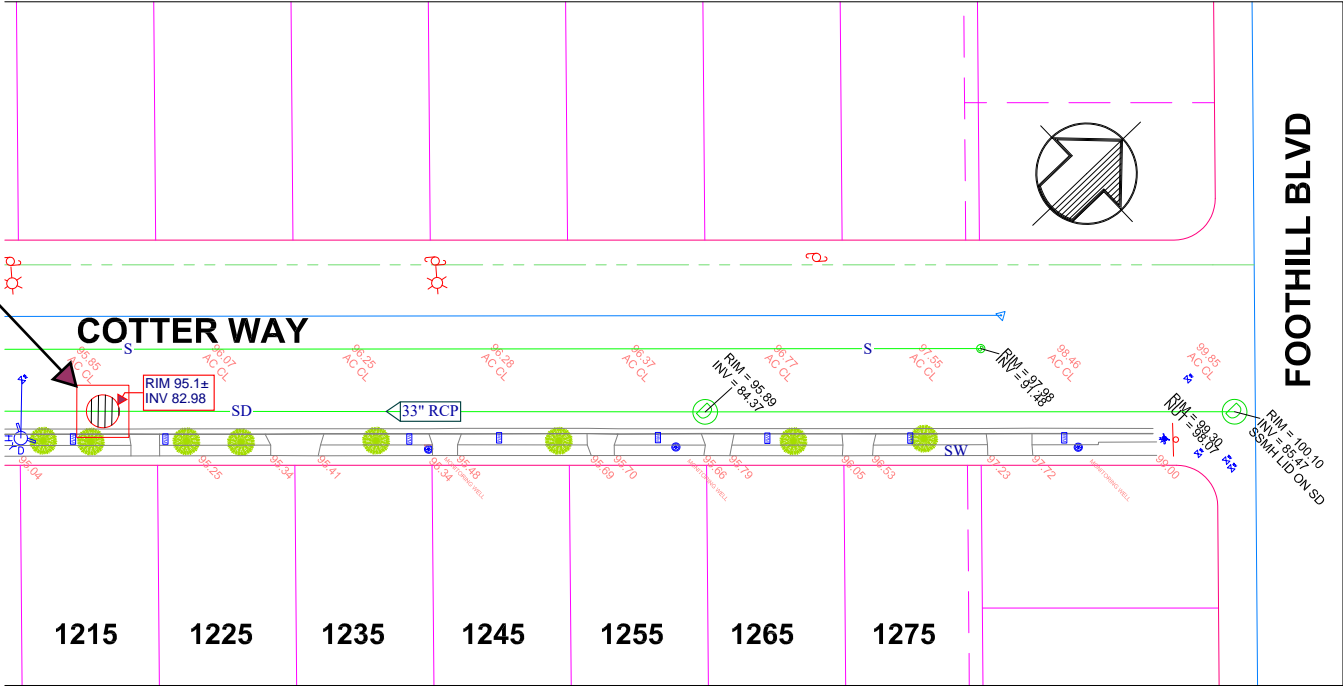
ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



APPROXIMATE LOCATION OF THE PROPOSED CDS UNIT ON COTTER WAY



LOCATION MAP: COTTER WAY



CITY OF HAYWARD

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

File #: CONS 22-360

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Awarding the Construction Contract to Rosas Brothers Construction, Inc., for the FY22 Sidewalk Rehabilitation and Wheelchair Ramps Project No. 05318 in an Amount Not-to-Exceed \$752,392

RECOMMENDATION

That Council adopts a resolution (Attachment II) awarding the construction contract to Rosas Brothers Construction, Inc., (Rosas) for the FY22 Sidewalks Rehabilitation and Wheelchair Ramps Project No. 05318 in an amount not-to-exceed \$752,392.

SUMMARY

On May 24, 2022, the City received five (5) bids for the project ranging from \$752,392 to \$1,101,786. Rosas Brothers Construction, Inc. of Oakland, submitted the lowest bid of \$752,392, which is 4.5% higher than the Engineer's Estimate of \$720,000. Spencon Construction, Inc., of San Ramon submitted the second lowest bid in the amount of \$753,657 which is 4.7% higher than the Engineer's Estimate. Staff is recommending that a construction contract be awarded to Rosas Brothers Construction, Inc. in the amount of \$752,392.

ATTACHMENTS

- Attachment I Staff Report
- Attachment II Resolution
- Attachment III Districts Map
- Attachment IV District 2 & 3 Site Map



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Awarding the Construction Contract to Rosas Brothers Construction, Inc., for the FY22 Sidewalk Rehabilitation and Wheelchair Ramps Project No. 05318 in an Amount Not-to-Exceed \$752,392

RECOMMENDATION

That Council adopts a resolution (Attachment II) awarding the construction contract to Rosas Brothers Construction, Inc., (Rosas) for the FY22 Sidewalks Rehabilitation and Wheelchair Ramps Project No. 05318 in an amount not-to-exceed \$752,392.

SUMMARY

On May 24, 2022, the City received five (5) bids for the project ranging from \$752,392 to \$1,101,786. Rosas Brothers Construction, Inc. of Oakland, submitted the lowest bid of \$752,392, which is 4.5% higher than the Engineer's Estimate of \$720,000. Spenco Construction, Inc., of San Ramon submitted the second lowest bid in the amount of \$753,657 which is 4.7% higher than the Engineer's Estimate. Staff is recommending that a construction contract be awarded to Rosas Brothers Construction, Inc. in the amount of \$752,392.

BACKGROUND

This project is a continuation of the City's Annual Sidewalk Rehabilitation Program for the repair of damaged concrete sidewalks that began in 2001. To facilitate the selection of sidewalk areas for repair, the City was divided into ten sidewalk repair districts (Attachment III). In 2001, funding was only available for rehabilitation in two districts per year. The FY 2022 Sidewalk Rehabilitation Program will be able to repair damaged sidewalks in District 2 (Orchard Hayward Hills Area) and District 3 (Huntwood Tyrrell Area). Attachment IV depicts the districts covered in this year's project. Staff conducted a sidewalk survey in these districts to identify the number and location of sidewalks in need of repairs.

The Sidewalk Rehabilitation Program consists of two components, each performed under a separate construction contract. The first contract, which will start in August, will remove tripping hazards from sidewalk displacements or offsets up to 1¾ inches. These

hazards will be removed by saw cutting or grinding each uplifted sidewalk panel across the width of the sidewalk to produce a smooth and uniform surface that meets Americans with Disabilities Act (ADA) slope requirements. Grinding or saw cutting up to 1¾ inches from a short segment of the typical 4" thick sidewalk section is less expensive and more cost effective than the removal and replacement of an entire sidewalk section.

The second component of the Sidewalk Rehabilitation Program, which is the subject of this report, removes and replaces, with new concrete, all sidewalk displacements exceeding 1¾ inches. In addition, it includes the repair of offset or raised concrete curb and gutter, tree trimming, root pruning of existing trees, and planting of new trees. In order to minimize damage to City Street trees and evaluate the health of any trees that may be impacted by the project, the contractor is required to retain an arborist to examine each street tree adjacent to the work and inspect any root pruning that is part of the project.

DISCUSSION

Based on the sidewalk survey, approximately 137 separate locations of damaged sidewalks, comprising a total of 13,000 square feet or 5% of total sidewalks in the City, will be repaired with this project and installation of approximately 76 wheelchair ramps. The proposed improvements will repair damaged sections of sidewalks and increase pedestrian mobility. Staff anticipates removing twelve trees and planting twenty-four trees in various locations. New trees will be planted where street trees are absent or where an existing tree must be removed because of disease or because it is in imminent danger of falling.

On May 24, 2022, five (5) bids were received. The bids ranged from \$752,392 to \$1,101,786. Rosas Brothers Construction, Inc. of Oakland submitted the lowest bid of \$752,392, which is 4.5% higher than the Engineer's Estimate of \$720,000.

All bid documents and licenses are in order. Staff recommends award of a construction contract to the lowest responsive bidder, Rosas Brothers Construction Inc. of Oakland, in the amount of \$752,392.

On November 15, 2016, Council passed a resolution authorizing a Community Workforce Agreement (CWA) with the Alameda County Building Trades Council (BTC), which applied to City projects with construction costs of \$1,000,000 or more. This agreement requires contractors to use local union hiring halls, encourages contractors to employ Hayward residents or Hayward Unified School District graduates, and requires hired workers to pay union dues and other benefit trust fund contributions, etc. Because the construction cost estimate for the FY 2022 Sidewalk Rehabilitation Project is less than \$1,000,000, the CWA agreement does not apply to this project.

This project is categorically exempt for environmental review under the California Environmental Quality Act, Section 15301(c) that covers the operation, repair, maintenance or minor alteration of existing streets, sidewalks, and gutters.

ECONOMIC IMPACT

The project will have a positive impact on the community as it provides safer and more accessible sidewalks and ramps for pedestrians. Dividing the City into 10 districts allows staff to select and recommend districts to ensure equitable distribution of this service to all City residents and businesses.

FISCAL IMPACT

The adopted FY 2022 Capital Improvement Program (CIP) includes \$1,050,000 for the Sidewalk Rehabilitation Project in the Street System Improvements Fund (Fund 450). Reimbursement from property owners for the sidewalk rehabilitation is estimated to be approximately \$150,000.

The estimated project costs are as follows:

Construction Contract	\$752,392
Trip Hazard Removal (under a separate contract)	50,000
Design and Administration	50,000
Construction Survey, Inspection, and Testing	122,608
TOTAL	\$975,000

STRATEGIC ROADMAP

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

SUSTAINABILITY FEATURES

This project requires that all material generated during construction and demolition be sent to designated facilities for recycling. Recycled Portland Cement Concrete will be required for use as aggregate base for the concrete curb, gutter, and sidewalk. The improvements made to the sidewalks will encourage the public to walk more as opposed to driving their vehicles. This reduces both carbon emissions and carbon footprints, which is beneficial for the environment.

PUBLIC CONTACT

Owners of the affected properties have received certified letters regarding the program along with a response form to return to the City indicating their choice to complete the repairs themselves or pay the \$550 fee for single-family homes or actual repair costs for commercial and investment properties to have the City complete the work. Property owners have the option of paying the fee in one lump sum or in twelve monthly payments. The response form also includes a list of trees that an owner can choose from for a replacement tree. Before construction commences, a second notice will be sent to all property owners who did not respond to the first notice to assure they are aware of the program.

NEXT STEPS

The estimated schedule for this project is as follows:

Begin Construction	July 25, 2022
Complete Construction	October 26, 2022

Prepared by: Mir Ali, 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 AWARDDING THE CONSTRUCTION CONTRACT TO ROSAS BROTHERS CONSTRUCTION, INC., FOR THE FY22 SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS PROJECT NO 05318 IN THE AMOUNT OF \$752,392

WHEREAS, by resolution on April 26, 2022, the City Council approved the plans and specifications for the Sidewalk Rehabilitation FY22, Project No. 05318 and called for bids to be received on May 24, 2022; and

WHEREAS, on May 24, 2022, five bids were received ranging from \$752,392 to \$1,101,786: Rosas Brothers Construction, Inc. of Oakland, California, submitted the lowest bid in the amount of \$752,392, which is 4.5% higher than the Engineer's Estimate of \$720,000; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Rosas Brothers Construction, Inc. is the lowest responsible bidder whose bid complies with the specifications and is hereby awarded the construction contract for the Sidewalk Rehabilitation FY 2022, Project No. 05318, for the amount of \$752,392 in accordance with the aforementioned plans and specifications on file in the Office of the City Clerk of the City of Hayward. All other bids are hereby rejected.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the Director of Public Works is authorized to expend up to \$975,000 for project design, construction, project administration, trip hazard removal contract, construction survey, inspection, and testing and contingency costs to complete the project.

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

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

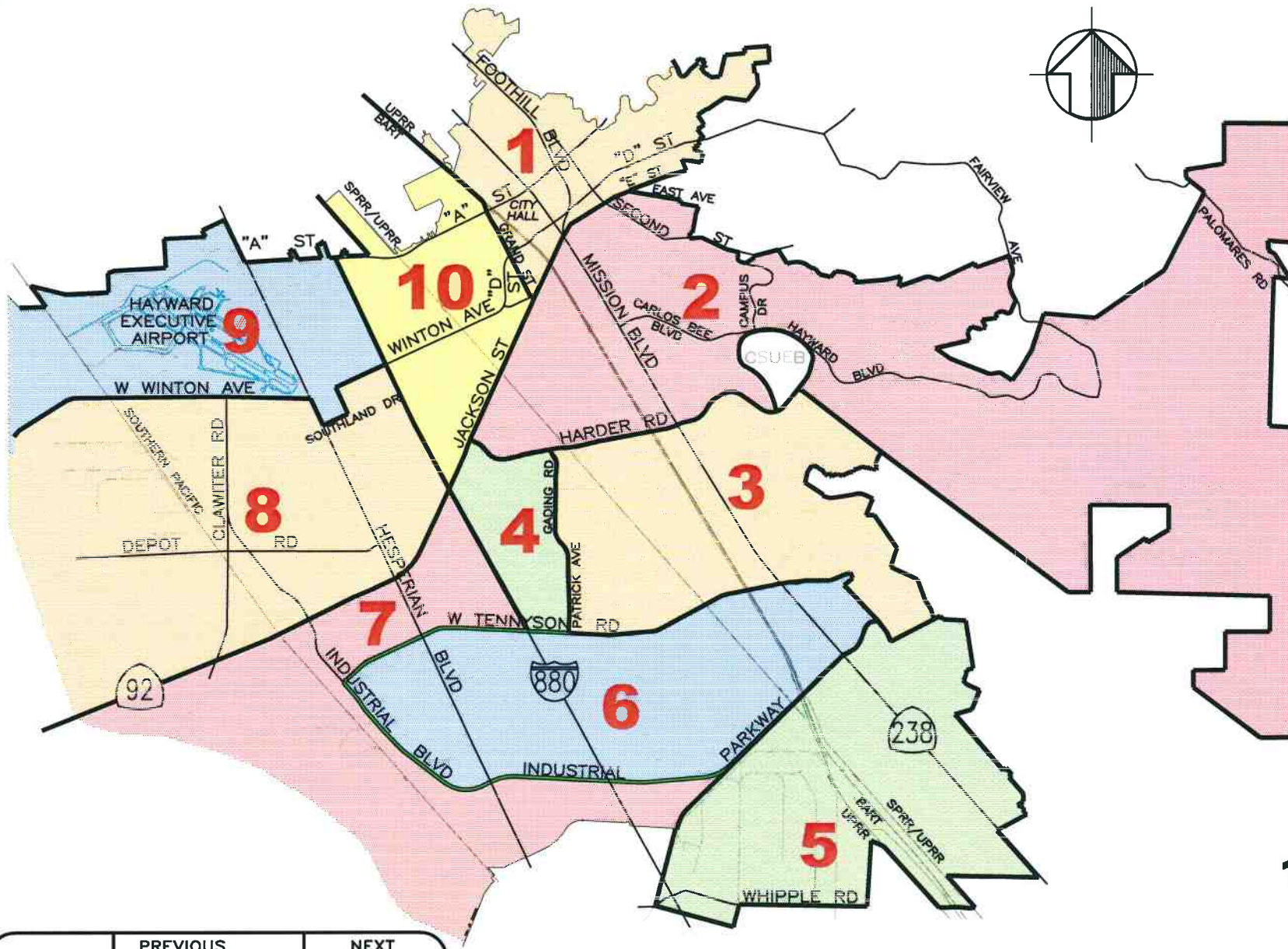
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

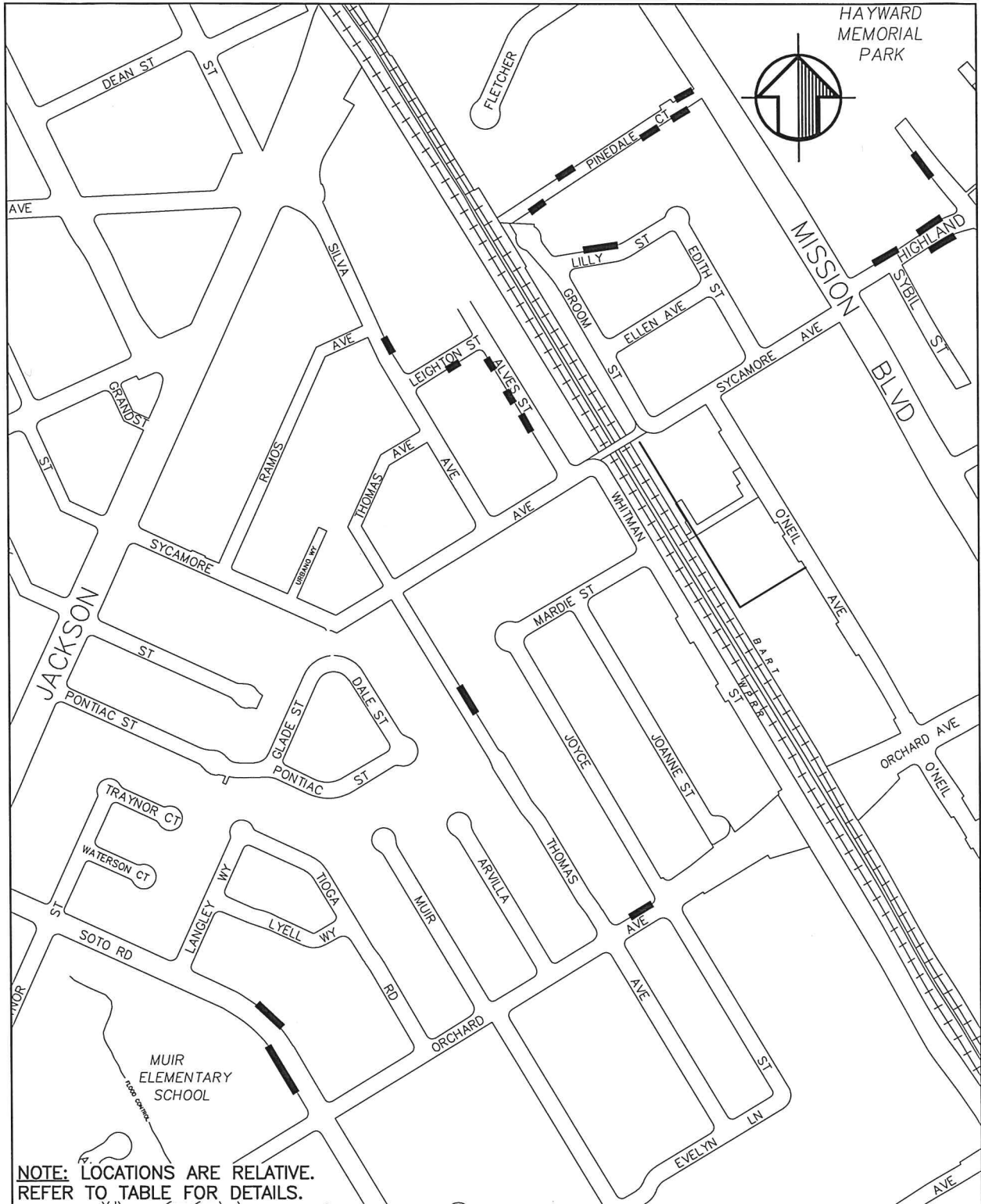
City Attorney of the City of Hayward



DISTRICTS

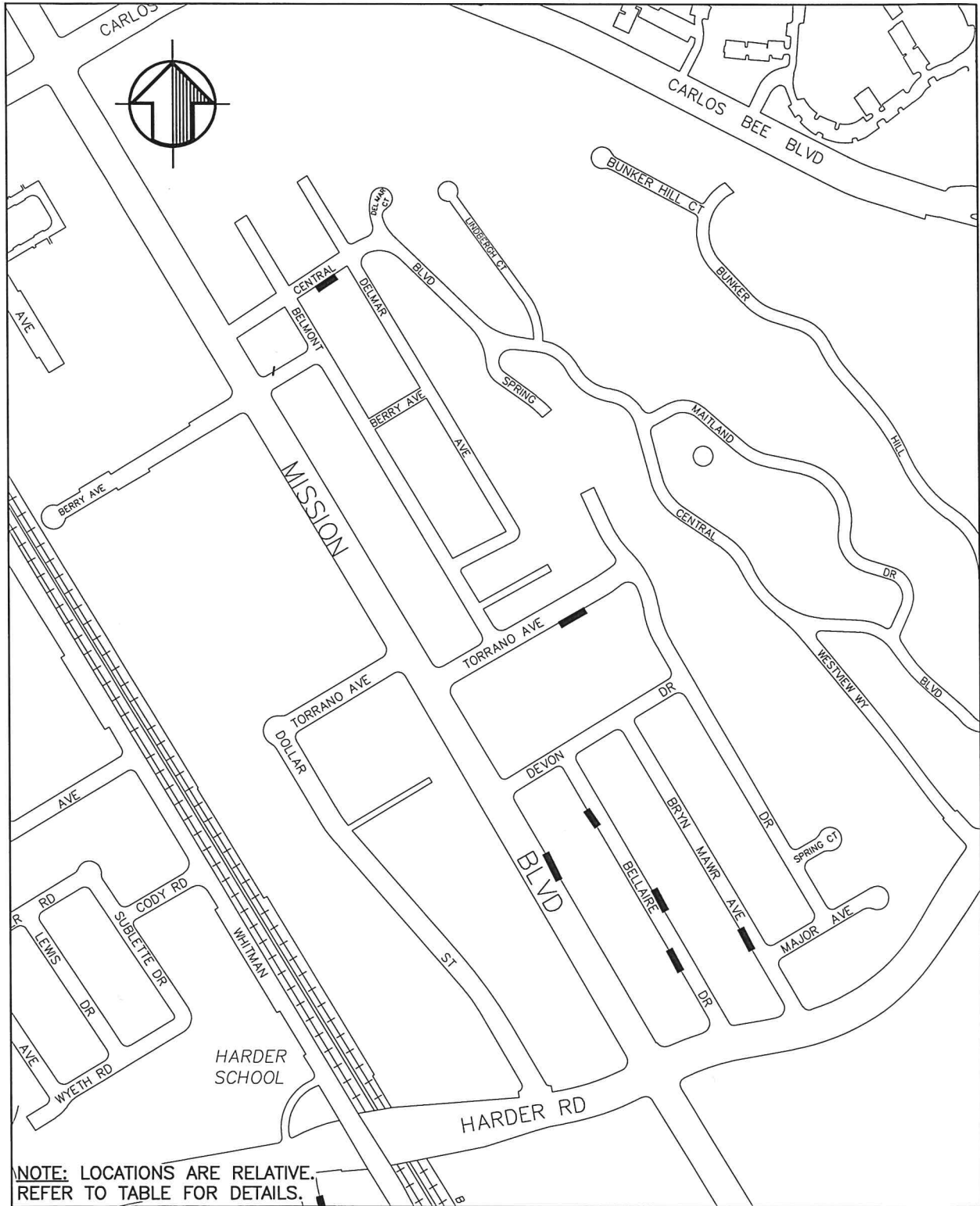
- 1** DOWNTOWN
- 2** ORCHARD HAYWARD HILLS
- 3** HUNTWOOD TYRRELL
- 4** SCHAFER PARK
- 5** FAIRWAY PARK RANCHO VERDE
- 6** TENNYSON RD. S.
- 7** CALAROGA
- 8** SLEEPY HOLLOW DEPOT
- 9** WINTON GROVE THELMA
- 10** SANTA CLARA

DISTRICTS	PREVIOUS REPAIRS	NEXT SCHEDULED
2 AND 3	2001, 2006, 2011	2017, 2022
6 AND 9	2002, 2007, 2012	2018, 2023
4 AND 5	2003, 2008, 2013	2019, 2024
7 AND 10	2004, 2009, 2015	2020, 2025
1 AND 8	2005, 2010, 2016	2021, 2026

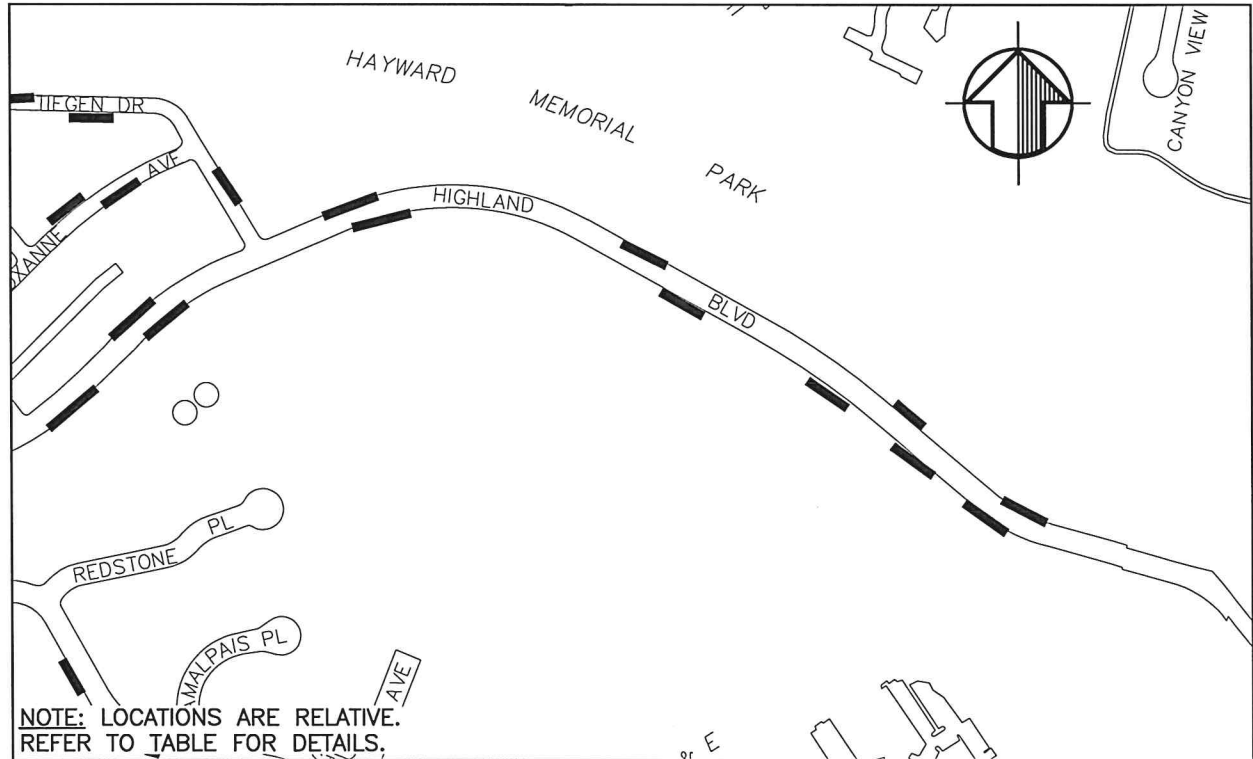
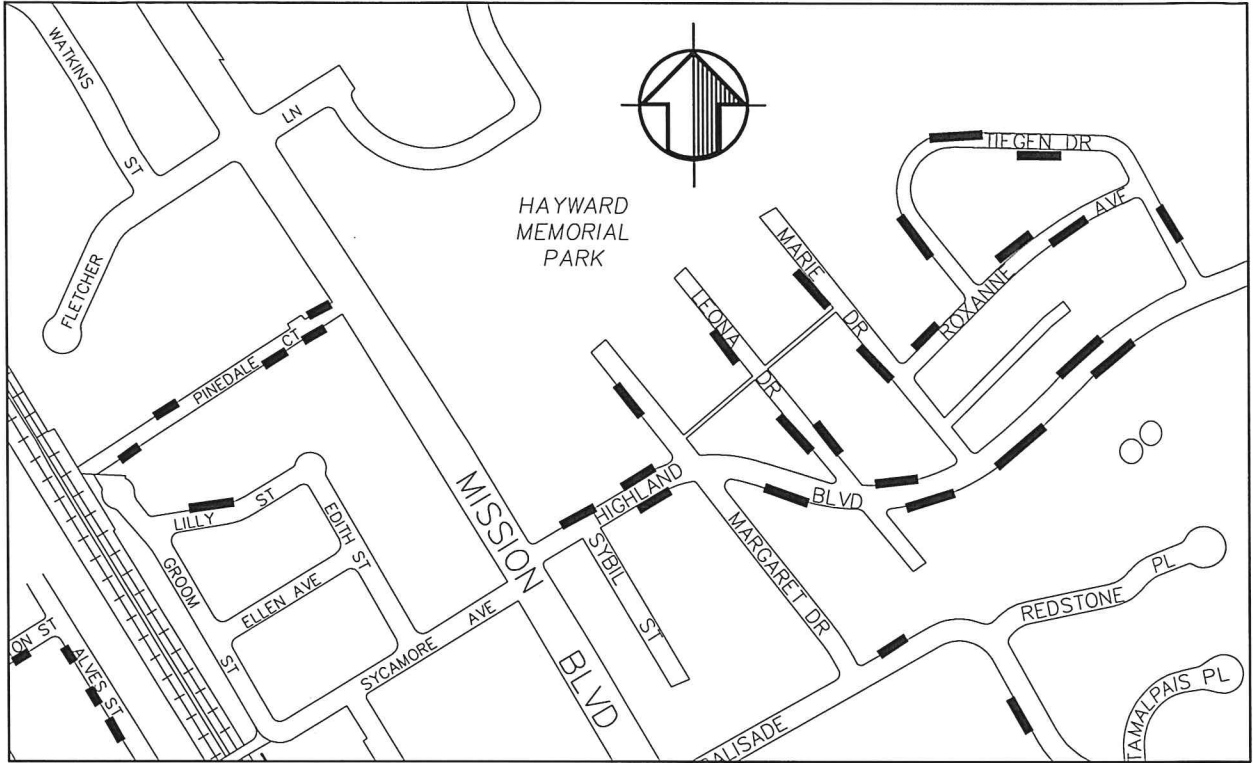


NOTE: LOCATIONS ARE RELATIVE.
REFER TO TABLE FOR DETAILS.

LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 2
PROJECT NO. 05318

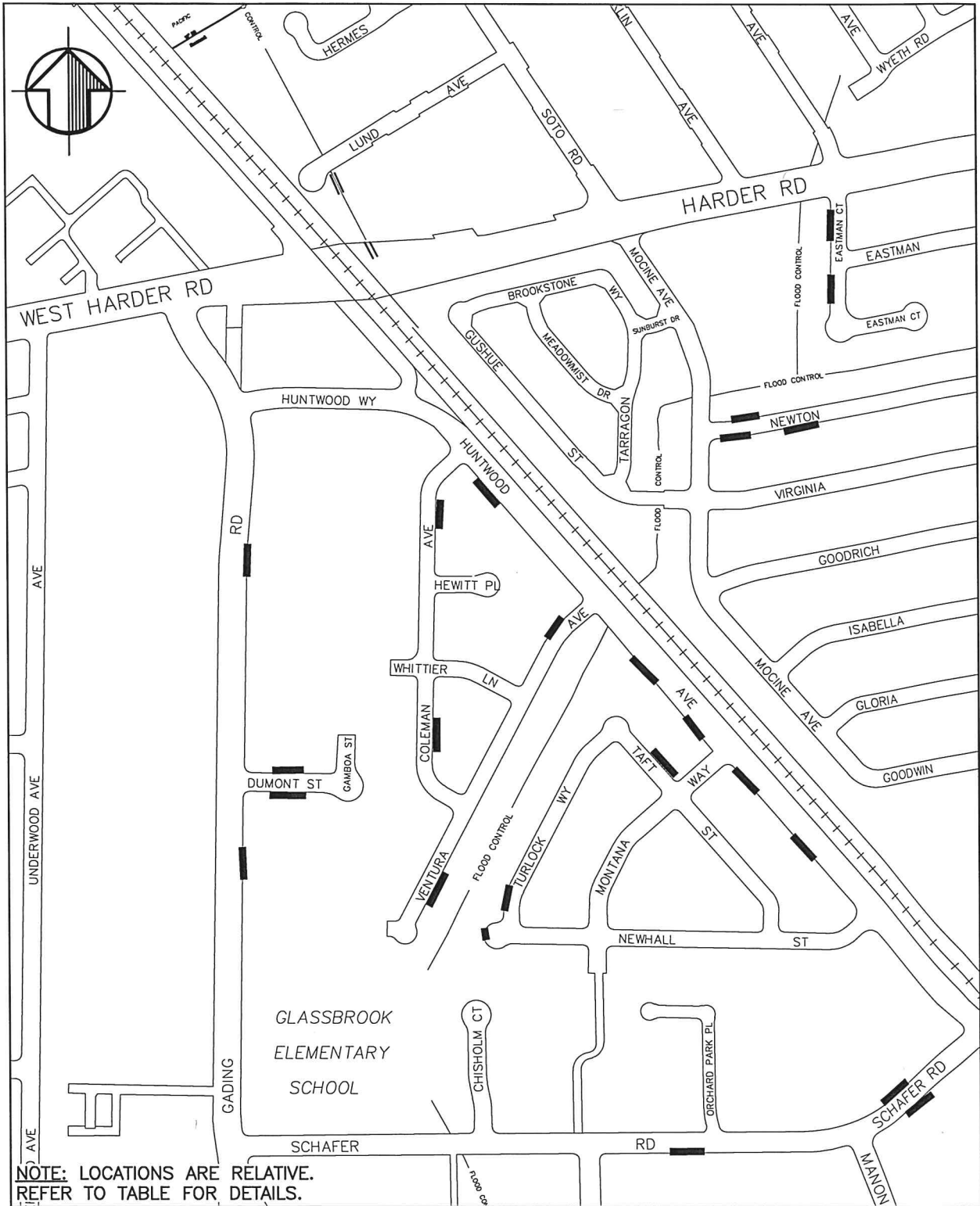


LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 2
PROJECT NO. 05318

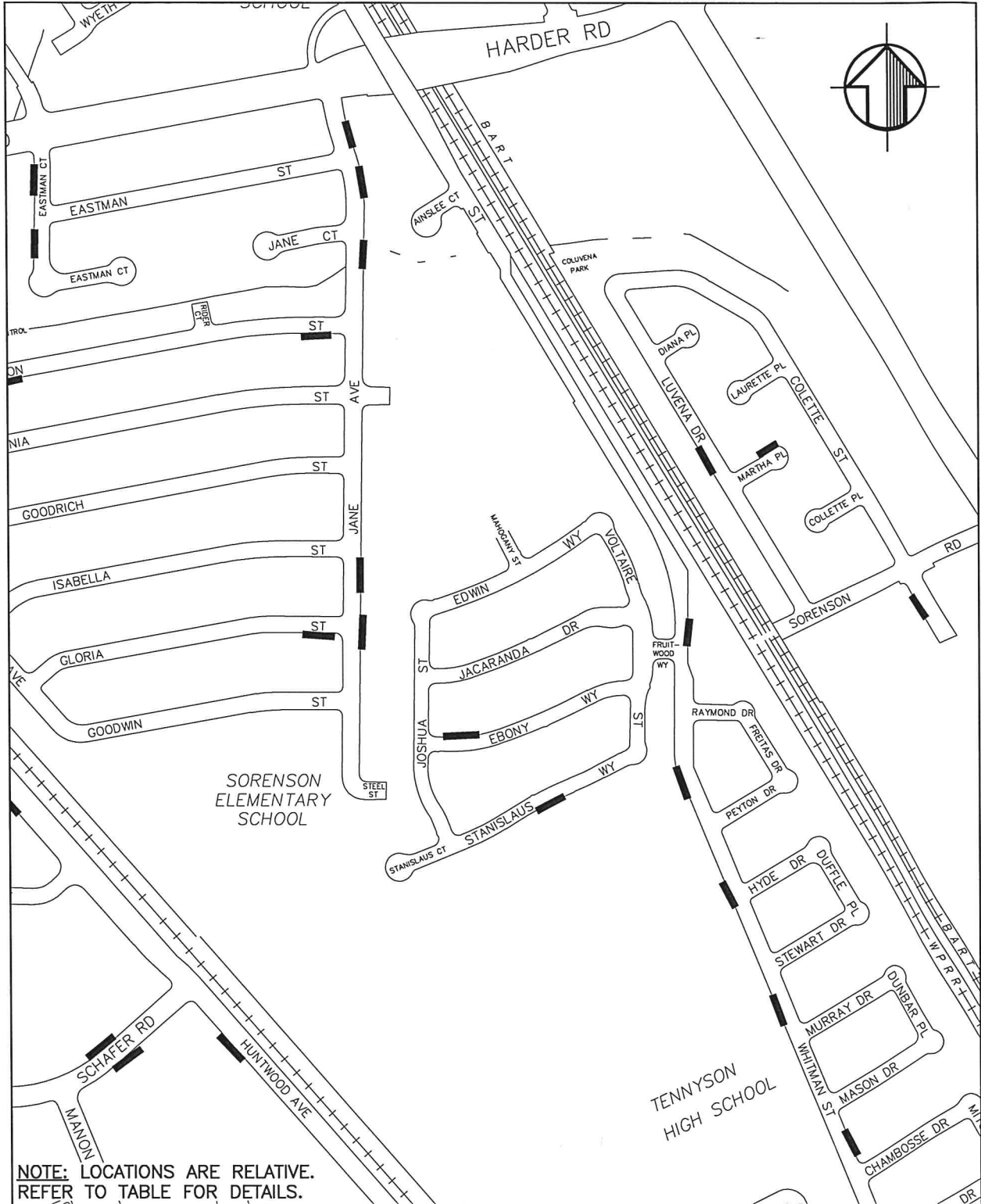


NOTE: LOCATIONS ARE RELATIVE.
REFER TO TABLE FOR DETAILS.

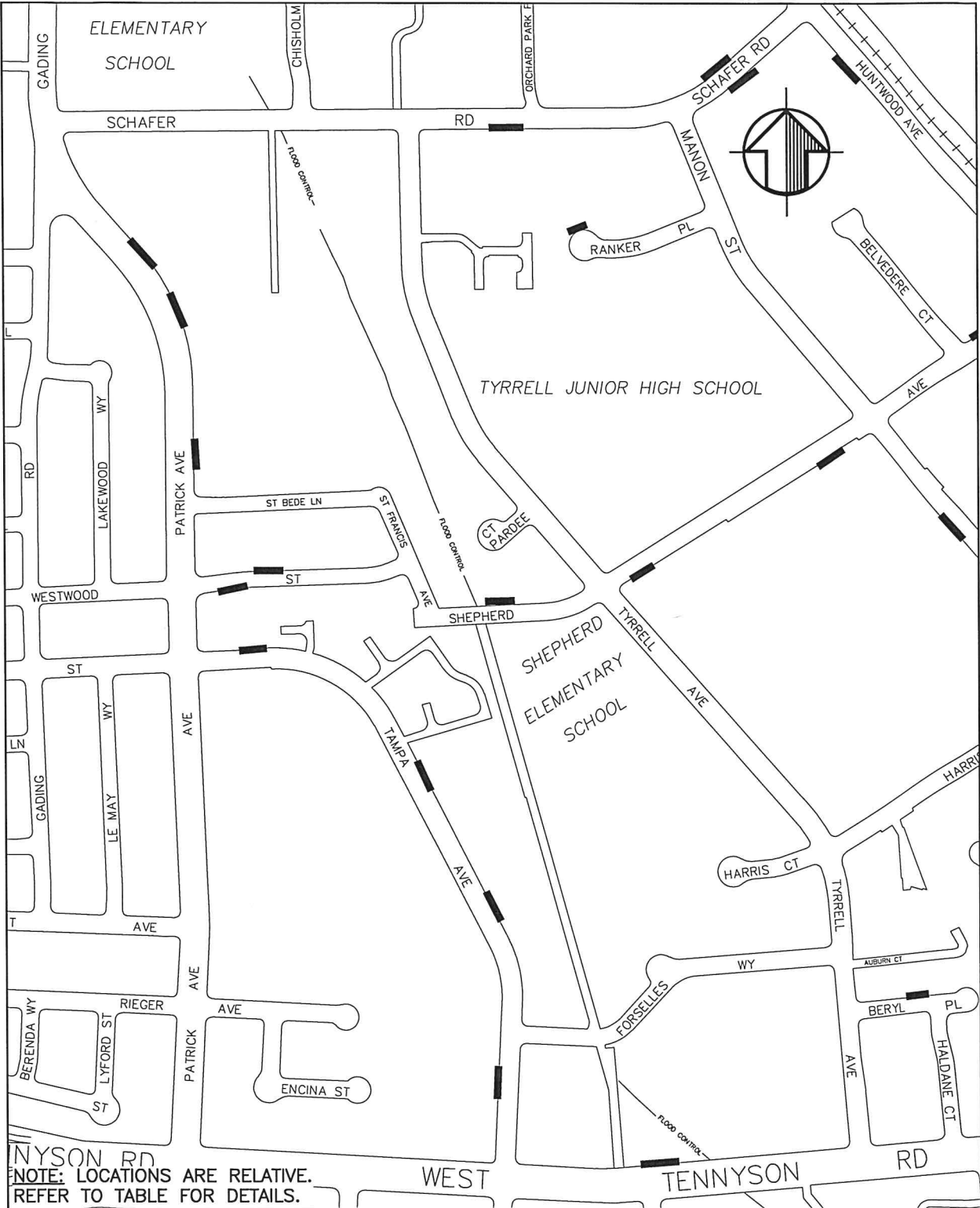
LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 2
PROJECT NO. 05318



LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 3
PROJECT NO. 05318

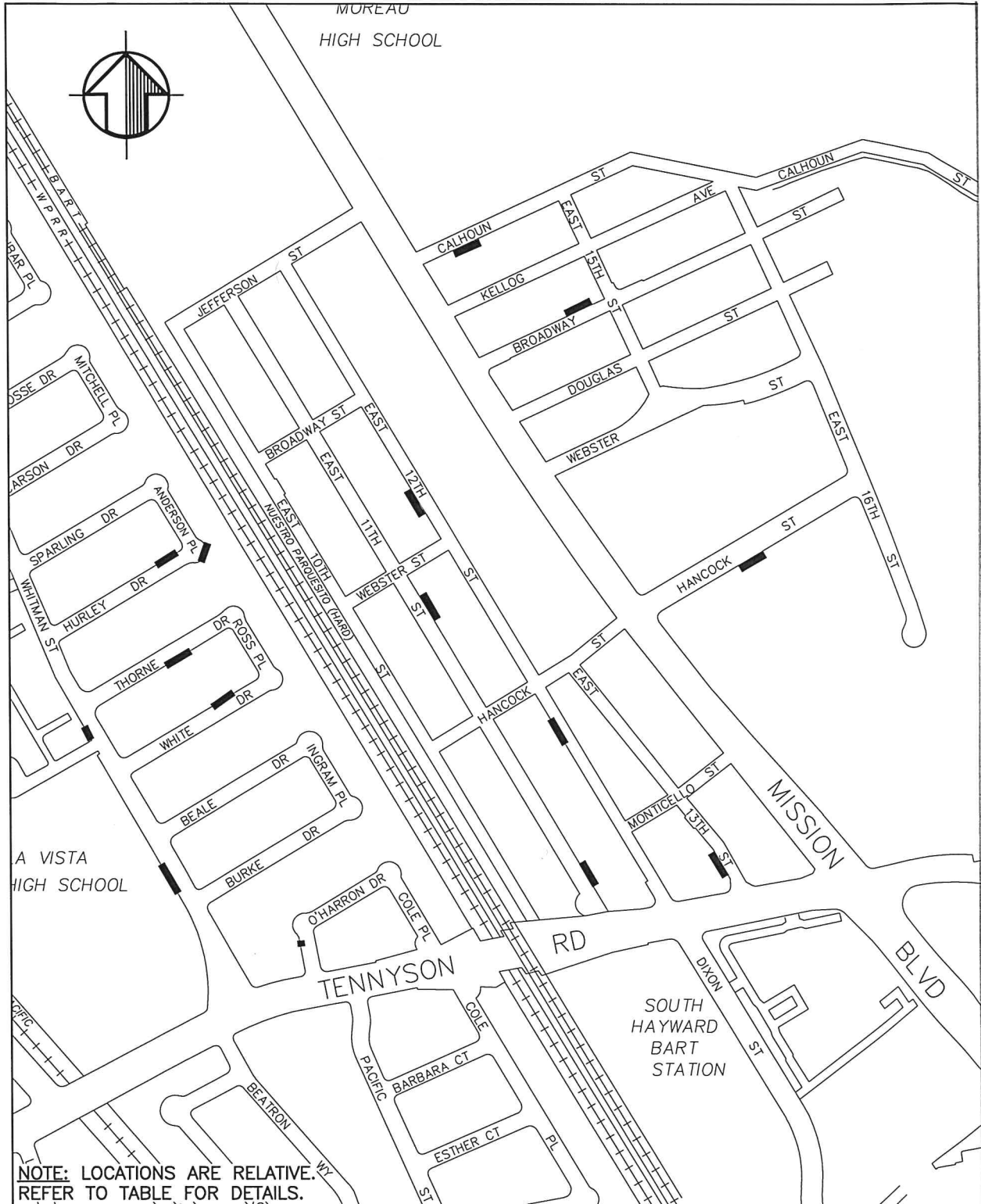


LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 3
PROJECT NO. 05318

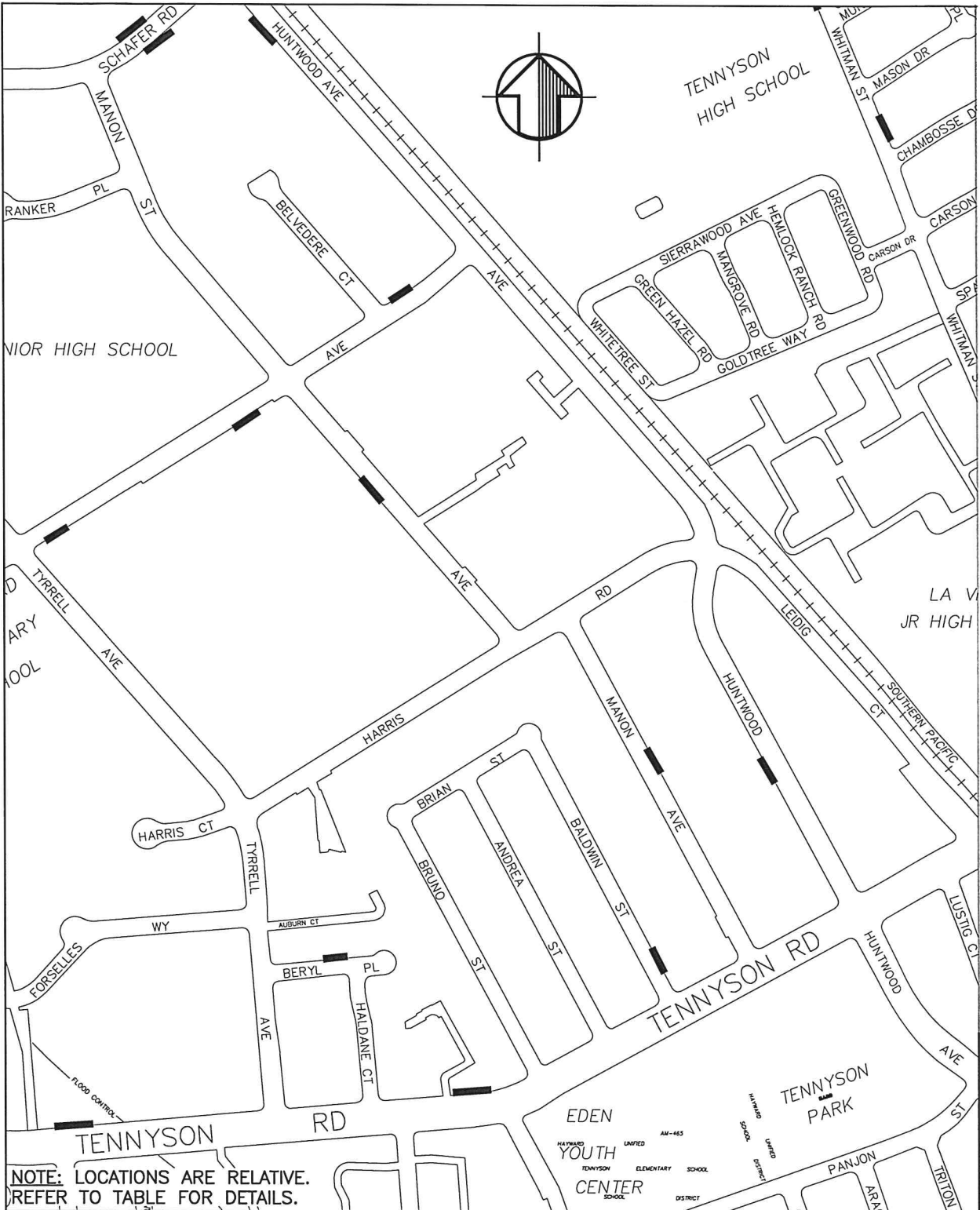


NOTE: LOCATIONS ARE RELATIVE.
REFER TO TABLE FOR DETAILS.

LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 3
PROJECT NO. 05318



LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 3
PROJECT NO. 05318



LOCATION MAP
SIDEWALK REHABILITATION DISTRICT NO. 3
PROJECT NO. 05318



CITY OF HAYWARD

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

File #: CONS 22-364

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Authorizing the City Manager to Accept and Appropriate Funds from the California Water and Wastewater Arrearage Payment Program (CWWAPP) for Wastewater Arrearages in an Amount Not-to-Exceed \$744,389

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept up to \$744,389 from the State Water Resources Control Board and appropriate the funds in Wastewater Operating Fund 610 so they may be spent in accordance with the requirements of the California Water and Wastewater Arrearage Payment Program.

SUMMARY

Last fall, staff applied for and received \$1,853,487 through the CWWAPP, a program administered by the State Water Resources Control Board (SWRCB) to reduce delinquent water and wastewater balances for customers experiencing financial hardships related to the pandemic. The awarded funds were specifically for the water portion of eligible customer bills. This spring, staff submitted a second application for funding to cover the wastewater portion of eligible arrearages. The City has been awarded 100% of its request, and is now seeking authorization to accept and appropriate the awarded funds in an amount not-to-exceed \$744,389 in Wastewater Operating Fund 610. These funds must be used to credit commercial and residential accounts that still have outstanding wastewater bills from the pandemic period, defined as March 4, 2020 to June 15, 2021.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Accept and Appropriate Funds from the California Water and Wastewater Arrearage Payment Program (CWWAPP) for Wastewater Arrearages in an Amount Not-to-Exceed \$744,389

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept up to \$744,389 from the State Water Resources Control Board and appropriate the funds in Wastewater Operating Fund 610 so they may be spent in accordance with the requirements of the California Water and Wastewater Arrearage Payment Program.

SUMMARY

Last fall, staff applied for and received \$1,853,487 through the CWWAPP, a program administered by the State Water Resources Control Board (SWRCB) to reduce delinquent water and wastewater balances for customers experiencing financial hardships related to the pandemic. The awarded funds were specifically for the water portion of eligible customer bills. This spring, staff submitted a second application for funding to cover the wastewater portion of eligible arrearages. The City has been awarded 100% of its request, and is now seeking authorization to accept and appropriate the awarded funds in an amount not-to-exceed \$744,389 in Wastewater Operating Fund 610. These funds must be used to credit commercial and residential accounts that still have outstanding wastewater bills from the pandemic period, defined as March 4, 2020 to June 15, 2021.

BACKGROUND

The economic impacts resulting from the COVID-19 pandemic have left many Californians unable to pay their water and wastewater bills. In response, nearly \$1 billion in Federal American Rescue Plan Act (ARPA) funding was allocated to the SWRCB to administer a program to reduce delinquent water and wastewater balances for customers experiencing financial hardships related to the pandemic.

Last fall, California community water systems were given the opportunity to report their residential and commercial customers' delinquent bill amounts during the pandemic period, defined as March 4, 2020 to June 15, 2021, and apply for CWWAPP funding to credit

those delinquent customers' accounts, thereby forgiving their debt. The \$1,853,487 applied for and awarded during this initial application period was intended to cover all of Hayward residential and commercial customers' eligible delinquent bill amounts related to drinking water. During the February 22, 2022 City Council Meeting¹, Council authorized the receipt and appropriation of these funds.

In spring 2022, staff submitted a second application for funding to cover the wastewater portion of eligible arrearages.

DISCUSSION

Hayward commercial and residential customers' delinquent bills for wastewater during the pandemic period totaled \$722,708. This amount is owed by 2,469 residential accounts and 123 commercial accounts. Staff requested funding through the CWWAPP to cover this entire amount, plus an additional 3%, or \$21,681, for costs to administer the program. Administrative requirements include posting funds to customer accounts within sixty-days of receipt, notifying customers of the posted funds, and direct noticing to customers who still have remaining debt, offering to enroll them in a payment plan. Additional program requirements can be found in the Program Guidelines, posted on the SWRCB website².

ECONOMIC IMPACT

People of color and low-income communities have and continue to be disproportionately impacted by COVID-19, and these funds will provide much-needed relief to those local residents and commercial business owners who were hit hardest by the crisis. The assistance will aid both Hayward water customers and the local economy in its recovery from the pandemic.

FISCAL IMPACT

A total of \$744,389 has been awarded to the City to offset customer's wastewater arrearages and administer this program. If approved by Council, this amount will be accepted as revenue in Wastewater Operating Fund 610, and will then be appropriated so it may be posted to eligible customers' accounts and spent on eligible administrative costs. It is important to note that any pandemic-period wastewater debt which a customer has paid between the date this amount was calculated and the date funds would be posted to their account becomes ineligible for coverage under the program and must be returned to the State. For this reason, it is possible that the total amount accepted and appropriated within Fund 610 may be less than the award amount reflected in this report.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Grow the Economy. Specifically, this item relates to the following projects:

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5459681&GUID=0B78D1B7-0CAE-4636-A6A8-32C6E43209FD&Options=&Search=>

² https://www.waterboards.ca.gov/arrearage_payment_program/

Project E6: COVID-19 Pandemic Response

Project E7: COVID-19 Pandemic Recovery Business Assistance

This agenda item also supports the Strategic Priority of Strengthen Organizational Health. Specifically, this item relates to the following projects:

Project R1: Maintain and expand fiscal sustainability

Project R2: Budget Changes due to COVID-19

SUSTAINABILITY FEATURES

This item does not involve any sustainability features.

PUBLIC CONTACT

The CWWAPP has several public contact requirements, including that the City must notify customers when funds are posted to their accounts. The City must also send a direct notice to customers who still have remaining debt, offering to enroll them in a payment plan. A full list of the program requirements can be found in the Program Guidelines, posted on the SWRCB website³.

NEXT STEPS

If approved, staff will accept and appropriate the CWWAPP funds in Wastewater Operating Fund 610 to administer the program per the program requirements.

Prepared by: Kait Byrne, Senior Management Analyst

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

³ https://www.waterboards.ca.gov/arrearage_payment_program/

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND APPROPRIATE FUNDS FOR THE CALIFORNIA WATER AND WASTEWATER ARREARAGE PAYMENT PROGRAM (CWWAPP) FOR WASTEWATER ARREARAGES IN AN AMOUNT NOT TO EXCEED \$744,389

WHEREAS, nearly \$1 billion in Federal American Rescue Plan Act (ARPA) funding has been allocated to the California State Water Resources Control Board (SWRCB) to administer a program to reduce delinquent water and wastewater balances for customers experiencing financial hardships related to the COVID-19 pandemic; and

WHEREAS, the SWRCB used this funding to establish the California Water and Wastewater Arrearage Payment Program (CWWAPP), a program intended to provide relief to community water and wastewater systems for unpaid customer bills during the pandemic; and

WHEREAS, the SWRCB provided community water systems the opportunity to apply for funding through the CWWAPP to cover their commercial and residential customer's wastewater arrearages incurred during the pandemic period, defined as March 4, 2020 to June 15, 2021; and

WHEREAS, Hayward commercial and residential customers' eligible delinquent bills for wastewater totaled \$722,708; and

WHEREAS, Hayward requested a total of \$744,389 through the CWWAPP, which included an additional 3%, or \$21,682, for costs to administer the program; and

WHEREAS, the SWRCB approved the City of Hayward's full request.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to accept up to \$744,389 from the State Water Resources Control Board and appropriate the funds in Wastewater Operating Fund 610 so they may be spent in accordance with the requirements of the California Water and Wastewater Arrearage Payment Program.

IN COUNCIL, HAYWARD, CALIFORNIA June 21, 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

File #: CONS 22-366

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT

Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Assessments for Fiscal Year 2023 for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 18, and Set July 5, 2022, as the Public Hearing Date

RECOMMENDATION

That Council adopts a resolution of intention (Attachment II) to approve the Engineer's report (Attachment III) and assessments for Landscaping and Lighting District No. 96-1 for FY 2023 and sets July 5, 2022, as the public hearing date.

SUMMARY

The Landscaping and Lighting Act of 1972 requires an annual review and update of the Engineer's Report to set annual assessment rates for each benefit zone. Assessment rate recommendations are made based on annual expenses, required cash flow, and capital replacement requirements. Recommended annual assessment rates cannot exceed the Maximum Base Assessment (MBA) Rate established when a zone was originally formed. The annual engineer's report is included as Attachment III and includes a detailed summary for each of the eighteen benefit zones.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Engineer's Report



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT: Adopt a Resolution of Intention to Preliminarily Approve the Engineer’s Report and Assessments for Fiscal Year 2023; and set July 5, 2022, as the Public Hearing Date for Such Actions for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 18

RECOMMENDATION

That Council adopts a resolution of intention (Attachment II) to approve the Engineer’s report (Attachment III) and assessments for Landscaping and Lighting District No. 96-1 for FY 2023 and sets July 5th as the public hearing date.

SUMMARY

The Landscaping and Lighting Act of 1972 requires an annual review and update of the Engineer’s Report to set annual assessment rates for each benefit zone. Assessment rate recommendations are made based on annual expenses, required cash flow, and capital replacement requirements. Recommended annual assessment rates cannot exceed the Maximum Base Assessment (MBA) Rate established when a zone was originally formed. The annual engineer’s report is included as Attachment III and includes a detailed summary for each of the eighteen benefit zones.

BACKGROUND

The Landscaping and Lighting Act of 1972 (Streets and Highways Code §22500) is a flexible tool used by local government agencies to form Landscaping and Lighting Assessment Districts to finance the cost and expense of operating, maintaining, and servicing landscaping (including parks), and lighting improvements in public areas. In 1996, six separate Landscaping and Lighting Districts, Benefit Zones 1-6, were consolidated into one district, Consolidated Landscaping and Lighting Assessment District No. 96-1, “the District,” by the adoption of Resolution No. 96-63. In subsequent years, zones 7-18 were individually created and annexed into the District. This staff report and attached engineer’s report provide assessment, benefit, and budget details for each of the established eighteen zones. Table 1 on the following page provides a summary of the benefit zones, including the year in which each zone was formed and the number of assessable parcels within each zone.

TABLE 1: DESCRIPTION OF BENEFIT ZONES				
A	B	C	D	E
Zone	Name/Location	Year Formed	Type of Development	Number of Assessed Parcels/SFE
1	Huntwood Ave. and Panjon St.	1990	Residential	30
2	Harder Rd. and Mocine Ave.	1991	Residential	85
3	Prominence	1992	Residential	155
4	Stratford Village	1995	Residential	174
5	Soto Rd. and Plum Tree St.	1995	Residential	38
6	Pepper Tree Park	1982	Industrial	11
7	Twin Bridges	1998	Residential	348
8	Capitola St.	1999	Residential	24
9	Orchard Ave.	2000	Residential	74
10	Eden Shores	2003	Residential	534
11	Stonebrae	2006, 2018, 2020	Residential	644
12	Eden Shores East (Spindrift)	2007, 2016	Residential	379
13	Cannery Place	2008	Residential	599
14	La Vista	2016	Residential	179
15	Cadence	2017	Residential	206
16	Blackstone	2016	Residential	157
17	Parkside Heights	2019	Residential	97
18	SoHay	2019	Residential	433
Total Assessed Parcels:				4,167

Self-Maintained.

DISCUSSION

Recommended changes to a zone’s annual assessment rate are based on annual expenses, required cash flow, and capital replacement requirements. When determining the annual assessment rate, staff looks at two things:

- (1) **Maximum Base Assessment (MBA)** – The MBA is the maximum assessment rate that a parcel can be charged annually. This amount is established during the original formation of the zone. The annual MBA can only be increased if an inflation factor was included in the original formation document.
- (2) **Assessment Revenue** – The assessment revenue is the annual amount of revenue collected by charging each parcel an assessment rate. The assessment rate recommendation depends on review of the following three items:
 - a. **Annual Expenses** – Annual operating and maintenance expenses are estimated based on past years’ experience and future years’ estimates. Expenses include staff administration, noticing, and annual reporting.

- b. **Cash Flow** – This is the amount of “cash” needed to pay monthly invoices when revenue is not received monthly (assessment rates are received through property tax revenues collected by Alameda County, which are transmitted to the City three times a year (January, May, and June).
- c. **Capital Replacement** – This is the “savings account” where funds are collected and reserved each year to fund future capital replacement items. Future capital expenses are estimated based on an inventory of capital items, their useful life, and future replacement cost.

Table 2 on the following page summarizes assessment information by zone. The table provides assessment details for each zone by describing the number of parcels, if there is an annual inflation adjustment included the MBA rate, the FY 2023 assessment rate, and the change between last year’s adopted assessment and this year’s recommended assessment.

For FY 2023, staff recommends no change to nine zones (Zone 2, 4, 5, 6, 7, 8, 9, 15 and 17) and nine increases (zone 1, 3, 10, 11, 12, 13, 14, 16, and 18), based on annual expenses, required cash flow, and future capital replacement.

TABLE 2: ASSESSMENT AMOUNTS BY BENEFIT ZONE									
A	B	C	D	E	F	G	H	I	J
Zone	Name/Location	# Parcels	CPI Adj ⁽⁵⁾	FY 2023 Max Base Assessment	FY 2023 Rate	FY 2022 Assessment	Change from last year ⁽⁷⁾		
1	Huntwood Ave. and Panjon St.	30	No	295.83	214.00	208.66	Incr	5.34	3%
2	Harder Rd. and Mocine Ave.	85	No	193.39	122.86	122.86	None	-	0%
3	Prominence	155	Yes	1,062.12	951.66	923.95	Incr	27.71	3%
4	Stratford Village	174	No	180.00	116.16	116.16	None	-	0%
5	Soto Rd. and Plum Tree St.	38	No	258.67	255.17	255.17	None	-	0%
6	Pepper Tree Park	11	No	2.61	2.61	2.61	None	-	0%
7	Twin Bridges	348	Yes	1,110.94	591.70	591.70	None	-	0%
8	Capitola St.	24	Yes	794.54	186.56	186.56	None	-	0%
9	Orchard Ave.	74	Yes	212.14	34.19	34.19	None	-	0%
10	Eden Shores	534	Yes	1,265.04	287.32	278.94	Incr	8.38	3%
11a	Stonebrae (Developed)	617	Yes	1,794.28	340.44	330.52	Incr	9.92	3%
11b	Stonebrae (Undeveloped)	27	Yes	538.28	180.43	175.18	Incr	5.25	3%
12a	Eden Shores - East	261	Yes	237.76	92.70	90.00	Incr	2.70	3%
12b	Eden Shores East (Spindrift)	118	Yes	232.80	92.70	90.00	Incr	2.70	3%
13	Cannery Place	599	Yes	1,349.22	371.82	361.00	Incr	10.82	3%
14	La Vista	179	Yes	704.16	704.16	683.65	Incr	20.51	3%
15	Cadence	206	Yes	682.86	N/A	N/A	N/A	N/A	N/A
16a	Blackstone (Zone A)	133	Yes	487.00	482.00	467.96	Incr	14.04	3%
16b	Blackstone (Zone B)	24	Yes	511.34	506.08	491.34	Incr	14.74	3%
17	Parkside Heights	97	Yes	564.86	528.69	528.69	None	-	0%
18a	SoHay Zone A (Developed)	192	Yes	430.82	400.00	50.00	Incr	350.00	700%
18b	SoHay Zone A (Undeveloped)	69	Yes	129.25	120.00	15.00	Incr	105.00	700%
18c	SoHay Zone B (Developed)	79	Yes	409.28	380.00	47.50	Incr	332.50	700%
18d	SoHay Zone B (Undeveloped)	93	Yes	122.78	114.00	14.25	Incr	99.75	700%

Note: FY 2023 Special Assessment Rate Increase - Zone 18 (SoHay)

In FY 2022, the LLAD 18 (SoHay) development was still under construction and the maintenance responsibility of the park remained with the developer, so the Zone was assessed at a rate significantly lower (\$50.00) than the maximum rate (\$409.57). During this time period, the City did not offer significant services to the District during construction. Now, a year later, the development is projected to be completed in FY 2023 and the City anticipates accepting the full responsibility and cost of maintaining LLAD 18 on 7/1/2022. As a result, staff is recommending an increase in the assessment rate to \$400.00 to cover the estimated annual operating and maintenance expenses, as detailed in the Engineer's Report.

Proposition 218 Compliance

For FY 2023, all assessments are proposed to be levied in compliance with Proposition 218 and do not require the noticing and balloting of property owners to obtain their approval. Any future increases in the assessment amounts that would exceed the MBA amount would require noticing and balloting of property owners.

FISCAL AND ECONOMIC IMPACT

There is no fiscal impact to the City's General Fund from this recommendation because expenditures are to be paid by assessment rates in each respective zone. All zones have adequate cash balances for annual expenses, cash flow, and capital replacement.

STRATEGIC ROADMAP

This agenda item is not directly related to the Council's Strategic Roadmap.

PUBLIC CONTACT

City staff: 1) mailed a postcard to all affected property owners to provide details of their recommended FY 2023 assessment rate and to alert them to two Council meetings where they could provide input (June 21 and July 5); 2) held a virtual meeting on June 15 via Zoom; and 3) will be publishing a printed legal notice in the East Bay Times on June 24, 2022.

NEXT STEPS

Following this Council meeting, the City is proposing to hold a public hearing on July 5, 2022, to provide an opportunity for any interested person to be heard. After the public hearing, the Council may adopt a resolution setting the annual assessment amounts as originally proposed or as modified. Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the County Auditor's office to be included on the FY 2023 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

If Council adopts the attached resolution of intention, a noticed public hearing on July 5, 2022 to consider approving the Engineer's Report and order the levy of assessments for FY 2023 will be scheduled.

Prepared by: Liz Sanchez, Management Analyst

Recommended by: Todd Rullman, Maintenance Services Director

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION PRELIMINARILY APPROVING ENGINEER'S REPORT, DECLARING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2023 FOR CONSOLIDATED LANDSCAPING AND LIGHTING DISTRICT NO. 96-1, ZONES 1-18, AND SETTING JULY 5, 2022, AS THE PUBLIC HEARING DATE

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

1. On May 7, 1996, the Consolidated Landscaping and Lighting District No. 96-1, Zones 1-6 (the "District") was established by the adoption of Resolution No. 96-93 and, subsequently, Zones 7-18 were respectively annexed to the District.
2. SCI Consulting Group is hereby designated as Engineer of Work for purposes of these proceedings and was ordered to prepare an Engineer's Report in accordance with Article XIID of the California Constitution.
3. SCI Consulting Group is hereby designated as Engineer of Work for purposes of these proceedings and was ordered to prepare an Engineer's Report in accordance with Article 4 of Chapter 1 of the Act and Article XIID of the California Constitution.
4. The Engineer of Work has prepared a report in accordance with the provisions of Article XIID, Section 4, of the California Constitution, provisions of the Landscaping and Lighting Act of 1972, Section 22500 et seq. of the California Streets and Highways Code. Said report has been made, filed, and duly considered by this City Council and is hereby deemed sufficient and preliminarily approved. Said report shall stand as the report for all subsequent proceedings relating to the proposed levy of District assessments for Fiscal Year 2023.
5. It is the intention of the City Council to order the levy and collection of assessments within the District for Fiscal Year 2023.

6. The improvements consist of the construction, operation, maintenance, rehabilitation, and servicing of landscaping, street lighting, open space facilities, parks, trails, and appurtenant (pertaining to something that attaches) facilities including but not limited to; personnel, electrical energy, utilities such as water, materials, contractual services, and other items necessary for the satisfactory operation of these services and facilities.
7. Maintenance means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping, public lighting facilities and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping, public lighting facilities or appurtenant facilities; providing for the life, growth, health and beauty of the landscaping improvements, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; and the removal of trimmings, rubbish, debris and other solid waste; the cleaning, sandblasting, and painting of street lights and other improvements to remove graffiti.
8. The proposed assessments for Zones 2, 4, 5, 6, 7, 8, 9, 15 and 17 are unchanged from the previous year's assessments.
9. The proposed assessments for Zones 1, 3, 10, 11, 12, 13, 14, 16, and 18 are more than the previous year's assessments.
10. Reference is hereby made to the aforementioned report on file with the City Clerk for a full and detailed description of the improvements, the boundaries of the proposed District, and the proposed assessments upon assessable lots within said District.
11. On July 5, 2022, at the hour of 7:00 p.m., in the regular meeting place of this City Council, City Council Chambers, 777 B Street, Hayward, California, a public hearing will be held on the levy of the proposed assessments. Prior to the conclusion of said public hearing, any interested person may file a written protest with the City Clerk, or having previously filed a protest, may file a written withdrawal of that protest. A written protest by a property owner shall contain a description sufficient to identify the property owned by such owner.
12. The City Clerk is hereby directed to cause a notice of said meeting and hearing to be made in the form and manner provided by applicable laws.

IN COUNCIL, HAYWARD, CALIFORNIA June 21, 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

Fiscal Year 2023

ENGINEER'S REPORT

City of Hayward

Landscaping and Lighting Assessment District 96-1

June 2022

Preliminary Report

Engineer of Work:



4745 Mangels Boulevard
Fairfield, California 94534
707.430.4300
www.sci-cg.com

City of Hayward

City Council

Barbara Halliday, Mayor

Angela Andrews, Council Member

Sara Lamnin, Council Member

Elisa Márquez, Council Member

Mark Salinas, Council Member

Aisha Wahab, Council Member

Francisco Zermeño, Council Member

Clerk of the Council

Miriam Lens

City Manager

Kelly McAdoo

City Attorney

Michael Lawson

Engineer of Work

SCI Consulting Group

Table of Contents

Introduction	1
Overview.....	1
Background.....	1
Method of Apportionment.....	4
Zone Classification.....	5
Assessment Roll.....	6
Estimate of Costs.....	6
Legislative Analysis.....	7
Inflation Factor Allowance Overview.....	7
Noticing, Public Comment, and Public Hearing.....	8
Plans and Specifications	9
Introduction.....	9
Description of District.....	9
Description of Improvements	9
Zone 1 (Huntwood Ave.& Panjon St.).....	11
Zone 2 (Harder Rd. & Mocine Ave.)	14
Zone 3 (Prominence)	17
Zone 4 (Stratford Village)	21
Zone 5 (Soto Rd. & Plum Tree St.).....	25
Zone 6 (Peppertree Park)	28
Zone 7 (Twin Bridges).....	31
Zone 8 (Capitola Street).....	34
Zone 9 (Orchard Ave.)	37
Zone 10 (Eden Shores Residential).....	40
Zone 11 (Stonebrae Country Club).....	43
Zone 12 (Spindrift - Eden Shore East).....	47
Zone 13 (Cannery Place).....	51
Zone 14 (La Vista)	54
Zone 15 (Cadence).....	57
Zone 16 (Blackstone)	59
Zone 17 (Parkside Heights).....	62
Zone 18 (SoHay)	65
Assessment	69
Vicinity Map	71
Assessment Diagram	72

List of Tables

Table 1- Description Of Benefit Zones	2
Table 2- Assessment Amounts By Benefit Zone	3
Table 3: Estimated Cash Balance Changes Per Benefit Zone.....	4

Introduction

Overview

Each fiscal year an Engineer's Report (the "Report") is prepared and presented to the City of Hayward City Council (the "Council") describing the City's Landscaping and Lighting Assessment District No. 96-1 (the "District"). The Report details changes to the District or improvements, an estimate of the costs of the maintenance, operations, and servicing of the improvements, and the proposed budget and assessments for that fiscal year.

Through a professional service agreement with SCI Consulting Group (the "Consultant"), the City of Hayward (the "City") has requested the Consultant prepare and file the Report for the referenced fiscal year. This is the detailed Report for Fiscal Year ("FY") 2023 regarding the District and the proposed assessments to be levied on the properties therein to provide ongoing funding for the costs and expenses required to service and maintain landscape and lighting improvements associated with and resulting from development of properties within the District, in accordance with the proportional special benefits the properties receive from the improvements.

Following the preparation of the annual Report, a public hearing is held before the Council to allow the public an opportunity to hear and be heard regarding the District. Following consideration of all public comments and written protests at the noticed public hearing, and review of the Report, the Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report, and confirmation of the assessments, the Council shall order the levy and collection of assessments for FY 2023. In such case, the levy information will be submitted to the Alameda County Auditor/Controller and included as assessments on the property tax roll for the various services provided in FY 2023.

Background

In November 1996, the voters of California adopted Proposition 218 (the "Right to Vote on Taxes Act"), which has been codified as Articles XIII C and XIII D of the California Constitution. The 1972 Act permits the creation of benefit zones within any individual assessment district if "by reasons or variations in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvement" (Sec. 22547). If, in any year, the proposed annual assessments for the District exceed the maximum assessments previously approved in a Proposition 218 proceeding (or grandfathered under Proposition 218), such an assessment would be considered a new or increased assessment and be confirmed through a mailed property owner protest ballot proceeding before that new or increased assessment could be imposed.

The District originally contained six benefit zones when initially formed in 1996, however, now totals eighteen benefit zones which are presented in this Report. This Report and the information contained herein reflect the proposed budget for each of the various services provided by the District and the rates and assessments applicable to those, as required by Proposition 218.

Table 1- Description Of Benefit Zones

TABLE 1: DESCRIPTION OF BENEFIT ZONES				
A	B	C	D	E
Zone	Name/Location	Year Formed	Type of Development	Number of Assessed Parcels/SFE
1	Huntwood Ave. and Panjon St.	1990	Residential	30
2	Harder Rd. and Mocine Ave.	1991	Residential	85
3	Prominence	1992	Residential	155
4	Stratford Village	1995	Residential	174
5	Soto Rd. and Plum Tree St.	1995	Residential	38
6	Pepper Tree Park	1982	Industrial	11
7	Twin Bridges	1998	Residential	348
8	Capitola St.	1999	Residential	24
9	Orchard Ave.	2000	Residential	74
10	Eden Shores	2003	Residential	534
11	Stonebrae	2006, 2018, 2020	Residential	644
12	Eden Shores East (Spindrift)	2007, 2016	Residential	379
13	Cannery Place	2008	Residential	599
14	La Vista	2016	Residential	179
15	Cadence	2017	Residential	206
16	Blackstone	2016	Residential	157
17	Parkside Heights	2019	Residential	97
18	SoHay	2019	Residential	433
Total Assessed Parcels:				4,167

The following table summarizes the FY 2023 assessment rates per benefit zone.

Table 2- Assessment Amounts By Benefit Zone

TABLE 2: ASSESSMENT AMOUNTS BY BENEFIT ZONE									
A	B	C	D	E	F	G	H	I	J
Zone	Name/Location	# Parcels	CPI Adj ⁽⁵⁾	FY 2023 Max Base Assessment	FY 2023 Rate	FY 2022 Assessment	Change from last year ⁽⁷⁾		
1	Huntwood Ave. and Panjon St.	30	No	295.83	214.00	208.66	Incr	5.34	3%
2	Harder Rd. and Mocine Ave.	85	No	193.39	122.86	122.86	None	-	0%
3	Prominence	155	Yes	1,062.12	951.66	923.95	Incr	27.71	3%
4	Stratford Village	174	No	180.00	116.16	116.16	None	-	0%
5	Soto Rd. and Plum Tree St.	38	No	258.67	255.17	255.17	None	-	0%
6	Pepper Tree Park	11	No	2.61	2.61	2.61	None	-	0%
7	Twin Bridges	348	Yes	1,110.94	591.70	591.70	None	-	0%
8	Capitola St.	24	Yes	794.54	186.56	186.56	None	-	0%
9	Orchard Ave.	74	Yes	212.14	34.19	34.19	None	-	0%
10	Eden Shores	534	Yes	1,265.04	287.32	278.94	Incr	8.38	3%
11a	Stonebrae (Developed)	617	Yes	1,794.28	340.44	330.52	Incr	9.92	3%
11b	Stonebrae (Undeveloped)	27	Yes	538.28	180.43	175.18	Incr	5.25	3%
12a	Eden Shores - East	261	Yes	237.76	92.70	90.00	Incr	2.70	3%
12b	Eden Shores East (Spindrift)	118	Yes	232.80	92.70	90.00	Incr	2.70	3%
13	Cannery Place	599	Yes	1,349.22	371.82	361.00	Incr	10.82	3%
14	La Vista	179	Yes	704.16	704.16	683.65	Incr	20.51	3%
15	Cadence	206	Yes	682.86	N/A	N/A	N/A	N/A	N/A
16a	Blackstone (Zone A)	133	Yes	487.00	482.00	467.96	Incr	14.04	3%
16b	Blackstone (Zone B)	24	Yes	511.34	506.08	491.34	Incr	14.74	3%
17	Parkside Heights	97	Yes	564.86	528.69	528.69	None	-	0%
18a	SoHay Zone A (Developed)	192	Yes	430.82	400.00	50.00	Incr	350.00	700%
18b	SoHay Zone A (Undeveloped)	69	Yes	129.25	120.00	15.00	Incr	105.00	700%
18c	SoHay Zone B (Developed)	79	Yes	409.28	380.00	47.50	Incr	332.50	700%
18d	SoHay Zone B (Undeveloped)	93	Yes	122.78	114.00	14.25	Incr	99.75	700%

The following table summarizes the revenue, expenditures, and account balance by benefit zone.

Table 3: Estimated Cash Balance Changes Per Benefit Zone

TABLE 3: ESTIMATED CASH BALANCE CHANGES PER BENEFIT ZONE						
Zone	Name/Location	Est FY 2022 Ending Cash Balance	FY 2023 Revenue	FY 2023 Expenditures	Change	Est FY 2023 Ending Cash Balance
1	Huntwood Ave. and Panjon St.	26,611	6,511	11,654	(5,143)	21,468
2	Harder Rd. and Mocine Ave.	30,930	10,666	10,329	337	31,266
3	Prominence	352,748	149,635	211,817	(62,183)	290,565
4	Stratford Village	111,859	20,898	31,169	(10,271)	101,588
5	Soto Rd. and Plum Tree St.	25,974	9,832	14,213	(4,381)	21,593
6	Pepper Tree Park	91,452	13,188	14,639	(1,451)	90,001
7	Twin Bridges	670,388	206,211	206,743	(532)	669,857
8	Capitola St.	60,639	4,801	11,653	(6,852)	53,788
9	Orchard Ave.	9,218	2,512	2,904	(392)	8,826
10	Eden Shores	480,187	153,121	185,303	(32,182)	448,005
11	Stonebrae	404,441	216,657	264,040	(47,383)	357,059
12	Eden Shores East (Spindrift)	18,924	34,686	36,655	(1,969)	16,955
13	Cannery Place	644,448	221,234	202,656	18,578	663,026
14	La Vista	222,017	126,045	145,888	(19,843)	202,174
15	Cadence	-	-	-	-	-
16	Blackstone	157,203	75,067	80,790	(5,723)	151,480
17	Parkside Heights	84,200	54,211	51,715	2,496	86,697
18	SoHay	133,083	137,349	92,840	44,509	177,591
Cash Balance:		3,524,323	1,442,622	1,575,007	(132,384)	3,391,938

Self-Maintained.

Method of Apportionment

Part 2 of Division 15 of the Streets and Highways Code, the Landscaping and Lighting Act of 1972, permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the operation, maintenance and servicing of landscaping and street lighting improvements.

Section 22573 of the Landscaping and Lighting Act of 1972 requires that maintenance assessments must be levied according to benefit rather than according to assessed value. This Section states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefit to be received by each such lot or parcel from the improvements."

The determination of whether or not a lot or parcel will benefit from the improvements shall be made pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000)) [of the Streets and Highways Code, State of California]."

Proposition 218 also requires that maintenance assessments must be levied according to benefit rather than according to assessed value. In addition, Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property. Because assessments are levied based on benefit, they are not considered a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

The 1972 Act permits the designation of zones of benefit within any individual assessment district if "by reasons or variations in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvement" (Sec. 22547). Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

Article XIID of the California Constitution provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements, and rights-of-ways.

Zone Classification

Each benefit zone is unique and distinguishable from other benefit zones located within the District. Each benefit zone is evaluated to determine which improvements are of a specific and direct benefit to the parcels in that benefit zone. Once the improvements have been identified, a method of spreading those costs to the benefiting parcels was developed.

As certain subdivisions develop throughout the City of Hayward, they may be annexed into an existing zone or there may be a new zone formed. Each new subdivision is evaluated to determine which improvements are of a specific and direct benefit to the parcels within the subdivision and then a determination is made whether to annex them into an existing zone or whether to form a new zone. The parcels, which benefit from the improvements, are identified and a benefit assessment spread methodology is developed to spread the costs of the improvements to the benefiting parcels.

Details of the various zones in the District, their corresponding number of parcels in each benefit zone, and the method of apportioning the costs of the improvements are in the zone description section.

Assessment Roll

A list of names and addresses of the owners of all parcels, and the description of each lot or parcel within the City's Landscaping & Lighting Assessment District No. 96-1 is shown on the last equalized Property Tax Roll of the Assessor of the County of Alameda, which by reference is hereby made a part of this report.

This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll, which includes the proposed assessment amount for FY 2023 apportioned to each lot or parcel. The Assessment Roll is on file in the Office of the City Clerk of the City of Hayward.

Estimate of Costs

The 1972 Act provides that the total cost of construction, operation, maintenance and servicing of the public landscaping, street lighting, open space facilities, parks, trails, etc. can be recovered by the District. Incidental expenses including administration of the district, engineering fees, legal fees and all other costs associated with the construction, operation, maintenance, and servicing of the district can also be included.

The 1972 Act requires that a special fund be set up for the revenues and expenditures for the District. Funds raised by the assessments shall be used only for the purposes as stated herein. Any balance remaining on July 1 at the end of the fiscal year must be carried over to the next fiscal year.

The estimated FY 2023 revenues and expenditures for the proposed District are itemized by zone below. For a detailed breakdown on the operation, maintenance, and servicing costs for each benefit zone, please refer to the budget page following each zone's description.

Legislative Analysis

Proposition 218 Compliance¹

On November 5, 1996, California voters approved Proposition 218 entitled "Right to Vote on Taxes Act," which added Articles XIIC and XIID to the California Constitution. While its title refers only to taxes, Proposition 218 establishes new procedural requirements for the formation and administration of assessment districts. These new procedures stipulate that even if assessments are initially exempt from Proposition 218, future increases in assessments must comply with the provisions of Proposition 218. However, if an increase in the assessment was anticipated in the assessment formula (for example, to reflect the CPI or an assessment cap) then the City would be following the provisions of Proposition 218 if the assessments did not exceed the assessment formula.

All the assessments proposed within the FY 2023 Engineer's Report are equal to or less than the Maximum Base Assessment Rate authorized; therefore, Article XIID, Section 4 vote requirements do not apply to these proceedings.

Inflation Factor Allowance Overview

No Allowance - Five of the eighteen benefit zones (1, 2, 4, 5, 6) do not have an inflation factor allowance within their respective assessment formula to increase their Maximum Base Assessment.

Allowance - Thirteen of eighteen benefit zones (3, 7-18) have an inflation factor allowance within their respective assessment formula to increase their Maximum Base Assessment Rate annually based upon the change in the prior year's CPI. Their inflation factor is described below.

Benefit zones 3, 7-13, 17-18 apply the February CPI-U for the San Francisco-Oakland-Hayward, CA MSA² inflation factor. The CPI-U increase from February 2021 to February 2022 was 5.19%; therefore; a 5.19% increase was applied to the FY 2023 Maximum Base Assessment Rate for zones 3, 7-13, 17-18.

¹ http://www.lao.ca.gov/1996/120196_prop_218/understanding_prop218_1296.html

² <https://data.bls.gov/cgi-bin/surveymost> (Feb 2021 to Feb 2022)

Benefit zones 12 annexation, 14-16 apply the December CPI-U for the San Francisco-Oakland-Hayward, CA MSA³ inflation factor, capped at 3.00% per fiscal year. Any change in the CPI in excess of 3.00% shall be cumulatively reserved as the “Unused CPI” and shall be used to increase the maximum authorized assessment rate in years in which the CPI is less than 3%. The CPI-U increase from December 2020 to December 2021 was 4.24%; therefore, the Maximum Base Assessment Rate for zones 12 annexation, 14-16 have been increased by 3.00%.

Noticing, Public Comment, and Public Hearing

Noticing and information regarding this report were provided via the following methods: 1) mailed a notice to all affected property owners to provide detail of their recommended FY 2023 assessment rate and to alert them to three public meetings where they could provide input (June 15, June 21, July 5), and 3) published a legal notice in the East Bay Times on June 24, 2022.

On July 5, 2022, the City is proposing to hold a public hearing to provide an opportunity for any interested person to be heard. After the public hearing, the Council may adopt a resolution setting the annual assessment amounts as originally proposed or as modified. Following the adoption of this resolution, the final assessor’s roll will be prepared and filed with the Alameda County Auditor’s Office to be included on the FY 2023 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

³ <https://data.bls.gov/cgi-bin/surveymost> (Dec 2020 to Dec 2021)

Plans and Specifications

Introduction

As required by the Landscaping and Lighting Act of 1972, the annual Engineer's Report includes: (1) a listing of the proposed assessment amount for each assessable lot or parcel; (2) a description of the improvements to be operated, maintained, and serviced; and (3) an estimated budget.

Description of District

The territory within the District consists of all lots and APNs of land that receive special benefits from the landscape and lighting improvements funded by the District assessments. The boundaries of the District are comprised of eighteen benefit Zones. APNs within the District are identified and grouped into one of the eighteen designated Zones based on the special benefits properties receive from the District improvements and the authorized Maximum Base Assessments established. The eighteen Zones within the District and the benefits associated with the properties therein are described in more detail in the following pages of this Report. In addition, the individual zone diagrams (maps) are presented in the Assessment Diagram Section of the Report and provide a visual representation of the District showing the boundaries of each benefit zone.

Description of Improvements

The facilities which have been constructed within the District and those which may be subsequently constructed, will be operated, maintained, and serviced as generally described as follows:

The improvements consist of the construction, operation, maintenance, rehabilitation, and servicing of landscaping, street lighting, open space facilities, parks, trails, and appurtenant (pertaining to something that attaches) facilities including but not limited to; personnel, electrical energy, utilities such as water, materials, contractual services, and other items necessary for the satisfactory operation of these services and facilities as described below:

Landscaping Facilities

Landscaping facilities consist of, but are not limited to operation, maintenance and servicing of landscaping, irrigation, planting, shrubbery, ground cover, trees, pathways, hardscapes, decorative masonry and concrete walls, fountains, bus shelters, entry gate structures, graffiti removal, fences, and other appurtenant facilities required to provide landscaping within the public rights-of-way and easements within the boundaries of the Assessment District.

Street Lighting Facilities

Street lighting facilities consist of, but are not limited to operation, maintenance and servicing of poles, fixtures, bulbs, conduits, equipment including guys, anchors, posts and pedestals, metering devices and other appurtenant facilities within the public rights-of-way and easements within the boundaries of the Assessment District.

Open Space Facilities

Open space facilities consist of, but are not limited to operation, maintenance and servicing of drainage areas, creeks, ponds, etc. including the removal of trash and debris, sediment, natural and planted vegetation and other appurtenant facilities within the public rights-of-way and easements within the boundaries of the Assessment District.

Park/Trail Facilities

Park/Trail facilities consist of, but are not limited to: operation, maintenance and servicing of landscaping, irrigation systems, pedestrian access, asphalt bike pathways, parkways, and the removal of trash and debris, rodent control, used for the support of recreational programs and other appurtenant facilities within the public rights-of-way and easements within the boundaries of the Assessment Districts.

Maintenance

Maintenance means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping, public lighting facilities and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping, public lighting facilities or appurtenant facilities; providing for the life, growth, health and beauty of the landscaping improvements, including cultivation, irrigation, trimming, spraying, fertilizing and treating for disease or injury; and the removal of trimmings, rubbish, debris and other solid waste; the cleaning, sandblasting, and painting of street lights and other improvements to remove graffiti.

Zone 1 (Huntwood Ave.& Panjon St.)

Tract No. 06041
 Formed: November 13, 1990
 Resolution Number: 90-256

FY 2023

Maximum Base Assessment Rate: **\$295.83**
 Assessment Amount per Parcel: **\$214.00**
 Number of Parcels: **30**
 Assessment Income: **\$6,420.00**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1990**.
- **Is at the maximum**, unchanged from the previous year at **\$295.83** per parcel.
- Includes an annual inflation increase: **No**.
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income**Assessment Rate** (annual charge per parcel) **and Income**

- The per parcel charge will **increase** from the previous year from \$208.66 to **\$214.00**.
- The total annual assessment income will equal **\$6,420.00**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services**Services provided to this assessment zone include:**

- **Landscaping and irrigation:** Including an 8-foot-wide landscaped strip along Huntwood Ave. within a landscape easement; and
- **Surface maintenance of the street side:** Including a 600-foot masonry wall along Huntwood Ave. The maintenance includes painting, cleaning, graffiti removal, and minor surface repair.
- **One-time maintenance:** A budget of **\$5,000** is allocated for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 1 - Huntwood Ave. and Panjon St.
Fund 266, Project 3740
Established 1990, 30 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	<i>Estimated</i>	<i>Proposed</i>
Assessment				
a. Maximum Base Assessment Amount	295.83	295.83	295.83	295.83
b. Annual Per Parcel Assessment	202.58	202.58	208.66	214.00
c. <u># of Parcels</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>
d. Total Amount Assessed for the District:	6,077	6,077	6,260	6,420
Income				
a. Annual Assessment Revenue	6,077	6,077	6,260	6,420
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(103)	(103)	(106)	(109)
c. Adjustment for Delinquencies	441	-	-	-
d. <u>Other</u>	<u>608</u>	<u>400</u>	<u>200</u>	<u>200</u>
e. Total Revenue:	7,023	6,374	6,353	6,511
Services				
a. Utilities: Water	332	369	405	700
b. Utilities: PGE	223	238	263	325
c. Landscape Maintenance	1,620	1,620	1,620	2,400
d. One-Time Project/Maintenance	-	-	-	5,000
e. Property Owner Noticing	25	20	25	75
f. Annual Reporting	1,100	553	1,550	1,032
g. <u>City Administration</u>	<u>2,060</u>	<u>2,000</u>	<u>2,060</u>	<u>2,122</u>
h. Total Expenditures:	5,360	4,800	5,923	11,654
Account Balance				
a. Beginning Account Balance	22,944	24,607	26,181	26,611
b. <u>Net Change (Revenue - Expenditures)</u>	<u>1,663</u>	<u>1,574</u>	<u>430</u>	<u>(5,143)</u>
c. Ending Account Balance:	24,607	26,181	26,611	21,468

Zone 2 (Harder Rd. & Mocine Ave.)

Tract No. 6042
Formed: July 25, 1991
Resolution Number: 91-137
FY 2023

Maximum Base Assessment Rate: **\$193.39**
Assessment Amount per Parcel: **\$122.86**
Number of Parcels: **85**
Assessment Income: **\$10,443.10**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1991**.
- **Is at the maximum**, unchanged from the previous year at **\$193.39** per parcel.
- Includes an annual inflation increase: **No**.
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge will **remain the same** from the previous year at **\$122.86**.
- The total annual assessment income will equal **\$10,443.10**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping and irrigation:** Including the area between the sidewalk and wall along Harder Road and Mocine Ave. within a landscape easement.
- **Surface maintenance of the street side:** Including maintenance of a 1,000-foot-long masonry wall along Harder Road, Mocine Ave., and a segment of Sunburst Drive. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair; and
- **Surface maintenance of wall:** Includes maintenance of an 800-foot-long masonry wall adjacent to the railroad tracks located on the southwest side of Tract No. 6042. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair.
- **One-time maintenance:** A budget of **\$2,500** is allocated for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 2 - Harder Rd. & Mocine Ave.
Fund 267, Project 3741
Established 1991, 85 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
a. Maximum Base Assessment Amount	193.39	193.39	193.39	193.39
b. Annual Per Parcel Assessment	122.86	122.86	122.86	122.86
c. # of Parcels	85	85	85	85
d. Total Amount Assessed for the District:	10,443	10,443	10,443	10,443
Income				
a. Annual Assessment Revenue	10,443	10,443	10,443	10,443
b. Minus County Tax Collection Fee (1.7%)	(178)	(178)	(178)	(178)
c. Adjustment for Delinquencies	(34)	-	-	-
d. Other	635	500	400	400
e. Total Revenue:	10,867	10,766	10,666	10,666
Services				
a. Utilities: Water	330	910	1,814	2,000
b. Utilities: PGE	116	120	129	160
c. Landscape Maintenance	1,620	1,620	1,620	2,400
d. One-Time Project/Maintenance	-	5,000	-	2,500
e. Property Owner Noticing	71	56	115	115
f. Annual Reporting	1,100	553	1,550	1,032
g. City Administration	2,060	2,000	2,060	2,122
h. Total Expenditures:	5,297	10,259	7,288	10,329
Account Balance				
a. Beginning Account Balance	21,476	27,046	27,552	30,930
b. Net Change (Revenue - Expenditures)	5,570	507	3,378	337
c. Ending Account Balance:	27,046	27,552	30,930	31,266

Zone 3 (Prominence)

Tract No. 4007
 Formed: June 23, 1992
 Resolution Number: 92-174

FY 2023

Maximum Base Assessment Rate: **\$1,062.12**
 Assessment Amount per Parcel: **\$951.66**
 Number of Parcels: **155**
 Assessment Income: **\$147,507.30**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1992**.
- **Increased** from the previous year from \$1,009.72 to **\$1,062.12** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes the February CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge will **increase** from the previous year from **\$923.95** to **\$951.66**.
- The total annual assessment income will equal **\$147,507.30**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping and irrigation:** Include approximately one mile of landscaped frontage along Hayward Blvd. and Fairview Ave., with significant slope areas along the street;
- **Surface maintenance of the sound wall** (street side): of a mile-long masonry wall along Hayward Blvd. and Fairview Ave. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair; and
- **Maintenance of several open space areas:** many are maintained within the tract; however, there are no funds budgeted for maintenance of the non-irrigated, non-landscaped open space areas.
- **One-time projects:** A budget of **\$47,738** is included for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Notes:

- In FY 2004, a group of property owners within Zone 3 formed a Landscape Committee.
- In FY 2006, a Proposition 218 Election was held to increase the base assessment amount from \$328.82 to \$1,023.56 per parcel for the first three years to fund the cost of a comprehensive landscape plan (capital plan). The \$694.74 increase was made up of two parts. One, an increase of \$365.70 per year for maintenance; and two, an increase of \$329.04 per year for capital. The three-year capital plan included 1) Bus Stop and Open Area Across Street on Fox Hollow Drive; 2) Open Area South of 28525 Fox Hollow Drive; 3) Hayward Blvd., Fairview Drive, and Barn Rock Drive.
- In FY 2009, the rate returned to \$694.52 per year, which may be increased each year by inflation

Landscape and Lighting District Zone 3 - Prominence
Fund 268, Project 3742
Established 1992, 155 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount	966.01	994.12	1,062.12	1,062.12
b. Annual Per Parcel Assessment	883.97	909.69	923.95	951.66
c. <u># of Parcels</u>	<u>155</u>	<u>155</u>	<u>155</u>	<u>155</u>
d. Total Amount Assessed for the District:	137,015	141,002	143,212	147,507
Income				
a. Annual Assessment Revenue	137,015	141,002	143,212	147,507
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(2,329)	(2,397)	(2,435)	(2,508)
c. Adjustment for Delinquencies	(707)	-	-	0
d. <u>Other</u>	<u>6,631</u>	<u>5,000</u>	<u>4,500</u>	<u>4,635</u>
e. Total Revenue:	140,610	143,605	145,278	149,635
Services				
a. Utilities: Water	25,296	20,572	19,440	30,000
b. Utilities: PGE	1,491	1,493	1,812	2,000
c. Landscape Maintenance	37,200	47,990	59,700	60,000
d. One-Time Project/Maintenance	9,766	15,417	20,000	47,738
e. Planting	-	7,000	5,788	5,962
f. Tree Maintenance/Replacement	-	7,500	10,000	10,300
g. Mulch Replacement	-	-	-	-
h. Bus Stop Area	-	-	-	40,000
i. Irrigation/V-Ditch Filter	-	-	-	10,000
j. Property Owner Noticing	129	99	100	175
k. Annual Reporting	1,239	635	1,817	1,187
l. <u>City Administration</u>	<u>4,120</u>	<u>4,200</u>	<u>4,326</u>	<u>4,456</u>
m. Total Expenditures:	79,241	104,906	122,983	211,817
Account Balance				
a. Beginning Account Balance	230,385	291,754	330,453	352,748
b. <u>Net Change (Revenue - Expenditures)</u>	<u>61,369</u>	<u>38,699</u>	<u>22,295</u>	<u>(62,183)</u>
c. Ending Account Balance:	291,754	330,453	352,748	290,565

Zone 4 (Stratford Village)

Tract Nos. 6472, 6560, 6682 & 6683
 Formed: May 23, 1995
 Resolution Number: 95-96
 Annexed Tract No. 6682: January 23, 1996

FY 2023

Maximum Base Assessment Rate: **\$180.00**
 Assessment Amount per Parcel: **\$116.16**
 Number of Parcels: **174**
 Assessment Income: **\$20,211.84**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1995**.
- **Is at the maximum**, unchanged from the previous year at **\$180.00** per parcel.
- Includes an annual inflation increase: **No**
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge will **remain the same** from the previous year at **\$116.16**.
- The total annual assessment income will equal **\$20,211.84**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment rate.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping and irrigation:** Include approximately 21,000 square feet adjacent to the Ward Creek Bike Pathway, including an irrigation system with electrical controllers;
- **Median landscaping:** Includes approximately 2,100 square feet along Stratford Rd. and Ruus Lane;
- **Landscaping:** Includes approximately 7,500 square feet along Pacheco Way;
- **Landscaping, irrigation, and appurtenances:** on the median island on Ruus Lane;
- **Surface maintenance** of the street side of a masonry wall along Pacheco Way and along the southern and eastern property boundaries. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair;
- **Asphalt bike pathway:** Includes approximately 2,100 linear feet adjacent to Ward Creek between Pacheco Way and Folsom Ave., and bike path striping on pathway;
- **Chain link fencing:** Includes approximately 50 linear feet of 4-foot-high black vinyl clad fencing at two locations between Ward Creek and the asphalt pathway;

- **Gate:** Includes a 14-foot-wide entry gate structure, an 8-foot-wide swing gate, and a 12-foot-wide swing gate;
- **Bridge:** Includes 32 linear feet of 8-foot-wide prefabricated steel bridge with wood deck; and
- **Pedestrian access:** Between Rosecliff Lane and Ward Creek Pathway.
- **One-time maintenance:** A budget of **\$15,000** is allocated for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 4 - Stratford Village
Fund 269, Project 3743
Established 1995, 174 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount	180.00	180.00	180.00	180.00
b. Annual Per Parcel Assessment	116.16	116.16	116.16	116.16
c. <u># of Parcels</u>	<u>174</u>	<u>174</u>	<u>174</u>	<u>174</u>
d. Total Amount Assessed for the District:	20,212	20,212	20,212	20,212
Income				
a. Annual Assessment Revenue	20,212	20,212	20,212	20,212
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(344)	(344)	(344)	(344)
c. Adjustment for Delinquencies	106	-	-	0
d. <u>Other</u>	<u>2,605</u>	<u>2,683</u>	<u>1,000</u>	<u>1,030</u>
e. Total Revenue:	22,579	22,551	20,868	20,898
Services				
a. Utilities: Water	2,554	2,840	9,035	3,100
b. Utilities: PGE	1,005	1,083	1,205	1,300
c. Landscape Maintenance	6,415	-	6,415	8,500
d. One-Time Project/Maintenance	-	3,720	10,000	15,000
e. Irrigation Repair	-	-	-	-
f. Graffiti Abatement	-	-	-	-
g. Repair Asphalt Path	-	-	-	-
h. Property Owner Noticing	73	113	115	115
i. Annual Reporting	1,100	553	1,550	1,032
j. <u>City Administration</u>	<u>2,060</u>	<u>2,000</u>	<u>2,060</u>	<u>2,122</u>
k. Total Expenditures:	13,207	10,309	30,380	31,169
Account Balance				
a. Beginning Account Balance	99,756	109,128	121,371	111,859
b. <u>Net Change (Revenue - Expenditures)</u>	<u>9,372</u>	<u>12,242</u>	<u>(9,512)</u>	<u>(10,271)</u>
c. Ending Account Balance:	109,128	121,371	111,859	101,588

Zone 5 (Soto Rd. & Plum Tree St.)

Tract Nos. 6641 & 6754
 Formed: May 23, 1995
 Resolution Number: 95-97
 Annexed Tract No. 6754: October 17, 1995

FY 2023

Maximum Base Assessment Rate: **\$258.67**
 Assessment Amount per Parcel: **\$255.17**
 Number of Parcels: **38**
 Assessment Income: **\$9,696.46**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1995**.
- **Is at the maximum**, unchanged from the previous year at **\$258.67** per parcel.
- Includes an annual inflation increase : **No**
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge will **remain the same** from the previous year at **\$255.17**.
- The total annual assessment income will equal **\$9,696.46**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping:** within the 10-foot-wide setback area between the masonry wall and the sidewalk (approximately 360 lineal feet);
- **Landscaping and appurtenances:** within the 5.5-foot-wide planter strip between the sidewalk and the curb return areas across the frontage of Tract 6641; located within the 10-foot-wide setback area between the masonry wall and the sidewalk (approximately 440 lineal feet); and within the 5.5-foot-wide planter strip between the sidewalk and the curb across the Soto Road frontage of Final Map Tract 6754.
- **Surface maintenance of the masonry wall** (street side): of a masonry wall along Soto Road. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair; and
- **The curb return areas:** at the intersection of Soto Road and Plum Tree Street.
- **One-time maintenance:** A budget of **\$5,000** is allocated for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 5 - Plum Tree St. - Soto Road
Fund 272, Project 3744
Established 1995, 38 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount:	258.67	258.67	258.67	258.67
b. Annual Per Parcel Assessment:	255.17	255.17	255.17	255.17
c. <u># of Parcels</u>	<u>38</u>	<u>38</u>	<u>38</u>	<u>38</u>
d. Total Amount Assessed for the District:	9,696	9,696	9,696	9,696
Income				
a. Annual Assessment Revenue	10,255	9,696	9,696	9,696
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(174)	(165)	(165)	(165)
c. Adjustment for Delinquencies	-	-	-	-
d. <u>Other</u>	<u>347</u>	<u>300</u>	<u>300</u>	<u>300</u>
e. Total Revenue:	10,428	9,832	9,832	9,832
Services				
a. Utilities: Water	158	176	190	800
b. Utilities: PGE	224	228	263	300
c. Landscape Maintenance	1,620	1,620	1,620	2,400
d. Irrigation Repair	-	-	-	3,000
e. One-Time Project/Maintenance	-	-	-	5,000
f. Property Owner Noticing	32	25	30	75
g. Annual Reporting	551	276	825	516
h. <u>City Administration</u>	<u>1,545</u>	<u>2,000</u>	<u>2,060</u>	<u>2,122</u>
i. Total Expenditures:	4,130	4,325	4,988	14,213
Account Balance				
a. Beginning Account Balance:	9,326	15,624	21,131	25,974
b. <u>Net Change (Revenue - Expenditures)</u>	<u>6,298</u>	<u>5,507</u>	<u>4,844</u>	<u>(4,381)</u>
c. Ending Account Balance:	15,624	21,131	25,974	21,593

Zone 6 (Peppertree Park)

Tract Nos. 4420 & 3337 (Lot 2)

Formed: May 11, 1982

Resolution Number: 82-160

FY 2023

Maximum Base Assessment Rate: **\$2.61** per linear foot

Assessment Amount per Parcel: **\$2.61** per linear foot

Number of Parcels: **11**

Assessment Income: **\$13,034.34**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1982**.
- **Is at the maximum**, unchanged from the previous year at **\$2.61** per linear foot.
- Includes an annual inflation increase : **No**
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) **and Income**

- The per linear foot charge **will remain the same** from the previous year at **\$2.61**.
- The total annual assessment income will equal **\$13,034.34**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is at the Maximum Base Assessment.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping and decorative paving:** within the median islands in San Clemente Street between Zephyr Avenue and San Antonio Street;
- **Landscaping:** in the fountain area; and
- **Various:** the identification sign, lighting, and landscaping in the main entrance median at San Clemente Street and San Antonio Street.
- **One-time maintenance:** A budget of **\$5,000** is allocated for additional maintenance, as required.

Landscape and Lighting District Zone 6 - Peppertree Business Park
Fund 273, Project 3730
Established 1982, 11 Parcels

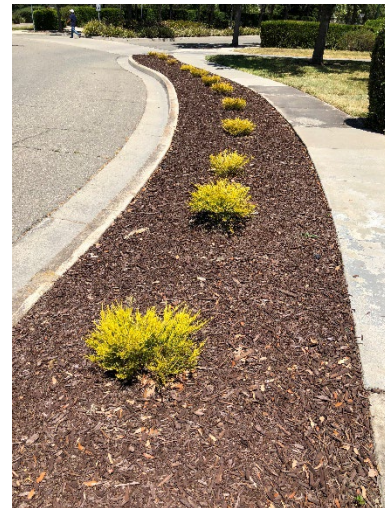
	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
a. Maximum Base Assessment Amount:	2.61	2.61	2.61	2.61
b. Annual Per Parcel Assessment:	2.61	2.61	2.61	2.61
c. # of Parcels	11	11	11	11
d. <u>Length of Assessable Street Frontage</u>	4,994	4,994	4,994	4,994
Total Amount Assessed for the District	13,034	13,034	13,034	13,034
Income				
a. Annual Assessment Revenue	13,034	13,034	13,034	13,034
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(222)	(222)	(222)	(222)
c. Adjustment for Delinquencies	3	-	-	0
d. <u>Other</u>	1,930	375	375	375
e. Total Revenue:	14,746	13,188	13,188	13,188
Services				
a. Utilities: Water	1,757	1,770	1,750	2,060
b. Utilities: PGE	109	111	120	160
c. Landscape Maintenance	1,989	-	4,200	4,200
d. One-Time Project/Maintenance	-	-	-	5,000
e. Property Owner Noticing	9	5	8	65
f. Annual Reporting	1,100	553	1,550	1,032
g. <u>City Administration</u>	2,060	2,000	2,060	2,122
h. Total Expenditures:	7,024	4,439	9,688	14,639
Account Balance				
a. Beginning Account Balance:	71,482	79,204	87,952	91,452
b. <u>Net Change (Revenue - Expenditures)</u>	7,722	8,749	3,500	(1,451)
c. Ending Account Balance:	79,204	87,952	91,452	90,001

Zone 7 (Twin Bridges)

Tract Nos. 7015
 Formed: July 28, 1998
 Resolution Number: 98-153

FY 2023

Maximum Base Assessment Rate: **\$1,110.94**
 Assessment Amount per Parcel: **\$591.70**
 Number of Parcels: **348**
 Assessment Income: **\$205,911.60**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1998**.
- Increased from the previous year from \$1,056.12 to **\$1,110.94** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA 5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge **will remain the same** from the previous year at **\$591.70**.
- The total annual assessment income will equal **\$205,911.60**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

Services for this assessment zone include:

- **Park:** Includes a two-acre neighborhood park, maintained by the Hayward Area Recreation District through a Memorandum of Understanding with the City;
- **Landscaping:** Includes: planting, irrigation, the multi-use pathway, landscape lighting and other associated improvements located within the landscape easements and street right-of-way along Mission Boulevard and Industrial Parkway;
- **Medians:** Includes medians and abutting landscaping along the Arrowhead Way entrance roads and traffic circles, including the bridge structure, signs, and decorative entry paving;
- **Bus shelters;**
- **Walls and fences** that face Mission Blvd., Industrial Parkway, the Arrowhead Way entrance roads, the golf course and along the Line N drainage channel (including graffiti removal);
- **Specialty street lighting;** and
- **One-time maintenance:** A budget of **\$20,000** is allocated for additional maintenance, as required.

Landscape and Lighting District Zone 7 - Twin Bridges
Fund 274, Project 3746
Established 1998, 348 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 <i>Estimated</i>	FY 2023 <i>Proposed</i>
Assessment				
a. Maximum Base Assessment Amount:	1,010.40	1,039.80	1,110.94	1,110.94
b. Annual Per Parcel Assessment:	591.70	591.70	591.70	591.70
c. <u># of Parcels</u>	<u>348</u>	<u>348</u>	<u>348</u>	<u>348</u>
d. Total Amount Assessed for the District	205,912	205,912	205,912	205,912
Income				
a. Annual Assessment Revenue	205,912	205,912	205,912	205,912
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(3,500)	(3,500)	(3,500)	(3,500)
c. Adjustment for Delinquencies	(2,867)	-	-	-
d. <u>Other</u>	<u>13,321</u>	<u>5,000</u>	<u>3,500</u>	<u>3,800</u>
Total Revenue:	212,865	207,411	205,911	206,211
Services				
a. Utilities: Water	38,523	68,536	49,200	65,000
b. Utilities: PGE	1,985	2,198	2,138	3,000
c. Landscape Maintenance	27,313	27,313	31,037	45,000
d. Park Maintenance - HARD	46,144	47,528	47,528	51,000
e. One-Time Project/Maintenance	1,179	-	-	20,000
f. Tree Maintenance/Replacement	-	21,880	4,250	16,750
g. Street Light Maintenance	-	-	-	-
h. Graffiti Abatement	-	-	-	-
i. Weather based Irrigation Ctrlr	-	-	-	-
j. Irrigation Repair	-	-	-	-
k. Fence Repair	-	-	-	-
l. Flags	710	-	-	-
m. LED Street Light Project	-	-	-	-
n. Property Owner Noticing	290	222	225	350
o. Annual Reporting	1,239	636	1,817	1,187
p. <u>City Administration</u>	<u>4,120</u>	<u>4,200</u>	<u>4,326</u>	<u>4,456</u>
q. Total Expenditures:	121,503	172,513	140,521	206,743
Account Balance				
a. Beginning Account Balance:	478,738	570,100	604,998	670,388
b. <u>Net Change (Revenue - Expenditures)</u>	<u>91,362</u>	<u>34,898</u>	<u>65,390</u>	<u>(532)</u>
c. Ending Account Balance:	570,100	604,998	670,388	669,857

Zone 8 (Capitola Street)

Tract Nos. 7033
Formed: March 2, 1999
Resolution Number: 99-030

FY 2023

Maximum Base Assessment Rate: **\$794.54**
Assessment Amount per Parcel: **\$186.56**
Number of Parcels: **24**
Assessment Income: **\$4,477.53**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **1999**.
- Increased from the previous year from \$755.34 to **\$794.54** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA 5.19% for the period February 2021 to February 2022).

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge **will remain the same** from the previous year at **\$186.56**.
- The total annual assessment income will equal **\$4,477.53**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.
- Can be increased later: Future increases above the Maximum Base Assessment would require the noticing and balloting of property owners per the requirements of Proposition 218.

FY 2023 Services

Services for this assessment zone include:

- **Landscaping:** a 10-foot-wide landscaped area, between the wall and the Hesperian Blvd. frontage, to be improved with landscaping, irrigation, and other associated improvements located within the landscaped area.
- **Surface maintenance:** of the 8-foot-high decorative concrete wall along the tract's Hesperian Blvd. frontage. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair; and
- **One-time maintenance:** A budget of **\$6,000** is allocated for additional maintenance as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 8 - Capitola St.
Fund 275, Project 3748
Established 1999, 24 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount:	722.64	743.67	794.54	794.54
b. Annual Per Parcel Assessment:	181.13	181.13	186.56	186.56
c. # of Parcels	<u>24</u>	<u>24</u>	<u>24</u>	<u>24</u>
d. Total Amount Assessed for the District:	4,347	4,347	4,477	4,477
Income				
a. Annual Assessment Revenue	4,348	4,347	4,477	4,477
b. Minus County Tax Collection Fee (1.7%)	(74)	(74)	(76)	(76)
c. Adjustment for Delinquencies	-	-	-	-
d. Other	<u>1,400</u>	<u>400</u>	<u>400</u>	<u>400</u>
e. Total Revenue:	5,674	4,673	4,801	4,801
Services				
a. Utilities: Water	328	365	403	450
b. Utilities: PGE	-	-	-	-
c. Landscape Maintenance	-	-	-	2,500
d. One-Time Project/Maintenance	-	-	-	6,000
e. Irrigation Repair	-	-	-	-
f. Property Owner Noticing	20	16	20	65
g. Annual Reporting	551	276	825	516
h. City Administration	<u>2,060</u>	<u>2,000</u>	<u>2,060</u>	<u>2,122</u>
i. Total Expenditures:	2,959	2,657	3,308	11,653
Account Balance				
a. Beginning Account Balance:	54,415	57,130	59,146	60,639
b. Net Change (Revenue - Expenditures)	<u>2,715</u>	<u>2,016</u>	<u>1,493</u>	<u>(6,852)</u>
c. Ending Account Balance:	57,130	59,146	60,639	53,788

Zone 9 (Orchard Ave.)

Tract Nos. 7063
 Formed: April 25, 2000
 Resolution Number: 00-050

FY 2023

Maximum Base Assessment Rate: **\$212.14**
 Assessment Amount per Parcel: **\$34.19**
 Number of Parcels: **74**
 Assessment Income: **\$2,530.06**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2000**.
- Increased from the previous year from \$201.68 to **\$212.14** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income**Assessment Rate** (annual charge per parcel) **and Income**

- The per parcel charge will **remain the same** from the previous year at **\$34.19**.
- The total annual assessment income will equal **\$2,530.06**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services**Services for this assessment zone include:**

- **Surface maintenance:** of the 10-foot-high decorative concrete wall along the railroad and along the south property line abutting Lot 40. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair. To minimize this maintenance work, Boston Ivy is planted and maintained along most of the surface of the wall.
- **One-time maintenance:** A budget of **\$500** is included for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 9 - Orchard Ave.
Fund 276, Project 3749
Established 2000, 74 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
a. Maximum Base Assessment Amount:	192.95	198.57	212.14	212.14
b. Annual Per Parcel Assessment:	34.19	34.19	34.19	34.19
c. <u># of Parcels</u>	74	74	74	74
d. Total Amount Assessed for the District	2,530	2,530	2,530	2,530
Income				
a. Annual Assessment Revenue	2,530	2,530	2,530	2,530
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(43)	(43)	(43)	(43)
c. Adjustment for Delinquencies	2	-	-	0
d. <u>Other</u>	192	25	20	25
e. Total Revenue:	2,681	2,512	2,507	2,512
Services				
a. One-Time Project/Maintenance	-	-	-	500
b. Graffiti Abatement	-	-	-	500
c. Property Owner Noticing	62	48	51	115
d. Annual Reporting	551	276	825	516
e. <u>City Administration</u>	1,236	1,200	1,236	1,273
f. Total Expenditures:	1,849	1,524	2,112	2,904
Account Balance				
a. Beginning Account Balance:	7,003	7,835	8,823	9,218
b. <u>Net Change (Revenue - Expenditures)</u>	832	988	395	(392)
c. Ending Account Balance:	7,835	8,823	9,218	8,826

Zone 10 (Eden Shores Residential)

Tract Nos. 7317, 7360 & 7361

Formed: June 24, 2003

Resolution Number: 03-083

FY 2023

Maximum Base Assessment Rate: **\$1,265.04**

Assessment Amount per Parcel: **\$287.32**

Number of Parcels: **534**

Assessment Income: **\$153,428.88**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2003**.
- Increased from the previous year from \$1,202.63 to **\$1,265.04** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge will **increase** from the previous year from \$278.94 to **\$287.32**.
- The total annual assessment income will equal **\$153,428.88**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

The Eden Shores Homeowners Association (HOA) administers the landscape maintenance contract for the zone. The HOA invoices the City quarterly for reimbursement of expenses authorized thru the assessment zone budget. The City manages the park maintenance contract, through a Memorandum of Understanding with the Hayward Area Recreation District.

Services for this assessment zone include:

- **Park:** A 5.58-acre park within the development which includes landscaping and irrigation and playground equipment. The City of Hayward has a Memorandum of Understanding with the Hayward Area Recreation Department (HARD) to maintain the park;
- **Landscaping and irrigation:** of medians, park strips, and parkway within the development; and
- **Surface maintenance:** of the decorative concrete and masonry walls along the perimeter and within the tract. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair.
- **One-time maintenance:** A budget of **\$20,000** is allocated for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 10 - Eden Shores
Fund 277, Project 3750
Established 2003, 534 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
a. Maximum Base Assessment Amount:	1,111.33	1,184.04	1,265.04	1,265.04
b. Annual Per Parcel Assessment:	265.66	265.66	278.94	287.32
c. <u># of Parcels</u>	<u>534</u>	<u>534</u>	<u>534</u>	<u>534</u>
d. Total Amount Assessed for the District:	141,862	141,862	148,954	153,429
Income				
a. Annual Assessment Revenue	141,862	141,862	148,954	153,429
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(2,412)	(2,412)	(2,532)	(2,608)
c. Adjustment for Delinquencies	(677)	-	-	-
d. <u>Other</u>	<u>12,149</u>	<u>2,300</u>	<u>1,900</u>	<u>2,300</u>
e. Total Revenue:	150,923	141,751	148,322	153,121
Services				
a. Utilities: Water	29,926	31,378	21,000	34,000
b. Utilities: PGE	332	338	364	400
c. Landscape Maintenance - ES HOA	24,921	30,492	30,600	33,000
d. Park Maintenance - HARD	73,336	75,536	75,536	79,000
e. One-Time Project/Maintenance	28,001	7,065	7,650	20,000
f. Graffiti Abatement	-	717	-	1,000
g. Tree Maintenance/Replacement	-	-	-	8,000
h. Irrigation Repair	-	-	-	4,000
i. Repair Neighborhood Sign Lighting	-	-	-	-
j. Tennis Courts: Resurface, Fence Screening	-	-	-	-
k. Basketball Court: Resurface	-	-	-	-
l. Property Owner Noticing	223	172	220	260
m. Annual Reporting	1,239	635	1,817	1,187
n. <u>City Administration</u>	<u>4,120</u>	<u>4,200</u>	<u>4,326</u>	<u>4,456</u>
o. Total Expenditures:	162,098	150,533	141,513	185,303
Account Balance				
a. Beginning Account Balance:	493,335	482,160	473,378	480,187
b. <u>Net Change (Revenue - Expenditures)</u>	<u>(11,175)</u>	<u>(8,782)</u>	<u>6,809</u>	<u>(32,182)</u>
c. Ending Account Balance:	482,160	473,378	480,187	448,005

Zone 11 (Stonebrae Country Club)

Tract Nos. 5354, 8356
 Formed: July 18, 2006
 Resolution Number: 06-096

FY 2023

Maximum Base Assessment Rate: **\$1,794.28**
 Assessment Amount per Parcel (Developed): **\$340.44**
 Assessment Amount per Parcel (Future Development): **\$180.43**
 Number of Parcels: **644**
 Assessment Income: **\$214,136.76**



Note: Ten new parcels were added in FY 2022. Fifteen parcels of the Stonebrae Country Club development are scheduled for future development. Future development parcels are assessed at 53% of the developed parcel rate.

FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2006**.
- Increased from the previous year from \$1,705.76 to **\$1,794.28** per parcel by CPI.

- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The annual assessment rate is recommended to be **increased** based on the City's analysis of the financial stability of the zone.
- The per parcel charge for **Developed** parcels will **increase** from the previous year from \$330.52 to **\$340.44**.
- The per parcel charge for **Future Developed** parcels will **increase** from the previous year from \$175.18 to **\$340.44**.
- In FY 2017, the assessment rate was reduced 58% from \$379 to \$156, as expenses were stable, and the account balance was healthy. However, since that time, expenses have increased, to include water, general maintenance, and ongoing upkeep of the district. The increase in costs, along with use of the account balance has necessitated the need to increase rates annually since the initial decrease in FY 2017.
- The total annual assessment income will equal **\$214,136.76**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

The Stonebrae Homeowners Association (HOA) administers the landscape maintenance contract for the zone. The HOA invoices the City quarterly for reimbursement of expenses authorized in the benefit district zone budget.

Services for this assessment zone include:

- **Landscaping and irrigation:** of median, park strips, parkway improvements, and multi-use pathway improvements along Fairview Ave., Carden Lane, Hayward Blvd., Stonebrae Country Club Dr., and the access road to the City water tank;
- **Slope maintenance:** along Carden Lane, Fairview Ave., Hayward Blvd., and Stone Country Club Dr.;
- **Wall maintenance:** of decorative walls facing Fairview Ave. and Hayward Blvd. but not including the view fence of the lots along Fairview Ave. This maintenance includes painting, cleaning, graffiti removal, and replacement of the improvements if needed;
- **Street and landscape lighting:** along Fairview Ave., Carden Lane, Hayward Blvd.; and along the frontage of the school at the intersection of Hayward Blvd./Stonebrae Country;
- **Club Drive and Carden Lane:** this maintenance includes electrical costs, and replacement of the improvements if needed;
- **One-time maintenance:** The following improvements are planned: 1) Installation of weather-based irrigation controllers to better schedule and monitor water usage. 2) Annual tree fertilization and tree trimming. 3) Annual replenishment of mulch.

Note: The Stonebrae Project is proposed to be developed in multiple phases (Villages A-E). Pursuant to the original 2002 Vesting Tentative Map for Stonebrae, Village C was anticipated to have 71 single-family lots. On July 5, 2017, the Final Map for Village C was recorded, which updated the number of single-family lots to 96. It should be noted that the Stonebrae development was originally approved for 650 total units. A total of 538 lots have been previously created. With the addition of the 96 Village C lots and the existing 538 lots in the other Villages, the total number of lots increased to **634**. On October 6, 2020, City Council approved a Final Map of Tract 8518, subdividing a 20-acre site into 10 single family lots, increasing the total number of lots to **644**. The current development phase consists of **629** single-family parcels (increased from 617 in FY 2022). The future development phases will consist of the remaining **15** single-family parcels (decreased from 27 in FY 2022).

Landscape and Lighting District Zone 11 - Stonebrae Country Club
Fund 279, Project 3731
Established 2006, 644 Parcels (10 Parcels added in 2021)

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount:	1,631.91	1,679.39	1,705.76	1,794.28
Developed Parcels				
b. Annual Per Parcel Assessment:	273.72	314.78	330.52	340.44
c. # of Parcels	537	581	617	629
d. Total Amount Assessed:	146,988	182,887	203,931	214,137
Future Development Parcels - 53%				
e. Annual Per Parcel Assessment	112.00	166.83	175.18	180.43
f. # of Parcels	145	53	27	15
g. Total Amount Assessed:	16,248	8,842	4,730	2,706
h. Total Amount Assessed for the District:	163,235	191,729	208,661	216,843
Income				
a. Annual Assessment Revenue	163,235	191,729	208,661	216,843
b. Minus County Tax Collection Fee (1.7%)	(2,775)	(3,259)	(3,547)	(3,686)
c. Adjustment for Delinquencies	(1,069)	-	-	-
d. Other	11,364	3,500	3,500	3,500
e. Total Revenue:	170,755	191,970	208,613	216,657
Services				
a. Utilities: Water	97,262	87,597	110,000	120,000
b. Utilities: PGE	8,744	9,064	11,936	13,000
c. Landscape Maintenance	43,092	39,134	54,000	55,620
d. Plant Replacement	-	-	-	-
e. Flower Bed Planting	3,765	-	-	-
f. Irrigation Repair/Replacement	3,147	-	-	-
g. Vehicle Damage	-	-	-	-
h. Tree Maintenance/Replacement	-	-	-	-
i. Tree Fertilizer	-	-	-	-
J. Gopher Control	4,241	-	-	-
k. Mulch	8,892	-	-	-
l. One-Time Project/Maintenance	3,251	39,633	70,500	70,500
m. Weather Based Irrigation System	19,312	-	-	-
n. Street Light Maintenance	704	-	-	-
o. Property Owner Noticing	459	393	550	550
p. Annual Reporting	2,303	553	1,750	1,187
q. City Administration	3,277	3,400	3,090	3,183
r. Total Expenditures:	198,449	179,774	251,826	264,040
Account Balance				
a. Beginning Account Balance:	463,151	435,458	447,654	404,441
b. Net Change (Revenue - Expenditures)	(27,694)	12,196	(43,213)	(47,383)
c. Ending Account Balance:	435,458	447,654	404,441	357,059

Zone 12 (Spindrifft - Eden Shore East)

Tract Nos. 7489, 7708 & 8148
 Formed: May 15, 2007
 Annexed Tract No. 8148: June 21, 2016
 Resolution Number: 07-031 & 16-065

FY 2023

Maximum Base Assessment Rate: **\$237.76**
 Assessment Amount per Parcel: **\$92.70**
 Number of Parcels: **379**
 Assessment Income: **\$35,133.30**



Annexation to Zone 12 – Spindrifft at Eden Shores (Tract 8148)

On June 21, 2016, the City Council approved the annexation of the Spindrifft at Eden Shores Project into existing Zone 12 of LLAD 96-1. A total of 118 new lots were created and added to existing Zone 12. The new additions to Zone 12 will be assessed in a manner similar to the existing 261 lots in Zone 12 once developed, which currently pay for the maintenance of improvements at the Alden E. Oliver Sports Park.

FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

Eden Shores East:

- Originally set when the zone was created in **2007**.
- Increased from the previous year from \$226.02 to **\$237.76** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA, (5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

Spindrift Annexation:

- Originally set when the zone was created in **2016**.
- Increased from the previous year from \$226.02 to **\$232.80** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA, (4.24% for the period December 2020 to December 2021) and the unused CPI carried over from previous fiscal years is 0.41%. Therefore, the Maximum Base Assessment Rate has been increased by **3.00%**.
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The annual assessment rate is recommended to be **increased** based on the City's analysis of the financial stability of the zone.
- The per parcel charge for Developed parcels will **increase** from the previous year from \$90.00 to **\$92.70**.
- The total annual assessment income will equal **\$35,133.30**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

Services for this assessment zone include:

Minor Portion of Sports Park: The City of Hayward has an agreement with the Hayward Area Recreation and Park District (HARD) to maintain the Alden E. Oliver Sports Park which benefits parcels within this benefit zone. The annual assessment pays for a minor portion of the Sports Park maintenance expense and City administrative costs associated with managing the benefit assessment program for this benefit zone. Maintenance of the neighborhood serving features of the Alden E. Oliver Sports Park include picnic tables, basketball courts, barbeque areas, soccer fields, etc. HARD is responsible for capital replacement of the park's capital items.

Landscape and Lighting District Zone 12 - Spindrift (Eden Shores East)
Fund 278, Project 3732
Established 2007, 2016; 379 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
Original Zone, Established 2007, 261 parcels - CPI - Feb to Feb				
a. Maximum Base Assessment Amount:	210.00	222.53	226.02	237.76
Developed Parcels				
b. Annual Per Parcel Assessment:	95.00	90.00	90.00	92.70
c. # of Parcels	261	261	261	261
d. Total Amount Assessed:	24,795	23,490	23,490	24,195
Spindrift Annexation, Added FY 2017, 118 Parcels - CPI Dec to Dec				
e. Maximum Base Assessment	213.06	219.45	226.03	232.80
Developed Parcels				
f. Annual Per Parcel Assessment:	95.00	90.00	90.00	92.70
g. # of Parcels	54	107	118	118
h. Total Amount Assessed:	5,130	9,630	10,620	10,939
Future Development Parcels: 30%				
i. Annual Per Parcel Assessment:	29	27	-	-
j. # of Parcels	64	11	-	-
k. Total Amount Assessed:	1,824	297	-	-
l. Total Amount Assessed for the District:	31,749	33,417	34,110	35,133
Income				
a. Annual Assessment Revenue	31,749	33,417	34,110	35,133
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(540)	(568)	(580)	(597)
c. Adjustment for Delinquencies	811	-	-	-
d. <u>Other</u>	716	150	150	150
e. Total Revenue:	32,736	32,999	33,680	34,686
Services				
a. Contribution to Park Maintenance	31,930	32,888	32,888	34,000
b. Property Owner Noticing	263	236	350	350
c. Annual Reporting	1,793	635	1,617	1,032
d. <u>City Administration</u>	1,236	1,200	1,236	1,273
e. Total Expenditures:	35,222	34,959	36,091	36,655
Account Balance				
a. Beginning Account Balance:	25,781	23,295	21,335	18,924
b. <u>Net Change (Revenue - Expenditures)</u>	<u>(2,486)</u>	<u>(1,960)</u>	<u>(2,411)</u>	<u>(1,969)</u>
c. Ending Account Balance:	23,295	21,335	18,924	16,955

Zone 13 (Cannery Place)

Tract Nos. 7613, 7625, 7748 & 7749

Formed: June 17, 2008

Resolution Number: 08-0901

FY 2023

Maximum Base Assessment Rate: **\$1,349.22**

Assessment Amount per Parcel: **\$371.82**

582 Condominium Style Units, **16** Duets, and **One** Commercial Retail Parcel

Assessment Income: **\$222,720.18**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2008**.
- Increased from the previous year from \$1,282.66 to **\$1,349.22** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The per parcel charge for Developed parcels will **increase** from the previous year from \$361.00 to **\$371.82**.
- The total annual assessment income will equal **\$222,720.18**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

Services for this assessment zone include:

- **Park Maintenance:** includes approximately five (5) acres of park area encompassing landscaping and irrigation, and playground equipment, and maintenance of a historic water tower within the development;
- **Landscaping and irrigation:** includes park strips and parkway within the development;
- **Surface maintenance:** of the decorative concrete walls within the tract. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair; and
- **Maintenance:** of street trees;
- **Maintenance:** of paved walkways;
- **One-time maintenance:** A budget of **\$42,000** is allocated for additional maintenance, as required.

Note: the ownership and responsibility of the masonry wall as a structure remains with the individual property owners.

Landscape and Lighting District Zone 13 - Cannery Place
Fund 281, Project 3733
Established 2008, 599 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount:	1,227.00	1,262.84	1,282.66	1,349.23
b. Annual Per Parcel Assessment:	361.00	361.00	361.00	371.82
c. <u># of Parcels</u>	<u>599</u>	<u>599</u>	<u>599</u>	<u>599</u>
d. Total Amount Assessed for the District:	216,239	216,239	216,239	222,720.18
Income				
a. Annual Assessment Revenue	216,239	216,239	216,239	222,720
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(3,676)	(3,676)	(3,676)	(3,786)
c. Adjustment for Delinquencies	2,318	-	-	-
d. <u>Other</u>	<u>12,351</u>	<u>1,900</u>	<u>2,200</u>	<u>2,300</u>
e. Total Revenue:	227,232	214,463	214,763	221,234
Services				
a. Utilities: Water	63,310	59,688	70,000	70,000
b. Utilities: PGE	6,536	6,361	8,400	9,000
c. Landscape Maintenance	73,140	55,080	73,440	75,643
d. Street Light Maintenance	-	-	-	-
e. Graffiti Abatement	-	-	-	-
f. Tree Maintenance/Replacement	-	-	-	-
g. One Time Project/Maintenance	231	27,005	18,400	42,000
h. Calsense Air Time - Five Year Maint	-	-	3,440	-
i. Property Owner Noticing	499	392	525	525
j. Annual Reporting	2,168	553	1,550	1,032
k. <u>City Administration</u>	<u>4,121</u>	<u>4,200</u>	<u>4,326</u>	<u>4,456</u>
l. Total Expenditures:	150,005	153,279	180,081	202,656
<i>Net Change (Revenue - Expenditures):</i>	<u><i>77,227</i></u>	<u><i>61,184</i></u>	<u><i>34,682</i></u>	<u><i>18,578</i></u>
Account Balance				
a. Beginning Account Balance:	471,356	548,582	609,766	644,448
b. <u><i>Net Change (Revenue - Expenditures)</i></u>	<u>77,227</u>	<u>61,184</u>	<u>34,682</u>	<u>18,578</u>
c. Ending Account Balance:	548,582	609,766	644,448	663,026

Zone 14 (La Vista)

Tract Nos. 7620
 Formed: June 14, 2016
 Resolution Number: 16-044

FY 2023

Maximum Base Assessment Rate: **\$704.16**
 Assessment Amount per Developed Parcel: **\$704.16**
 Number of Parcels: **179**
 Assessment Income: **\$126,044.64**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2016**.
- Increased from the previous year from \$683.65 to **\$704.16** per parcel by CPI-U.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA, (4.24% for the period December 2020 to December 2021) and the unused CPI carried over from previous fiscal years is 0.41%. Therefore, the Maximum Base Assessment Rate has been increased by **3.00%**.
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The annual assessment rate is recommended to be **increased** based on the City's analysis of the financial stability of the zone.
- The per parcel charge for developed parcels will **increase** from the previous year from \$683.65 to **\$704.16**.
- The total annual assessment income will equal **\$126,044.64**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **at** the Maximum Base Assessment.

FY 2023 Services

Services for this assessment zone include:

- **Landscaping and irrigation:** of the public right of ways of Tennyson Rd., Vista Grande Dr., Cantera Dr., Mountain View Dr., Fortuna Way, and Alquire Pkwy, and firebreak landscaping along the perimeter of the backside of the development. Such landscaping consists of the care for groundcover, shrubs, trees, weed abatement in planted areas, upkeep and servicing of the irrigation system, and utility costs to service the landscaping;
- **Surface maintenance:** of the decorative concrete walls within the tract. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair;
- **Maintenance:** of street trees;
- **Maintenance:** of bioswales and tree filters;
- **Maintenance:** of street lighting;
- **Maintenance:** of private paved trails east of Alquire Parkway.

Landscape and Lighting District Zone 14 - La Vista
Fund 282, Project 3751
Established 2016, 179 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
a. Maximum Base Assessment Amount:	644.00	663.74	683.65	704.16
Developed Parcels				
b. Annual Per Parcel Assessment:	525.00	663.74	683.65	704.16
c. # of Parcels	122	174	179	179
d. Total Amount Assessed:	64,050	115,491	122,373	126,044.64
Future Development Parcels: 30%				
e. Annual Per Parcel Assessment:	158.00	199.20	-	-
f. # of Parcels	57	5	-	-
g. Total Amount Assessed:	9,006	996	-	-
h. Total Amount Assessed for the District:	73,056	116,487	122,373	-
Income				
a. Annual Assessment Revenue	76,507	116,487	122,373	-
b. Minus County Tax Collection Fee (1.7%)	(1,301)	(1,980)	(2,080)	-
c. Adjustment for Delinquencies	-	-	-	-
d. Other	2,058	375	350	350
Total Revenue:	77,264	114,881	120,643	126,045
Services				
a. Utilities: Water	-	-	35,806	60,000
b. Utilities: PGE	529	1,396	1,500	9,000
c. Landscape Maintenance	-	23,040	46,080	48,000
d. Tree Maintenance/Replacement	-	-	-	-
e. Street Light Maintenance	-	-	-	-
f. Graffiti Abatement	-	-	-	-
g. Irrigation Repair	-	-	-	-
h. One-Time Capital Project/Maintenance	-	-	-	23,000
i. Property Owner Noticing	99	116	400	400
j. Consultant/Annual Reporting	2,168	553	1,550	1,032
k. City Administration	2,500	4,200	4,326	4,456
l. Total Expenditures:	5,296	29,305	89,662	145,888
<i>Net Change (Revenue - Expenditures):</i>	<u>71,968</u>	<u>85,576</u>	<u>30,981</u>	<u>(19,843)</u>
Account Balance				
a. Beginning Account Balance:	33,491	105,459	191,036	222,017
b. <i>Net Change (Revenue - Expenditures)</i>	<u>71,968</u>	<u>85,576</u>	<u>30,981</u>	<u>(19,843)</u>
c. Ending Account Balance:	105,459	191,036	222,017	202,174

Zone 15 (Cadence)

Tract No. 8032
 Formed: January 17, 2017
 Resolution Number: 17-001

FY 2023

Maximum Base Assessment Rate: **\$682.86**
 Assessment Amount per Parcel: **\$0.00**
 Number of Parcels: **206**
 Assessment Income: **\$0.00**



This benefit zone is self-maintained by the property owner. If the park is maintained, no assessment amount will be charged.

FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2017**.
- **Increased** from the previous year from \$662.97 to **\$682.86** per parcel by CPI-U.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA, (4.24% for the period December 2020 to December 2021) and the unused CPI carried over from previous fiscal years is 0%. Therefore, the Maximum Base Assessment Rate has been increased by **3.00%**.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The annual assessment rate is recommended to **remain the same** based on the City's analysis of the financial stability of the zone.
- The per parcel charge will remain the same at **zero**. AMCAL has entered in contract with Bella Vista Landscape Services, Inc. (CCL # 805462) to maintain the Park in good repair and working order, and in a neat, clean, and orderly condition. AMCAL is responsible for the annual payment of the District Management cost and reimbursement to the City for the Engineer's Report. Thus, each of the 206 parcels will be assessed at \$0.00 per parcel. The Assessment District ensures adequate funding is available for the maintenance of the Park should the Developer default, not meet the maintenance standards, or if the property is sold, and the City assumes maintenance of the park
- The total annual assessment income will equal **zero** pursuant to the Owners Participation Agreement (OPA) for the Cadence Development. Per the OPA, AMCAL Hayward LLC (AMCAL) is responsible for the maintenance Cadence Public Park in perpetuity or for the life of the agreement. As required in Section 8.12 of the OPA, AMCAL submitted their annual Park Maintenance Plan to the City for review and approval.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.
- Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Services

Services provided to this assessment zone include:

- **Maintenance:** of the Park in good repair and working order; and in a neat, clean, and orderly condition.

Zone 16 (Blackstone)

Tract Nos. 7894
 Formed: May 17, 2016
 Resolution Number: 16-044

FY 2023

Maximum Base Assessment Rate: Zone A: **\$487.00**, Zone B: **\$511.34**
 Assessment Amount per Parcel – Zone A: **\$482.00**, Zone B: **\$506.08**
 Number of Parcels: **157**
 Assessment Income: **\$76,251.77**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2016**.
- Zone A: Increased from the previous year from \$472.82 to **\$487.00** per parcel by CPI.
- Zone B: Increased from the previous year from \$496.46 to **\$511.34** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes CPI-U for the San Francisco-Oakland-Hayward MSA, (4.24% for the period December 2020 to December 2021) and the unused CPI carried over from previous fiscal years is 0.41%. Therefore, the Maximum Base Assessment Rate has been increased by **3.00%**.
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

- The per parcel rate (Zone A) will **increase** from the previous year from \$467.96 to **\$482.00**.
- The per parcel rate (Zone B) will **increase** from the previous year from \$491.34 to **\$506.08**.
- The total annual assessment income will equal **\$76,251.77**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.
- In future years, if there is a need for additional funds, the assessment may be **increased** up to the Maximum Base Assessment Rate.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping and irrigation:** of park strips and setback landscaping along frontages of Burbank Street and Palmer Avenue;
- **Surface maintenance:** of the decorative concrete walls within the tract. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair;
- **Park Maintenance:** approximately two (2) acres of park area which includes landscaping and irrigation, exercise equipment, bocce ball courts, faux bridge, storm water basins and all other park amenities.
- **Maintenance:** of street trees, streetlights, paved walkways and cobblestone pathways
- **One-time maintenance:** A budget of **\$22,000** is allocated for additional maintenance, as required.

Landscape and Lighting District Zone 16 - Blackstone
Fund 284, Project 3753
Established 2016, 157 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
ZONE A (95% of Zone B)				
a. Maximum Base Assessment:	445.68	459.05	472.82	487.00
b. Annual Per Parcel Assessment:	445.68	445.68	467.96	482.00
c. <u># of Parcels</u>	133	133	133	133
d. Total Amount Assessed:	59,275	59,275	62,239	64,106
ZONE B				
e. Maximum Base Assessment:	467.94	481.99	496.46	511.34
f. Annual Per Parcel Assessment:	467.94	467.94	491.34	506.08
g. <u># of Parcels</u>	24	24	24	24
h. Total Amount Assessed:	11,231	11,231	11,792	12,146
i. Total Amount Assessed for the District:	70,506	70,506	74,031	76,252
Income				
a. Annual Assessment Revenue	70,506	70,506	74,031	76,252
b. <i>Minus County Tax Collection Fee (1.7%)</i>	(1,199)	(1,235)	(1,272)	(1,310)
c. Adjustment for Delinquencies	(526)	-	-	-
d. <u>Other</u>	2,098	150	150	125
e. Total Revenue:	70,879	69,421	72,910	75,067
Services				
a. Utilities: Water	13,889	19,645	22,000	25,000
b. Utilities: PGE	1,442	1,494	2,505	3,400
c. Landscape Maintenance	22,000	-	24,000	26,000
d. Graffiti Abatement	-	-	-	-
e. Street Light Maintenance	-	-	-	-
f. Tree Maintenance/Replacement	-	-	-	-
g. One-Time Project/Maintenance	-	-	3,440	22,000
d. Property Owner Noticing	131	102	150	175
h. Annual Reporting	2,168	553	1,550	1,032
i. <u>City Administration</u>	3,090	3,000	3,090	3,183
j. Total Expenditures:	42,720	24,794	56,735	80,790
Account Balance				
a. Beginning Account Balance	68,241	96,400	141,028	157,203
b. <u>Net Change (Revenue - Expenditures)</u>	28,159	44,627	16,175	(5,723)
c. Ending Account Balance:	96,400	141,028	157,203	151,480

Zone 17 (Parkside Heights)

Tract Nos. 8233
 Formed: June 11, 2019
 Resolution Number: 19-128

FY 2023

Maximum Base Assessment Rate: **\$564.86**
 Assessment Amount per Parcel (Developed): **\$528.69**
 Number of Parcels: **97**
 Assessment Income: **\$51,282.93**



FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2019**.
- Increased from the previous year from \$536.99 to **\$564.86** per parcel by CPI.
- Includes an annual inflation increase: **Yes**, includes February CPI-U for the San Francisco-Oakland-Hayward MSA 5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The annual assessment rate is recommended to **remain the same** based on the City's analysis of the financial stability of the zone.
- The per parcel charge for developed parcels will **remain the same** from the previous year at **\$528.69**.
- The total annual assessment income will equal **\$51,282.93**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- Each of the parcels shall be apportioned an **equal share** of the total assessment for this zone as the special benefit derived by an individual parcel is indistinguishable from each other.
- The current assessment rate is **below** the Maximum Base Assessment.

FY 2023 Services

Services provided to this assessment zone include:

- **Landscaping and irrigation:** of groundcover, trees, and other landscaped areas along the public trail and undeveloped public open space along Ward Creek.
- **Surface maintenance:** This maintenance includes painting, cleaning, graffiti removal, and minor surface repair;
- **Maintenance:** of public trail trees;
- **Maintenance:** of trail signage;
- **Maintenance:** of paved public trail and permeable pavers;

Landscape and Lighting District Zone 17 - Parkside Heights
Fund 290, Project 3754
Established 2019, 97 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount:	513.74	528.69	536.99	564.86
b. Developed Parcels				
c. Annual Per Parcel Assessment:	513.74	528.69	528.69	528.69
d. # of Parcels	-	32	97	97
e. Total Amount Assessed for the District:	-	16,918	51,283	51,283
f. Future Development Parcels (30%)				
g. Annual Per Parcel Assessment	154.12	158.61	158.61	169.46
h. # of Parcels	97	65	-	-
i. Total Amount Assessed for the District:	14,950	10,309	-	-
j. Total Amount Assessed	14,950	27,228	51,283	51,283
Income				
a. Annual Assessment Revenue	14,966	27,228	51,283	51,283
b. Minus County Tax Collection Fee (1.7%)	(254)	(463)	(872)	(872)
c. Adjustment for Delinquencies	-	-	-	-
d. Other	229	-	350	3,800
e. Total Revenue:	14,940	26,765	50,761	54,211
Services				
a. Utilities: Water	-	-	-	4,000
b. Utilities: PGE	-	-	-	1,000
c. Landscape Maintenance	-	-	-	37,000
d. One-Time Project Maintenance	-	-	-	5,000
e. Property Owner Noticing	-	43	30	500
f. Annual Reporting	-	553	1,550	1,032
g. City Administration	-	3,000	3,090	3,183
h. Total Expenditures:	-	3,596	4,670	51,715
Account Balance				
a. Beginning Account Balance:	-	14,940	38,109	84,200
b. Net Change (Revenue - Expenditures)	14,940	23,169	46,091	2,496
c. Ending Account Balance:	14,940	38,109	84,200	86,697

Zone 18 (SoHay)

Tract Nos. 8428, 8444, 8445, 8446, 8447

Formed: June 11, 2019

Resolution Number: 19-130

FY 2023

Maximum Base Assessment Rate: Zone A: **\$430.82**, Zone B: **\$409.28**

Assessment Amount per SFE (Developed): Zone A: **\$400.00**, Zone B: **\$380.00**

Assessment Amount per SFE (Undeveloped): Zone A: **\$120.00** Zone B: **\$114.00**

Number of Parcels: **433 SFE**

Assessment Income: **\$139,724.00**



Note: 79 Single Family Equivalent (SFE) of the SoHay development are scheduled for future development. Future development parcels are assessed at 30% of the developed parcel rate. The development is anticipated to be completed by FY 2023. Landscape maintenance of the area is anticipated to be turned over to the City in FY 2023.

FY 2023 Maximum Base Assessment

Maximum Base Assessment (highest rate that can be charged per parcel).

- Originally set when the zone was created in **2019**.
- Zone A: Increased from the previous year from \$409.57 to **\$430.82** per parcel by CPI.
- Zone B: Increased from the previous year from \$389.09 to **\$409.28** per parcel by CPI.

- Includes an annual inflation increase: **Yes**, includes February CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).
- Can be increased later: Future increases above the Maximum Base Assessment would **require the noticing and balloting** of property owners per the requirements of Proposition 218.

FY 2023 Assessment and Income

Assessment Rate (annual charge per parcel) and Income

- The annual assessment rate is recommended to be **increased** based on the City's analysis of the financial stability of the zone.
- The rate per SFE (Zone A - Developed) was **increased** from the previous year from \$50.00 to \$400.00.
- The rate per SFE (Zone A - Undeveloped) was **increased** from the previous year from \$15.00 to \$120.00.
- The rate per SFE (Zone B - Developed) was **increased** from the previous year from \$47.50 to \$380.00.
- The rate per SFE (Zone B - Undeveloped) was **increased** from the previous year from \$14.25 to \$114.00.
- The total annual assessment income will equal **\$139,724.00**.
- The recommended assessment rate will generate revenues that are adequate to pay for the expected level of maintenance and to maintain a prudent capital reserve balance.
- The assessments are apportioned among all lots and parcels within the Assessment Area based on Single-Family Equivalent (SFE). Townhomes are assigned 1.0 SFE, apartments are assigned 0.43 SFE per apartment unit, and commercial is assigned 0.50 SFE per 0.20 acres.
- The current assessment rate is below the Maximum Base Assessment and is sufficient for maintaining levels of service and for keeping a prudent capital reserve balance.

FY 2023 Services**Services provided to this assessment zone include:**

- **Landscaping and irrigation:** of park groundcover, trees and other landscaped areas;
- **Surface maintenance:** of the masonry walls within the tract. This maintenance includes painting, cleaning, graffiti removal, and minor surface repair;
- **Park Maintenance:** approximately two (2) acres of park area which includes landscaping and irrigation, play structures, basketball court, bike racks, fencing and all other park amenities;
- **Maintenance:** of park lighting and signage;
- **Maintenance:** of concrete sidewalks and other paved or concrete surface within the park;

Note:

FY 2023 Special Assessment Rate increase - Zone 18 (SoHay). LLAD 18 acceptance and maintenance is anticipated in FY 2023.

In FY 2022, the LLAD 18 (SoHay) development was still under construction and the maintenance responsibility of the park remained with the developer, so the Zone was assessed at a rate significantly lower (\$50.00) than the maximum rate (\$409.57). Now, a year later, the development is projected to be completed in FY 2023 and the City anticipates accepting the full responsibility and cost of maintaining LLAD 18. As a result, staff is recommending an increase in the assessment rate to \$400.00. The annual O&M and capital cost estimate is provided on the following page.

Landscape and Lighting District Zone 18 - SoHay
Fund 291, Project 3755
Established 2019, 433 SFE (Incl 2 Commercial parcels and 1 apt complex)

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimate	FY 2023 Proposed
Assessment				
Zone A				
Maximum Base Assessment Amount:	391.84	403.24	409.57	430.82
a. Developed Parcels				
b. Annual Assessment per SFE	391.84	403.24	50.00	400.00
c. # of SFE	-	75	192	261
d. Total Amount Assessed:	-	30,243	9,600	104,384
e. Future Development Parcels: 30%				
f. Annual Assessment per SFE	117.55	120.97	15.00	120.00
g. # of SFE	261	186	69	-
h. Total Amount Assessed:	30,676	22,501	1,035	-
Zone B (95% of Zone A)				
Maximum Base Assessment Amount: Zone B	372.25	383.08	389.09	409.28
k. Developed Parcels:				
l. Annual Assessment per SFE	372.24	383.08	47.50	380.00
m. # of SFE	-	-	79	93
n. Total Amount Assessed:	-	-	3,752	35,340
o. Future Development Parcels: 30%				
p. Annual Assessment per SFE	111.67	114.92	14.25	114.00
q. # of SFE	172	172	93	79
r. Total Amount Assessed:	19,208	22,501	1,035	-
s. Total Amount Assessed for the District:	49,884	75,245	15,422	139,724
Income				
a. Annual Assessment Revenue	49,778	75,245	15,422	139,724
b. Minus County Tax Collection Fee (1.7%)	(728)	(1,279)	(262)	(2,375)
c. Adjustment for Delinquencies	-	-	-	-
d. Other	728	50	-	-
Total Revenue:	49,778	74,015	15,160	137,349
Services				
a. Utilities: Water	-	-	-	20,600
b. Utilities: PGE	-	-	-	2,060
c. Landscape Maintenance	-	-	-	65,000
d. Graffiti Abatement	-	-	-	1,000
e. Tree Trimming	-	-	-	1,000
f. Property Owner Noticing	-	68	500	500
g. Annual Reporting	-	553	1,550	1,032
h. City Administration	-	1,600	1,600	1,648
i. Total Expenditures:	-	2,221	3,650	92,840
Account Balance				
a. Beginning Account Balance:	-	49,778	121,572	133,083
b. <u>Net Change (Revenue - Expenditures)</u>	49,778	71,794	11,510	44,509
c. Ending Account Balance:	49,778	121,572	133,083	177,591

Assessment

WHEREAS, the City Council of the City of Hayward, County of Alameda, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively “the Act”), and in accordance with the Resolution of Intention, being Resolution **No. 22-XXX**, preliminarily approving the Engineer’s Report, as adopted by the City Council of the City of Hayward, on **June 21, 2022**.

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Assessment District, and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment District, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of the City of Hayward, hereby make the following assessments to cover the portion of the estimated cost of Improvements, and the costs and expenses incidental thereto to be paid by the Assessment District.

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the Assessment District. The distinctive number of each parcel or lot of land in the Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion said net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Assessment District, in accordance with the special benefits to be received by each parcel or lot from the improvements, and more particularly set forth in the Estimate of Costs and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within Assessment District, in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

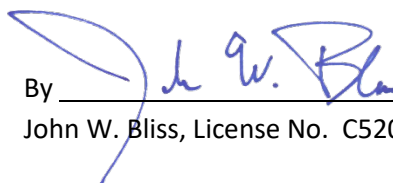
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the FY 2023. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the Alameda County Recorder Office.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the FY 2023 for each parcel or lot of land within said Landscaping and Lighting Assessment District No. 96-1.

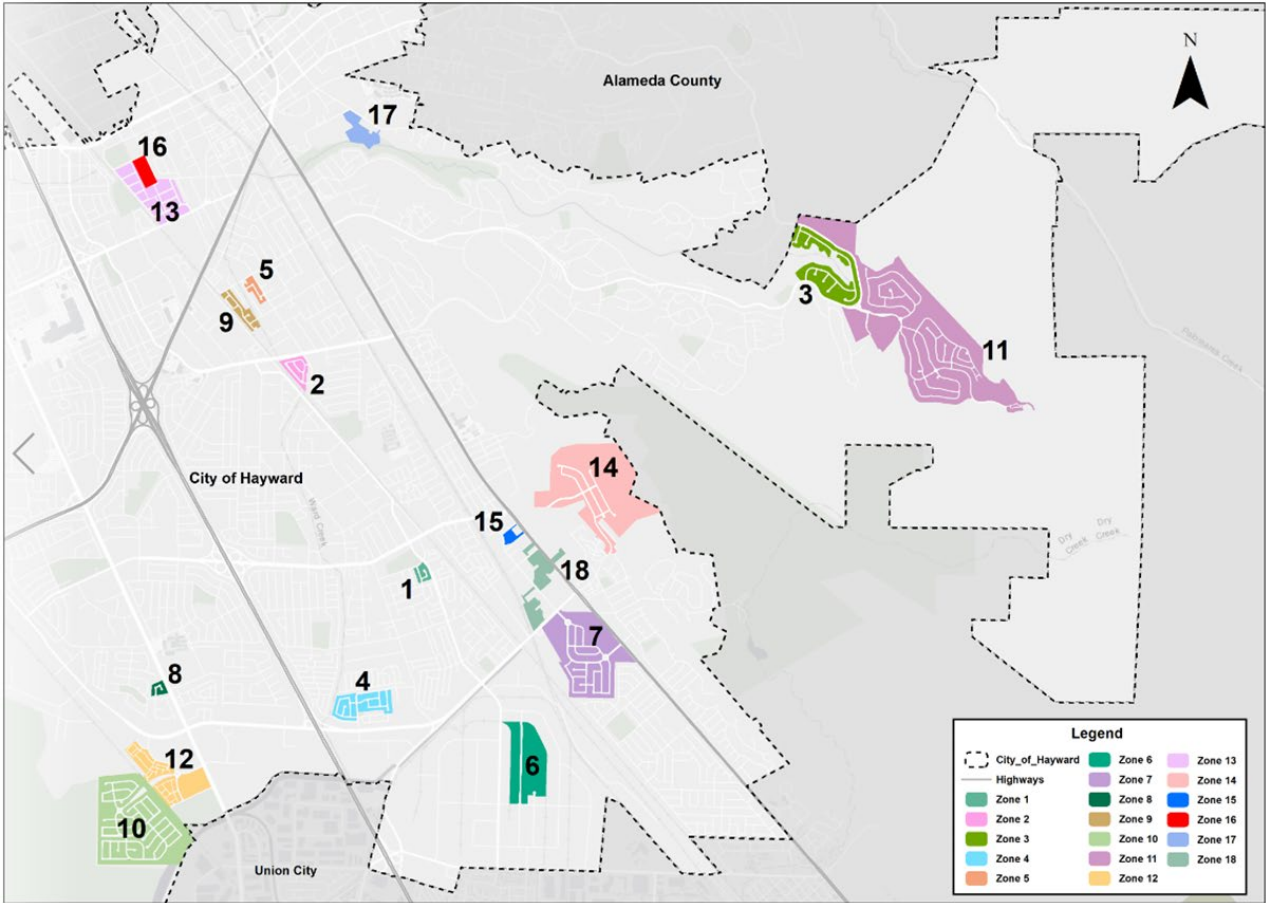
Dated: June 10, 2022



Engineer of Work

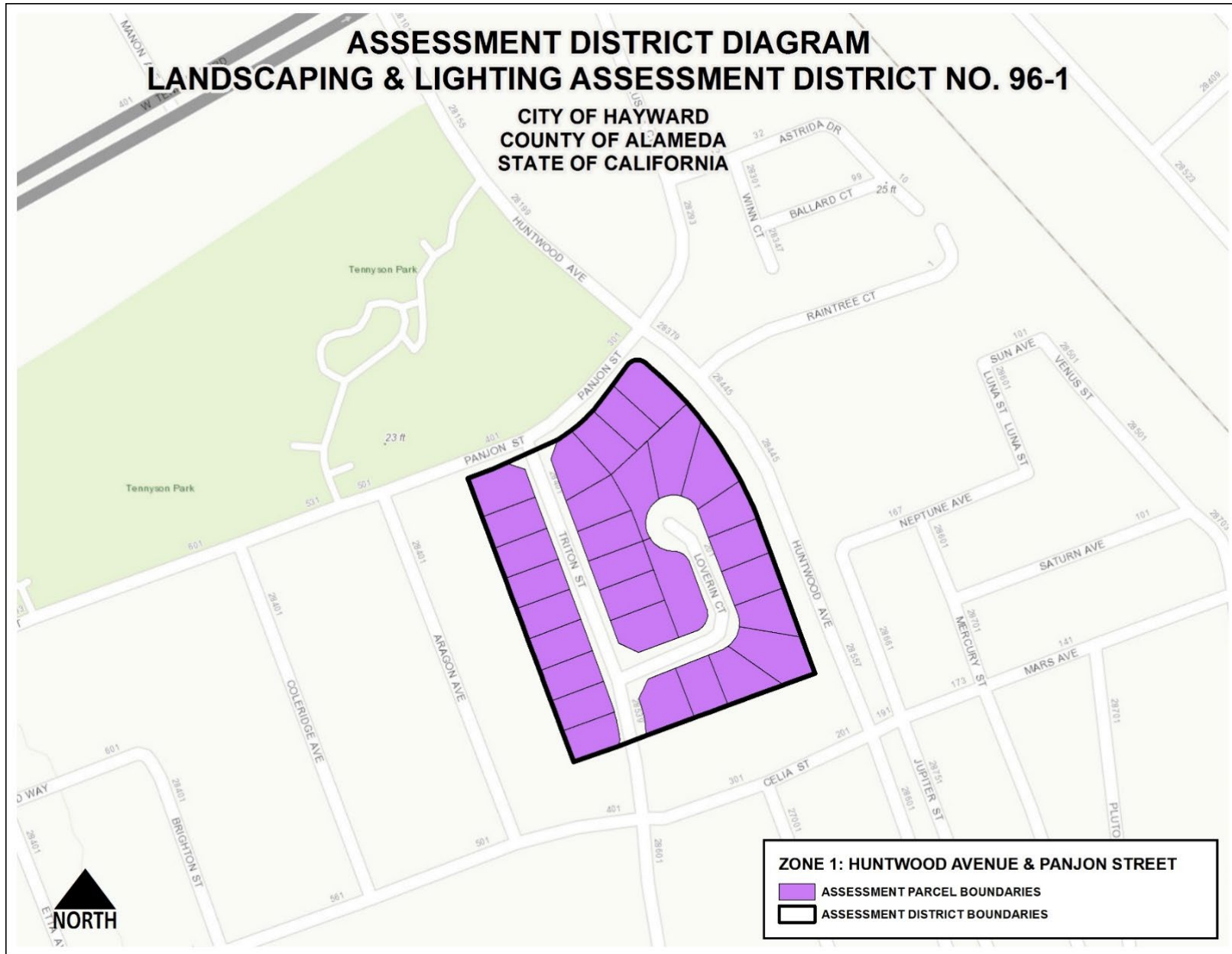
By  _____
John W. Bliss, License No. C52091

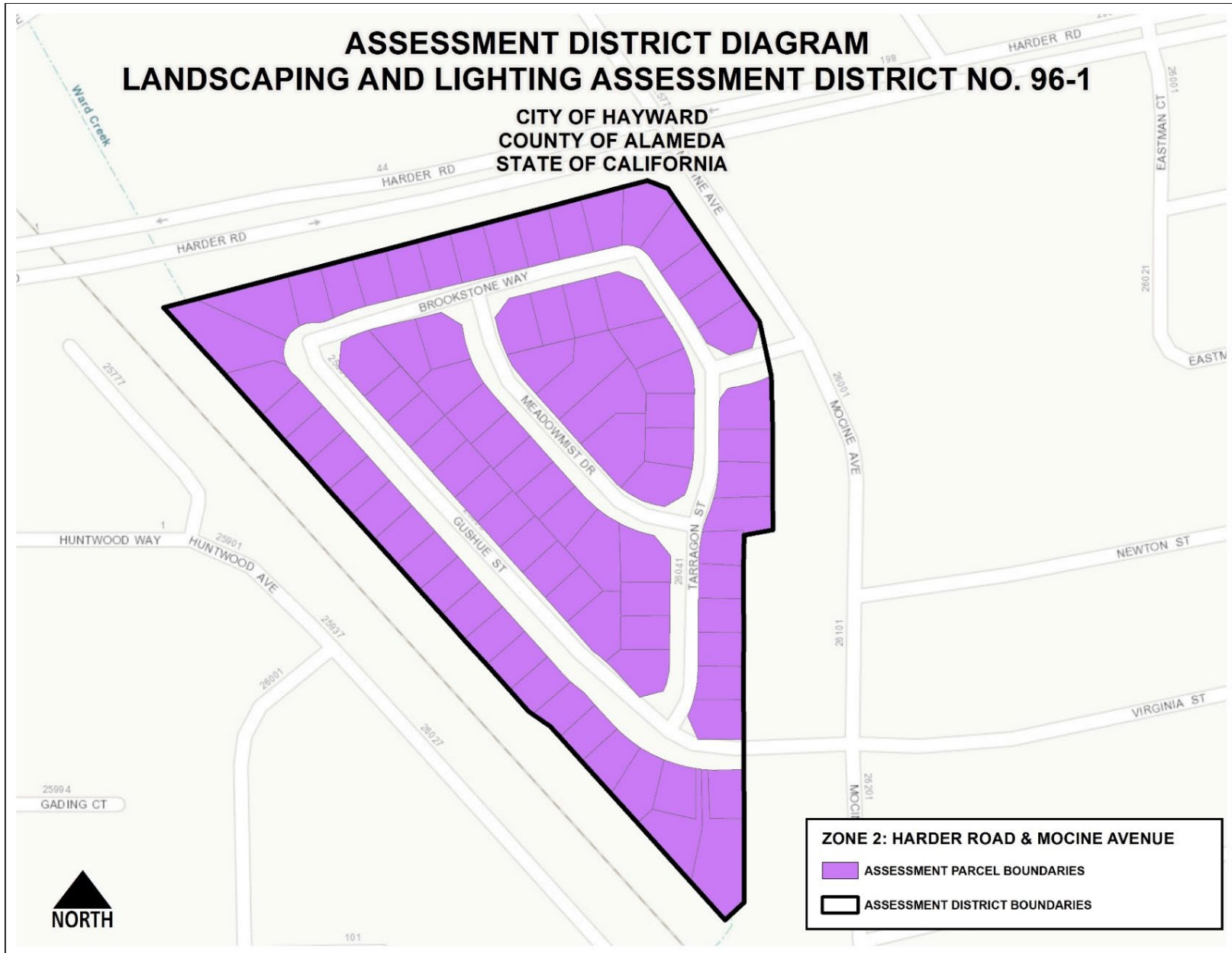
Vicinity Map

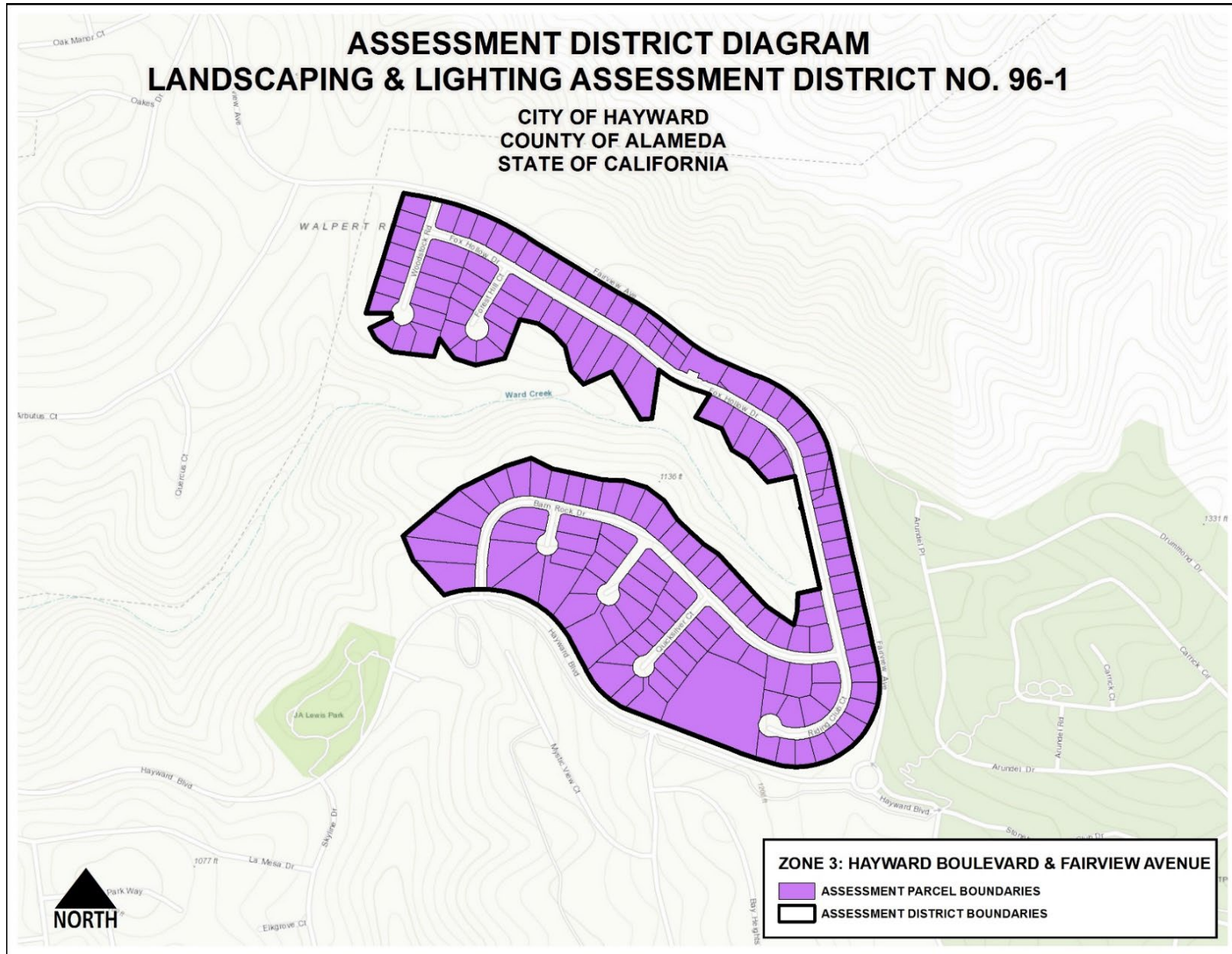


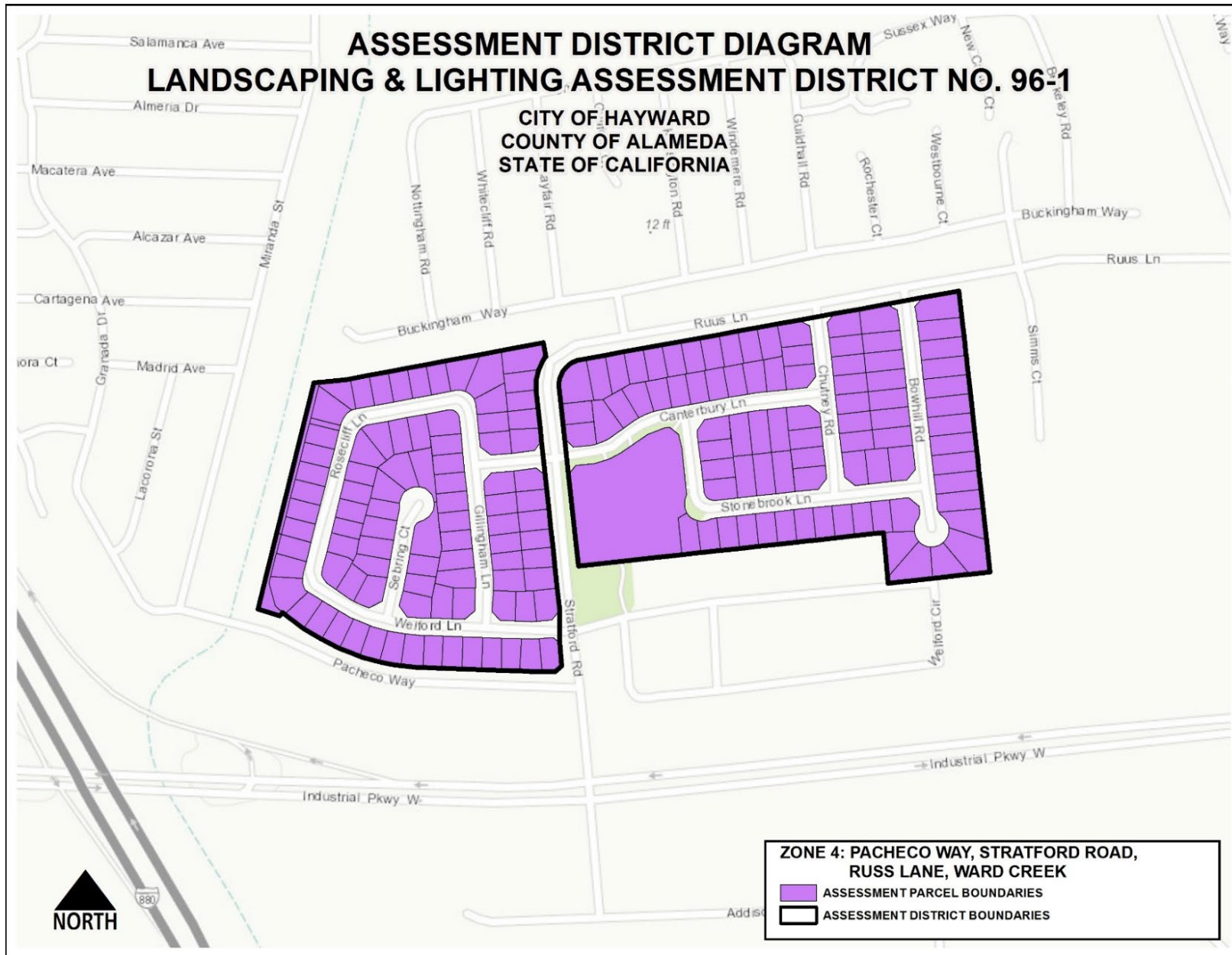
Assessment Diagram

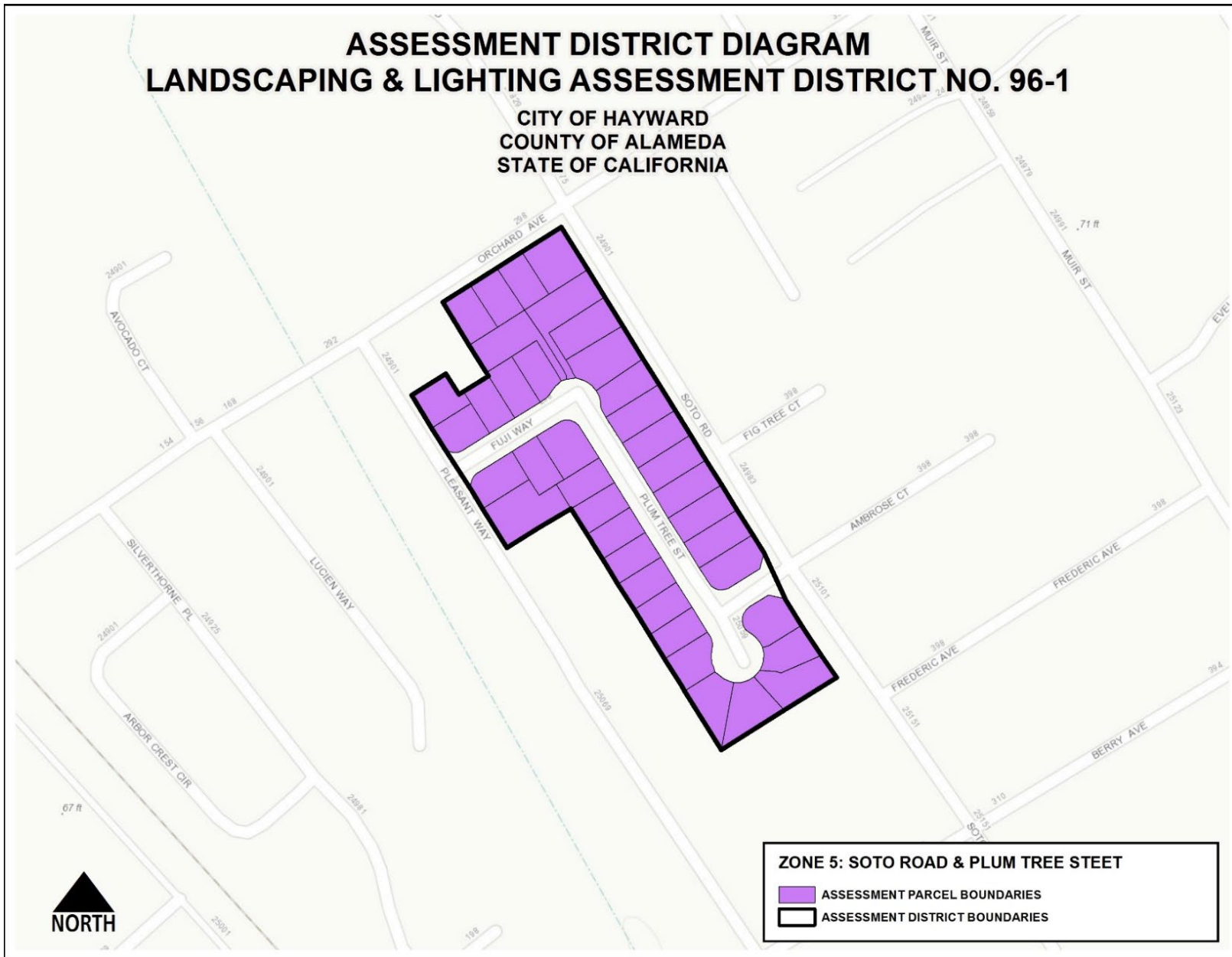
The boundary of the City of Hayward's Landscaping & Lighting Assessment District No. 96-1 is completely within the boundaries of the City of Hayward. The Assessment Diagram which shows the eighteen (18) zones is on file in the Office of the City Clerk of the City of Hayward. The lines and dimensions of each lot or parcel within the District are those lines and dimensions shown on the maps of the Assessor of the County of Alameda, for the year when this report was prepared, and are incorporated by reference herein and made part of this report.

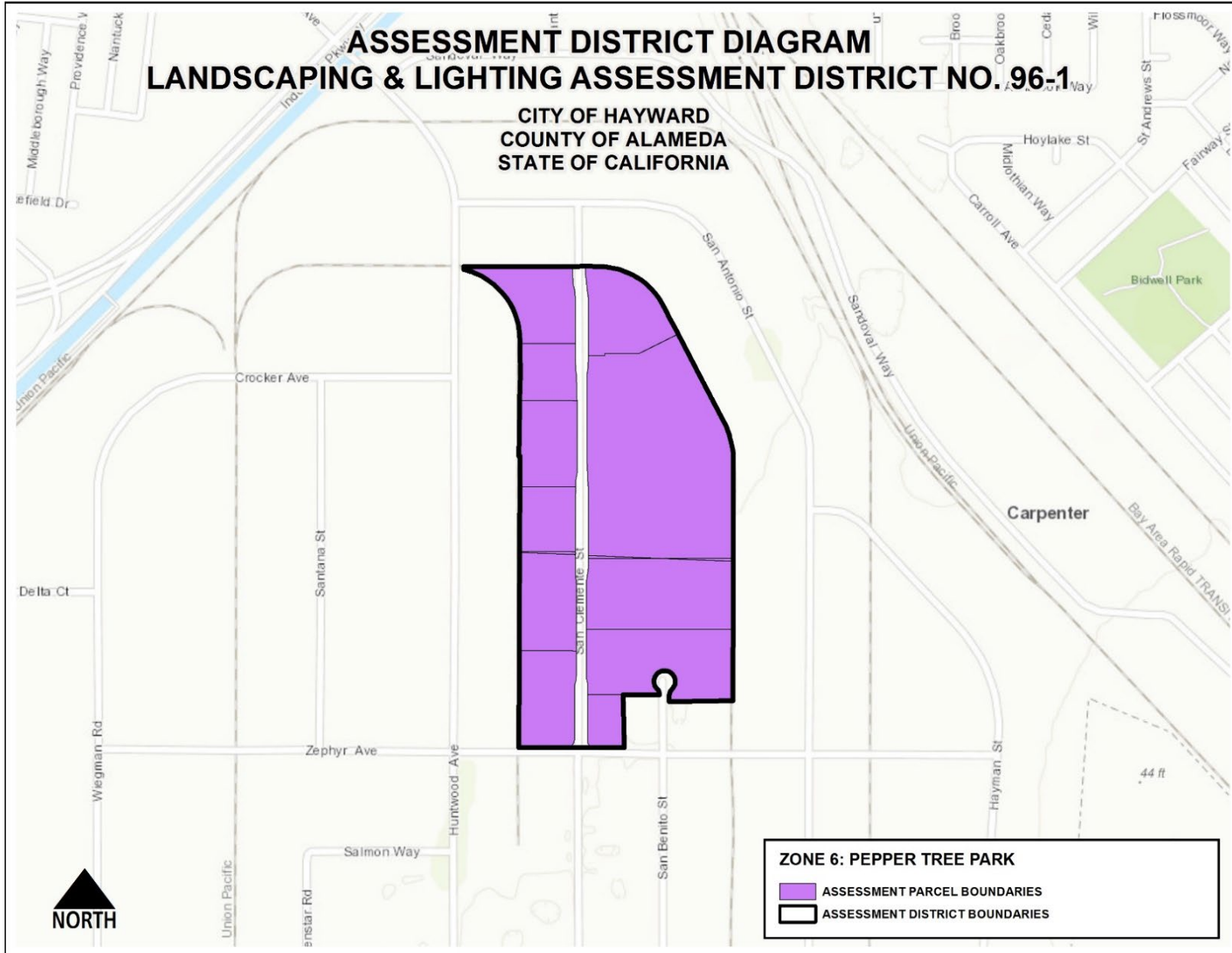


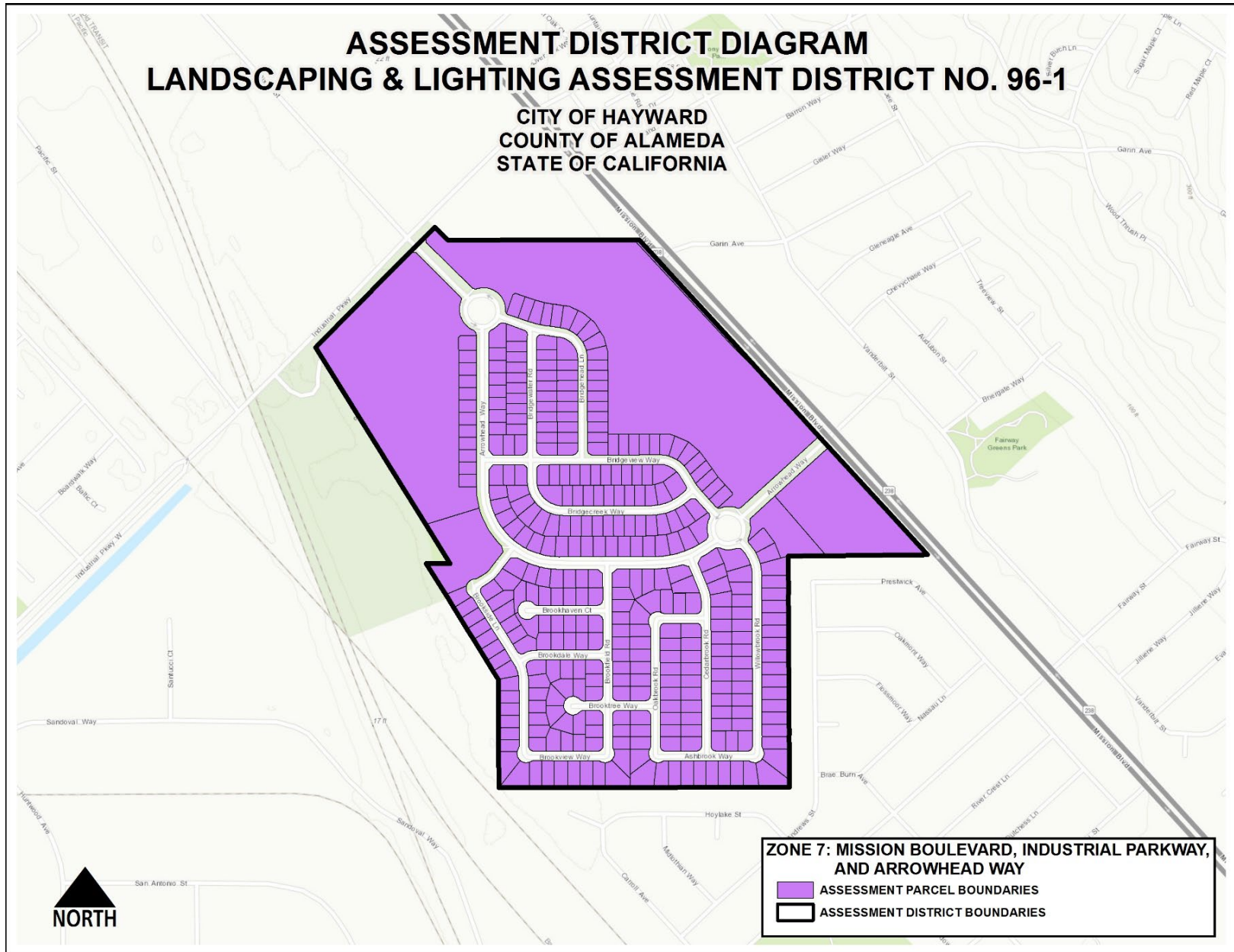


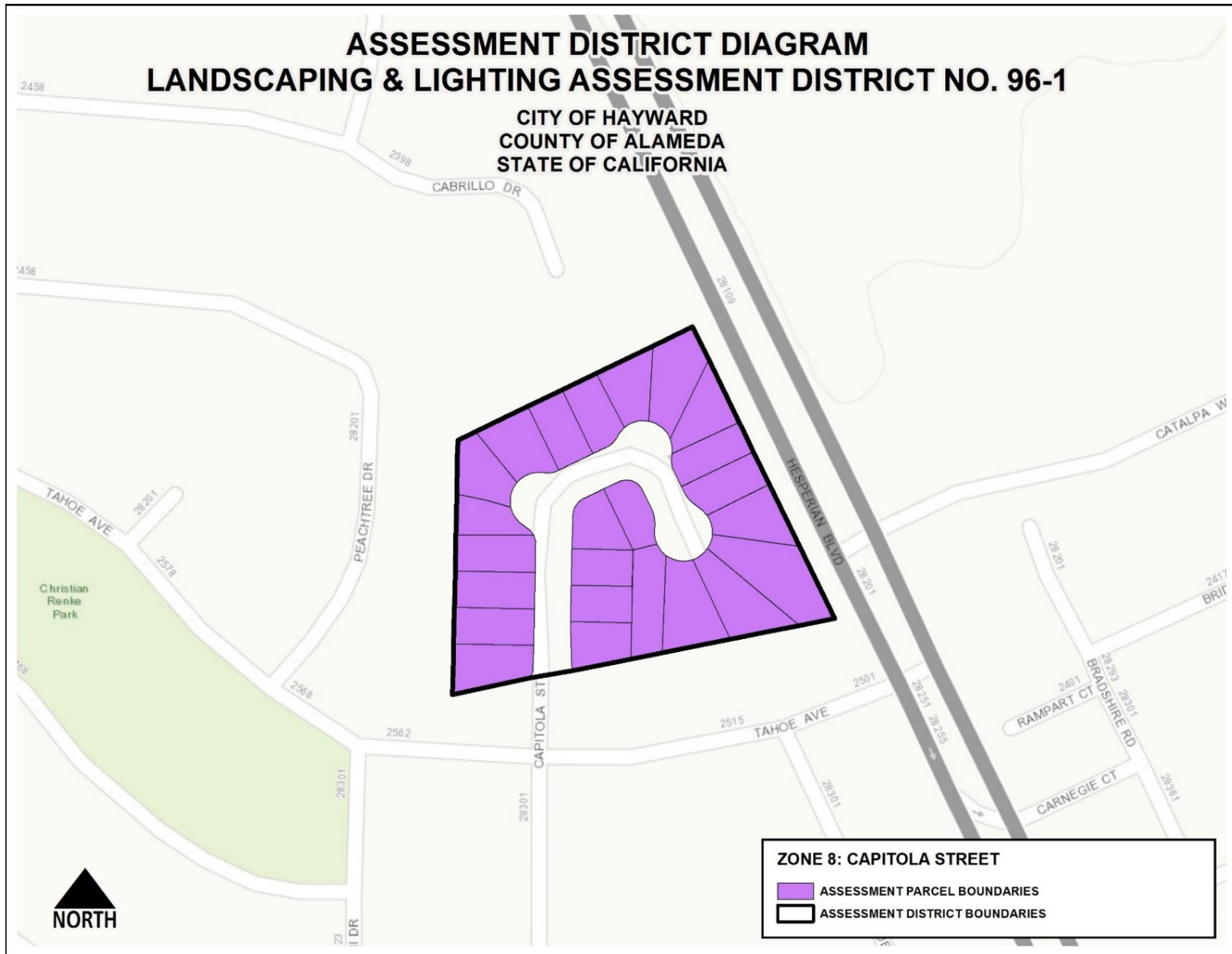


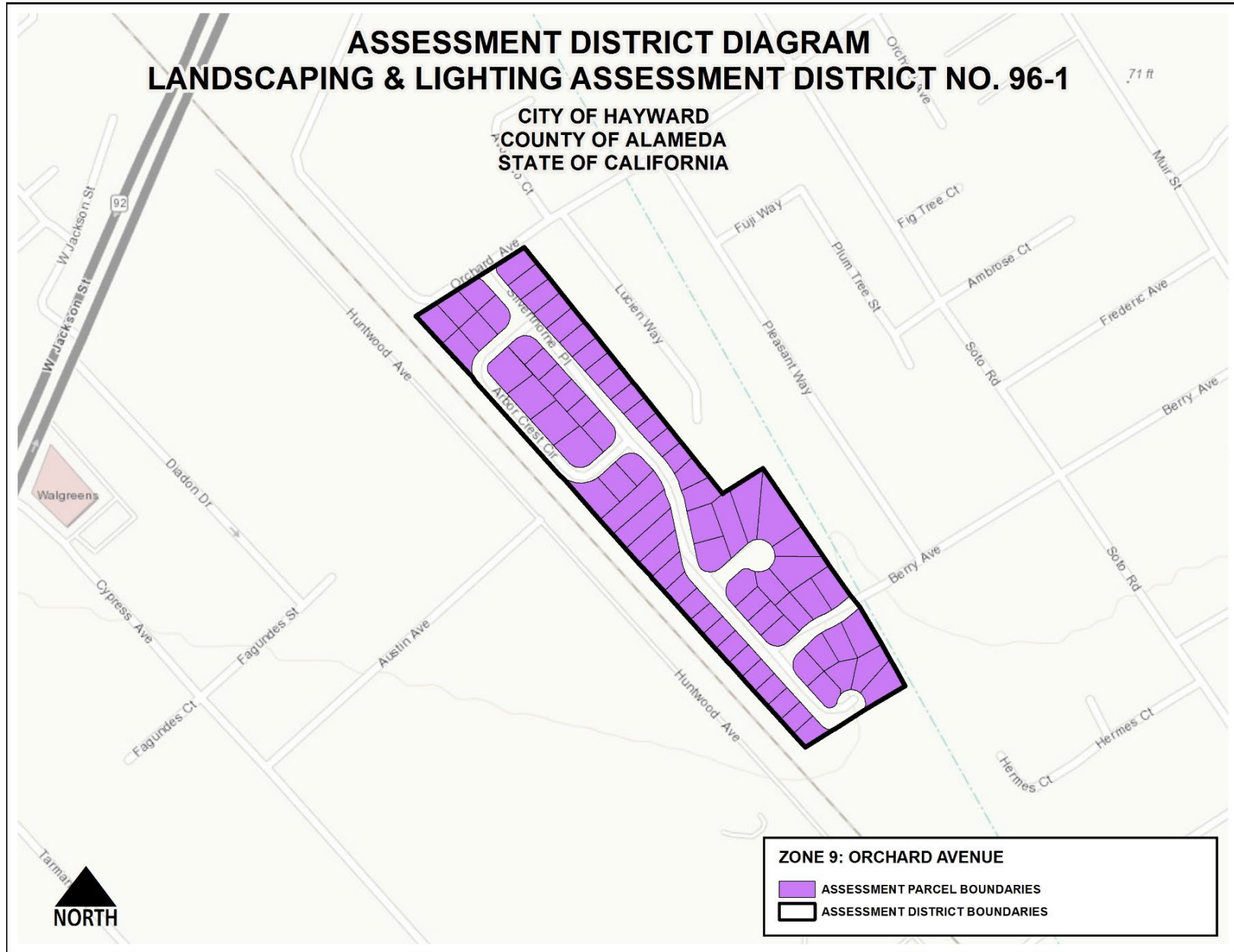


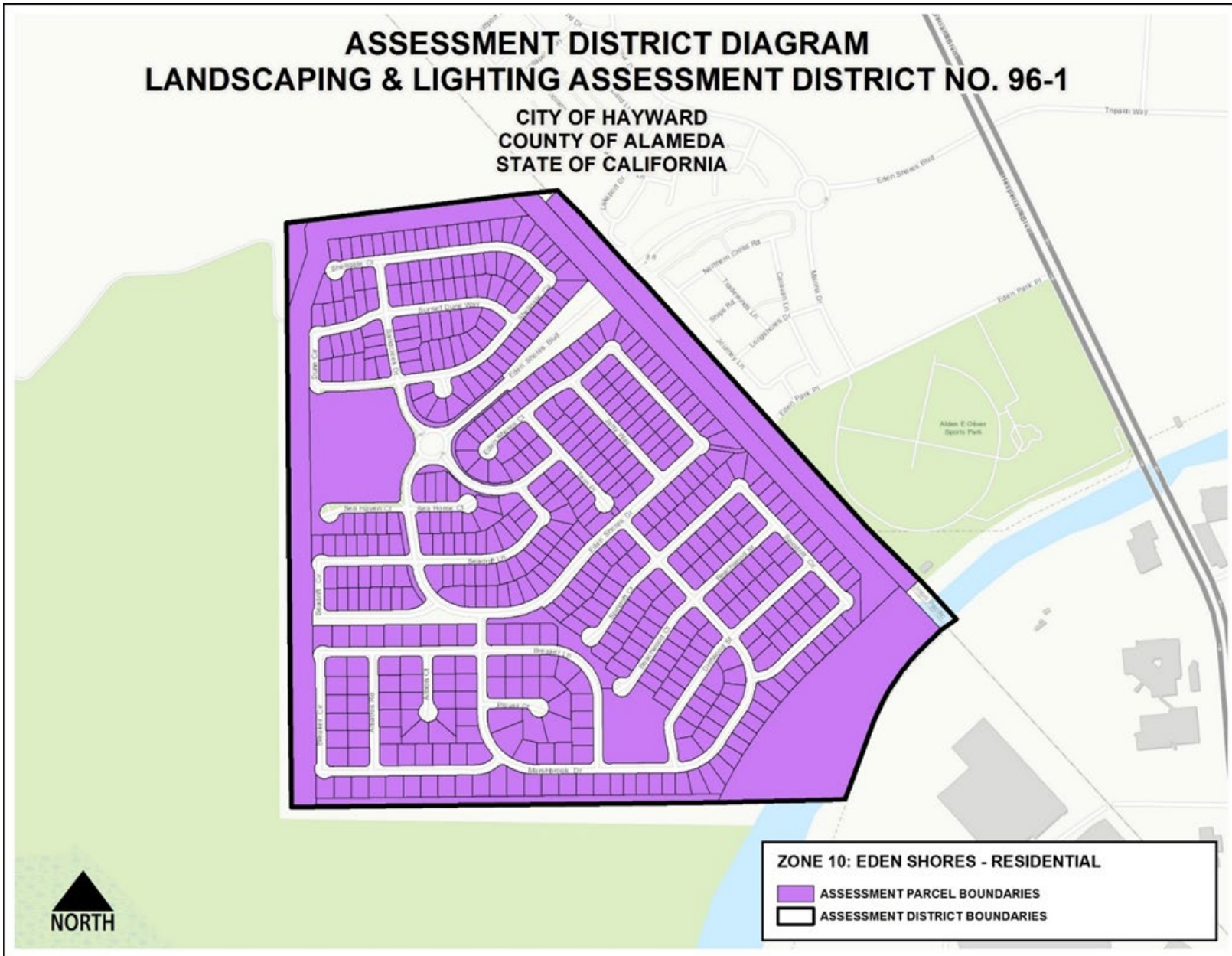


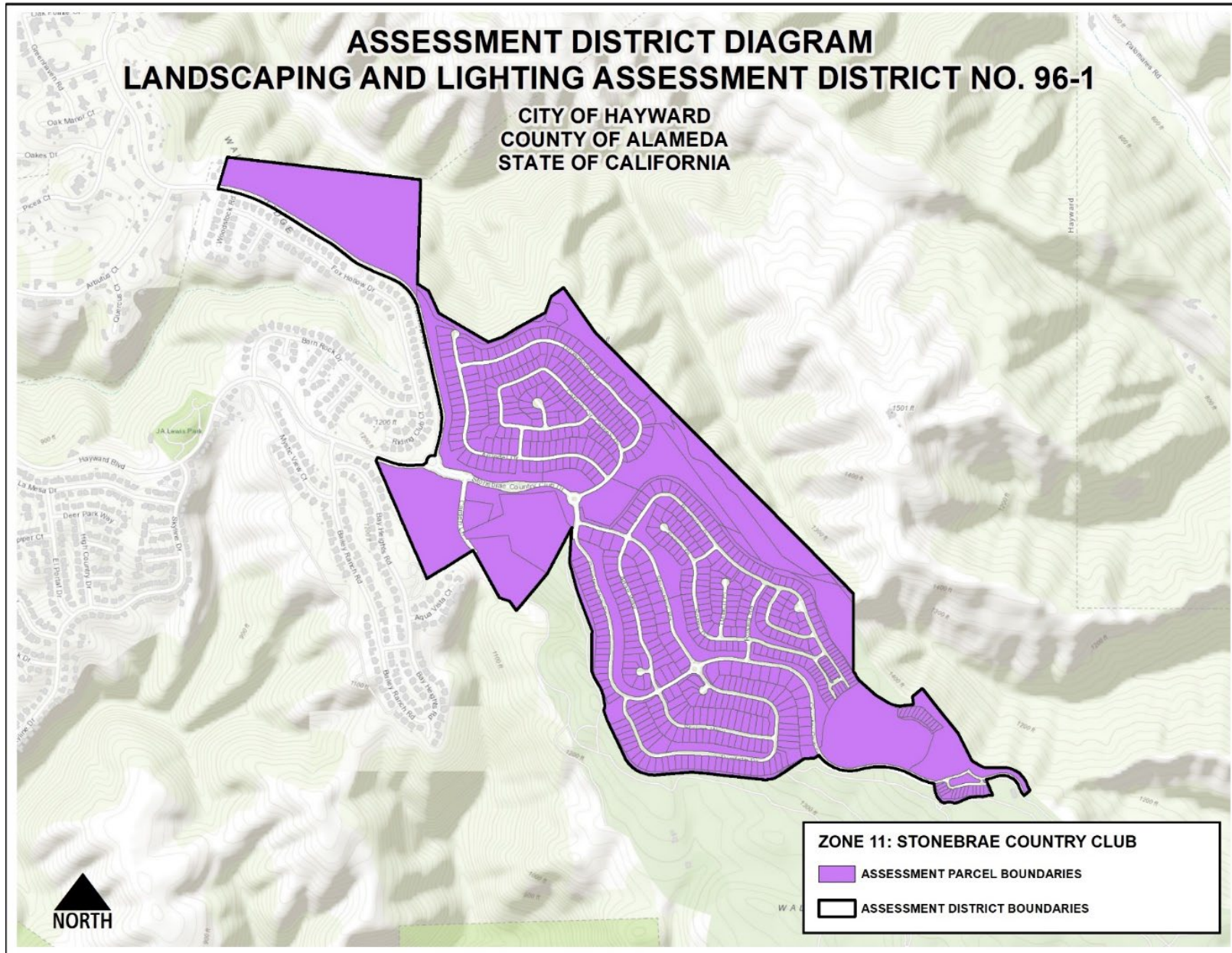


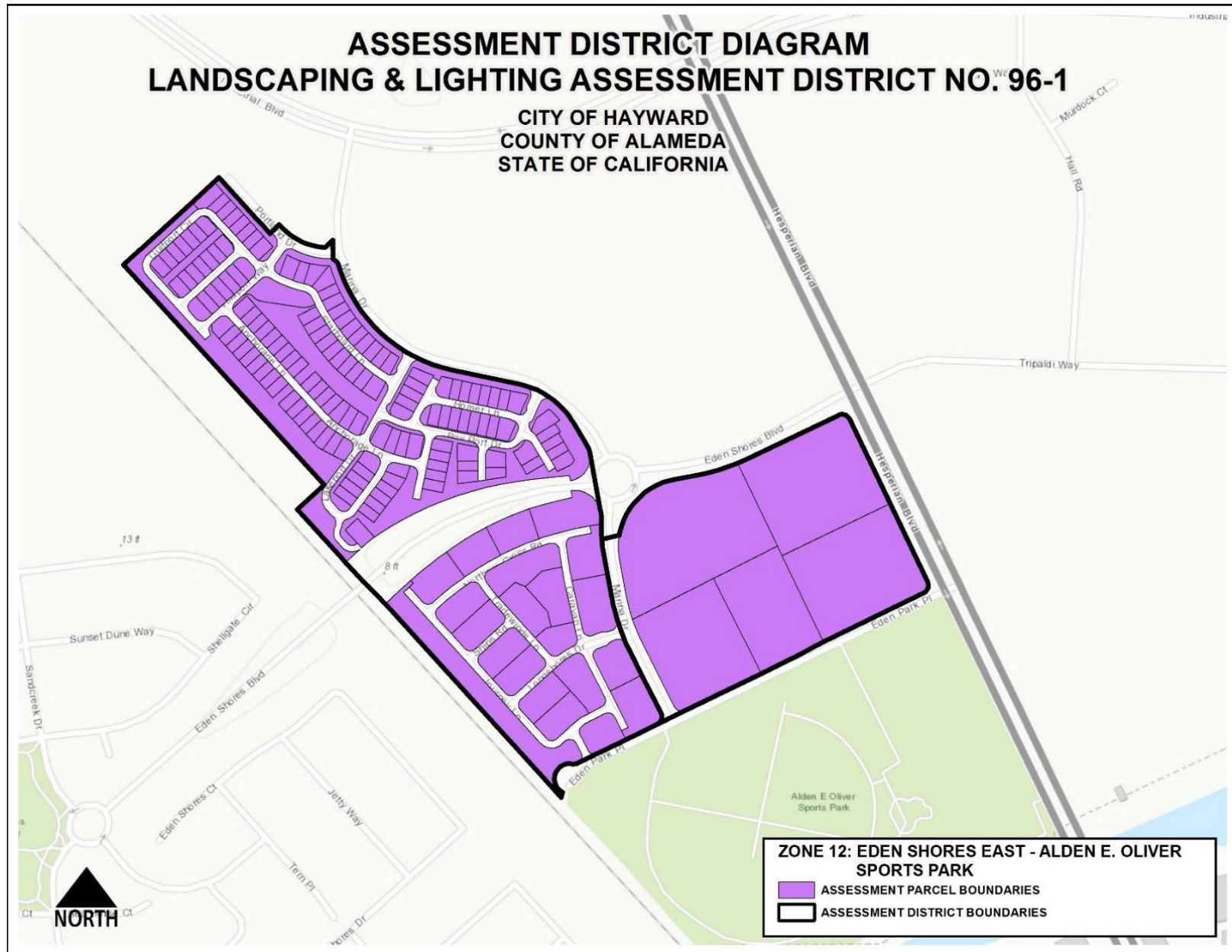


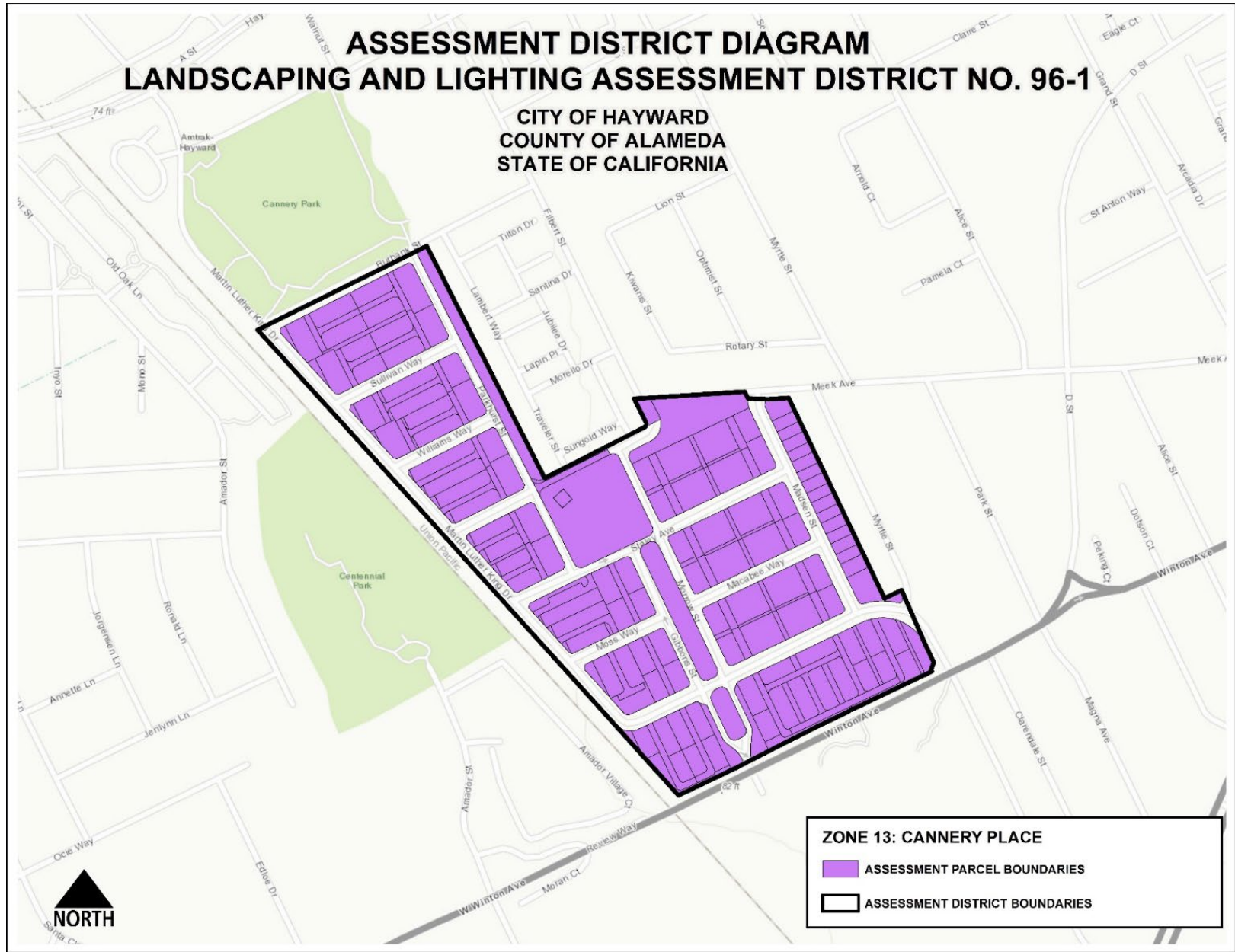


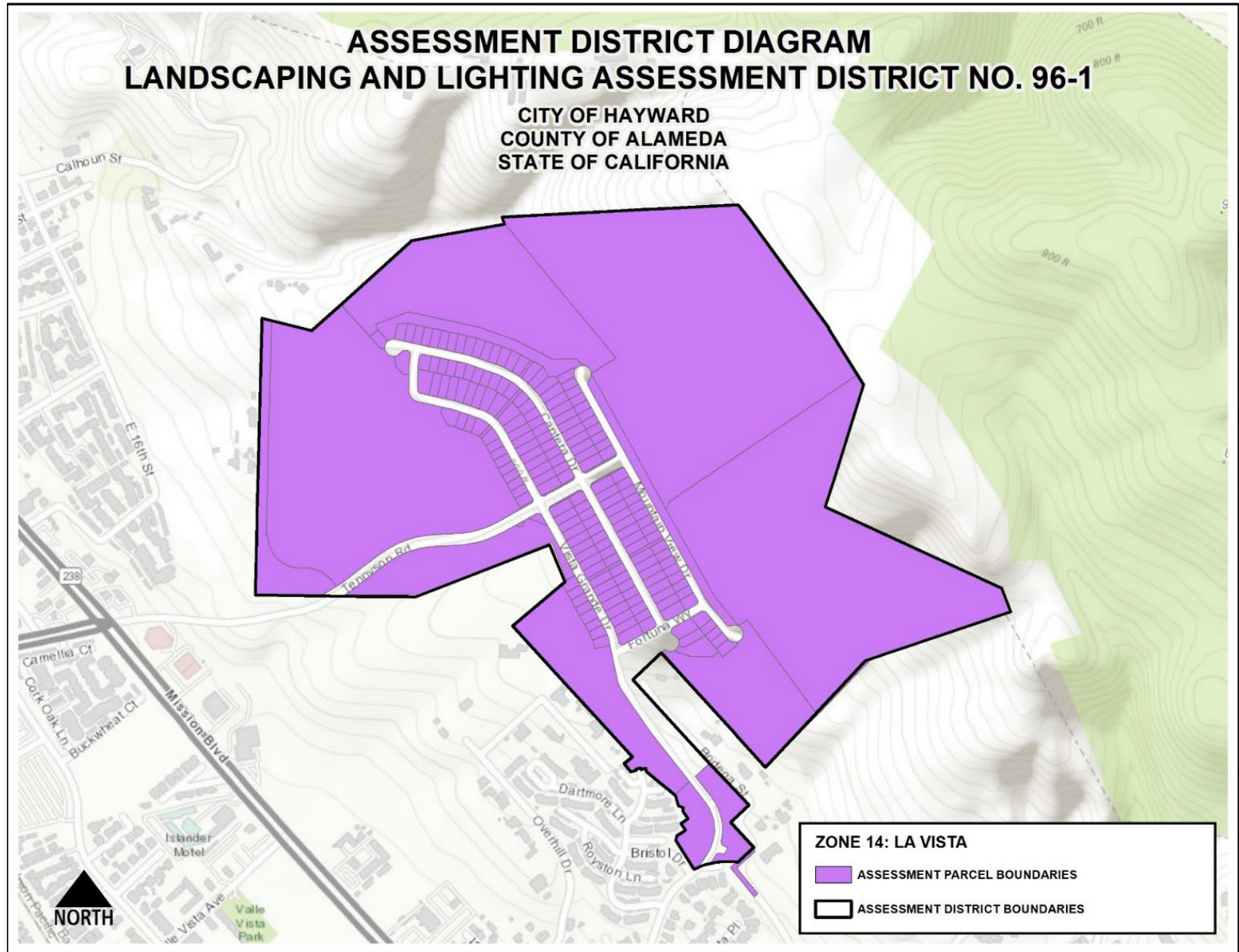


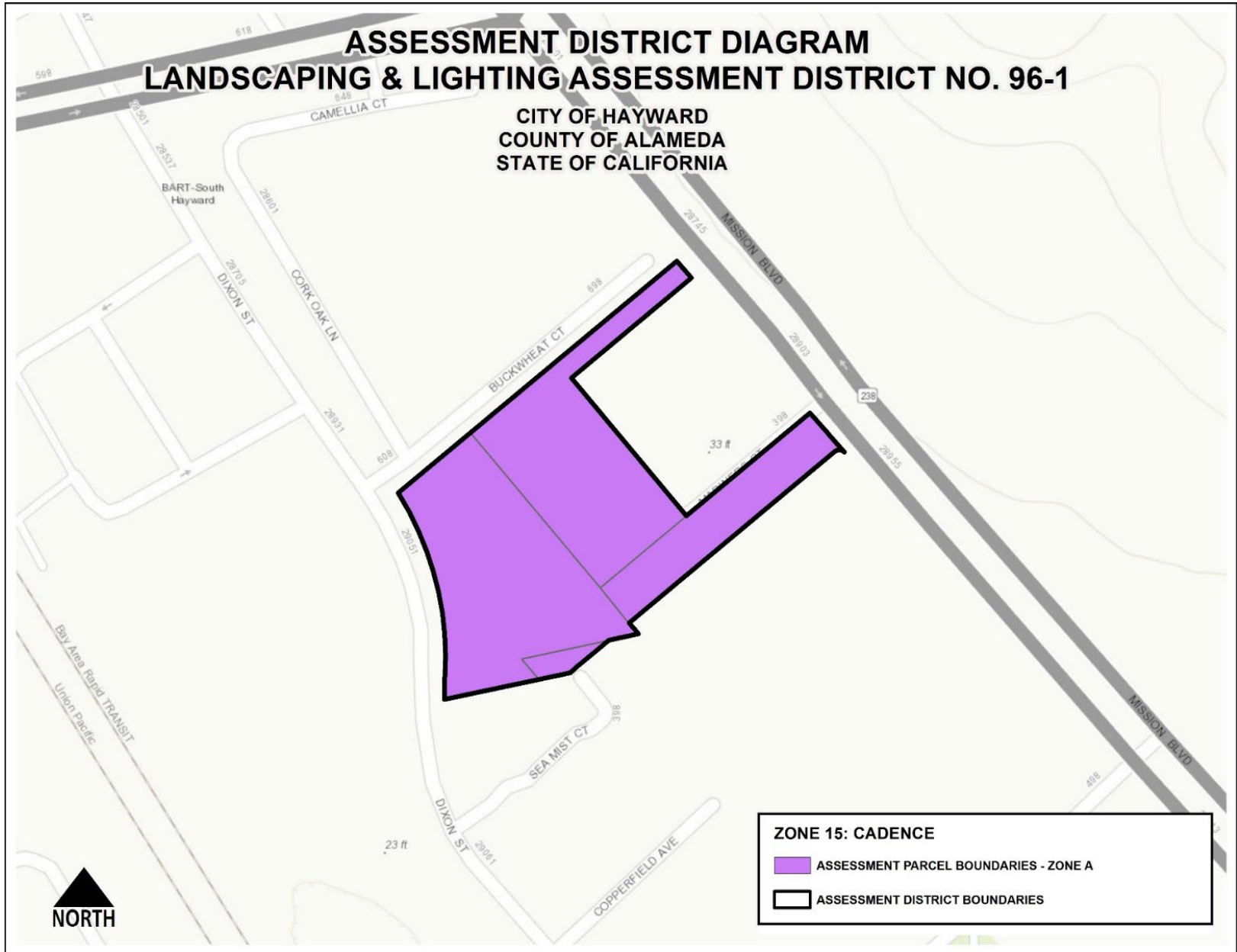


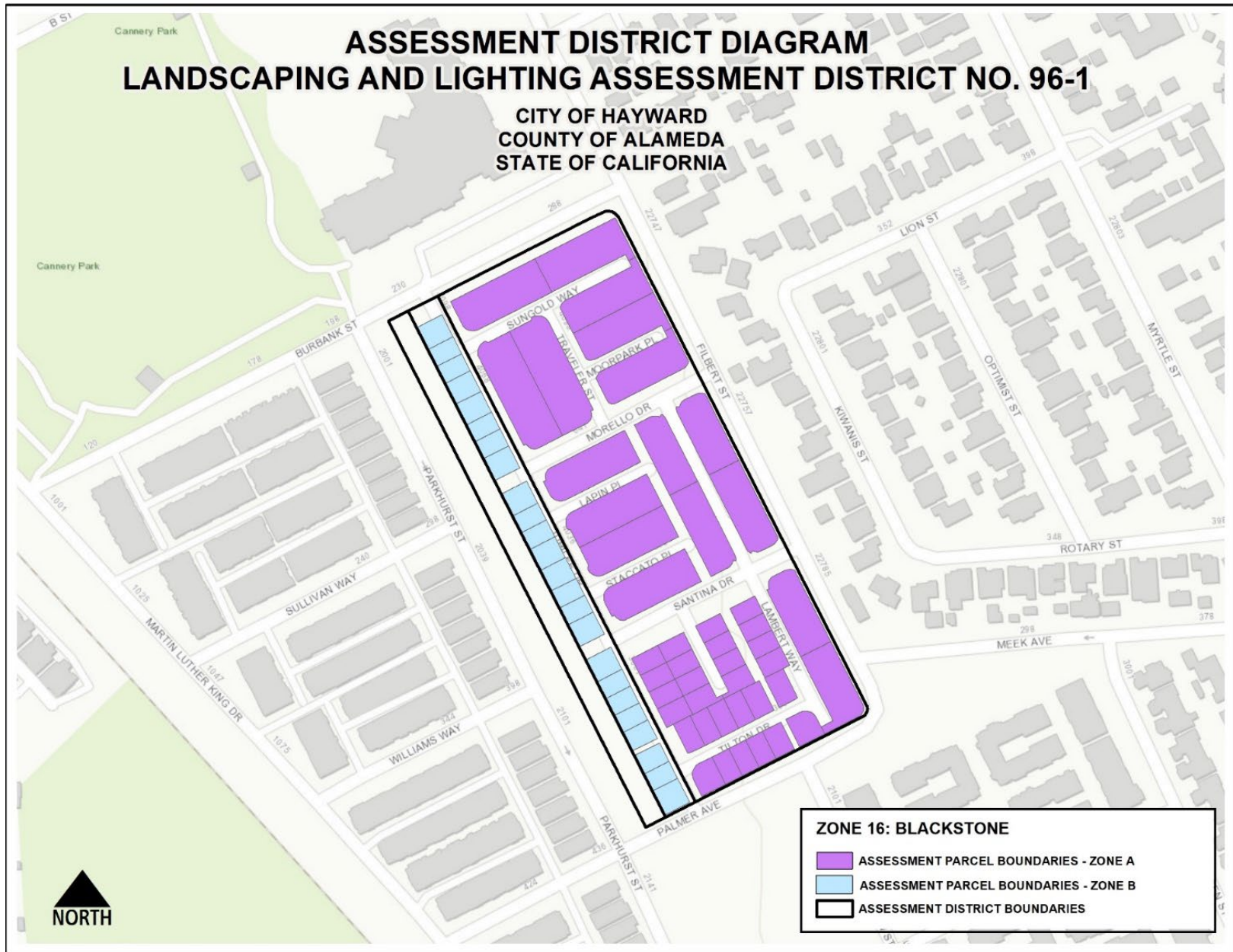


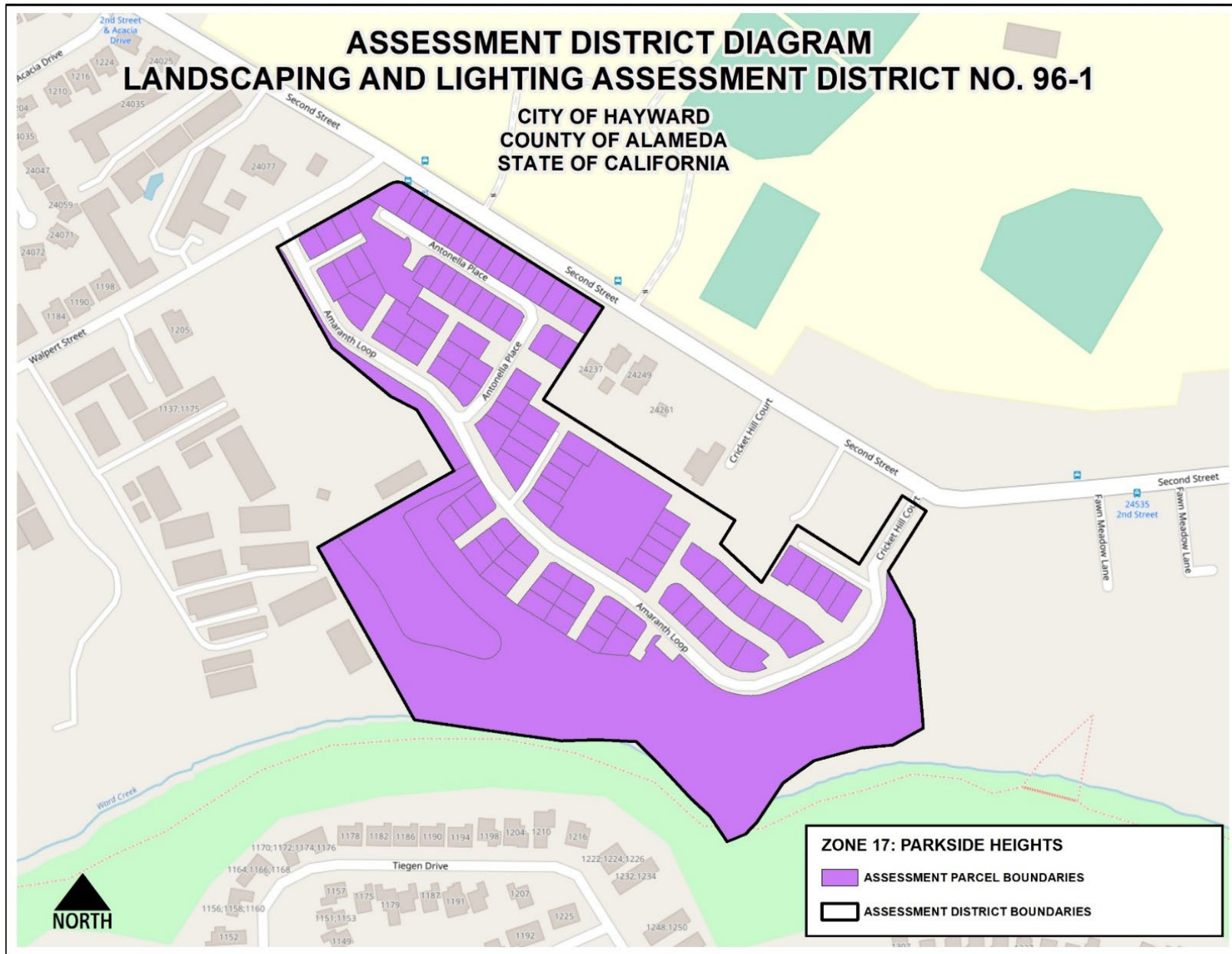


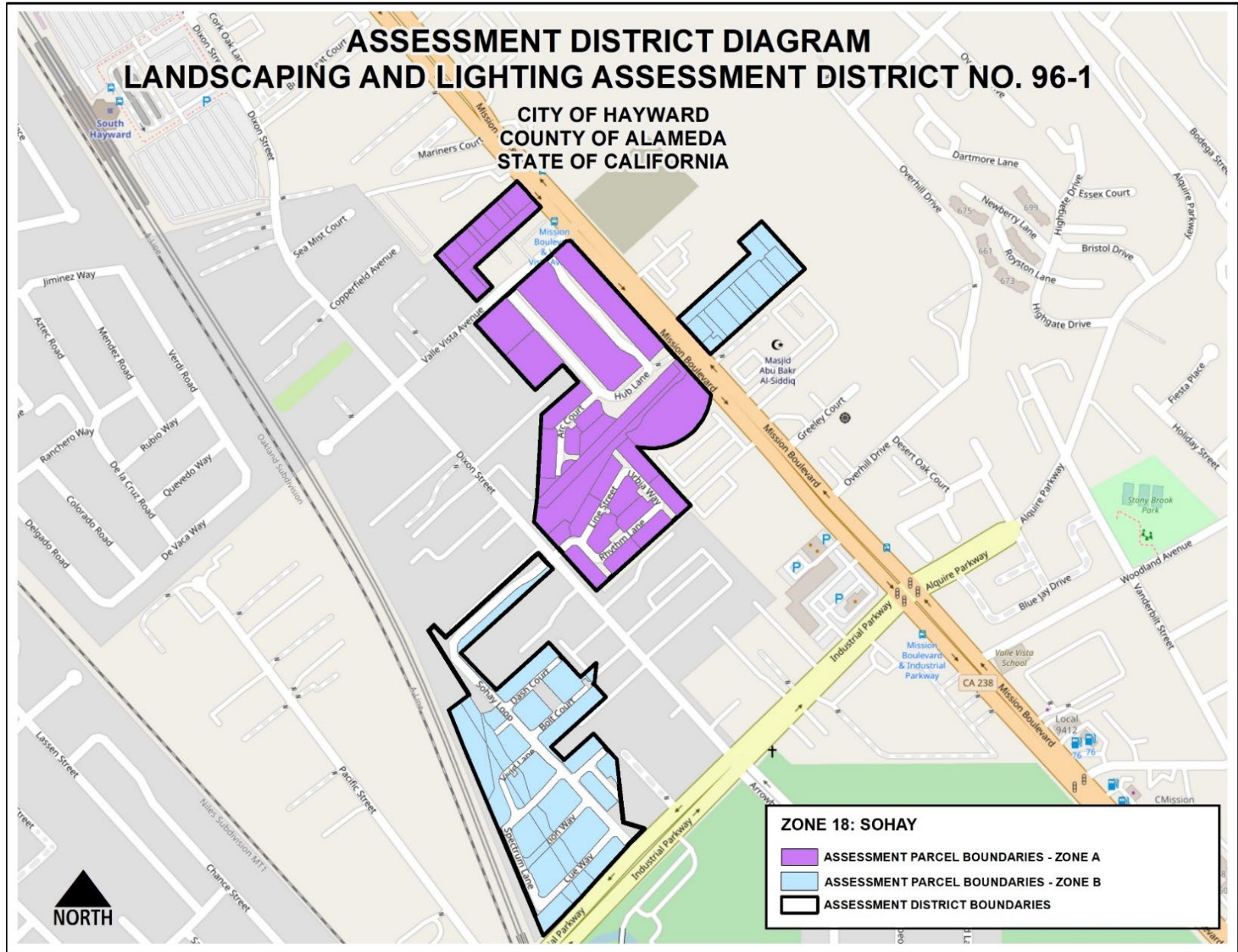














CITY OF HAYWARD

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

File #: CONS 22-369

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT

Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Levy Assessments for Fiscal Year 2023 for Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit Located at Pacheco Way, Stratford Road and Ruus Lane, and Set July 5, 2022, as the Public Hearing Date

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) setting July 5, 2022 as the public hearing date for the levying of assessments for Maintenance District No. 1.

SUMMARY

This report is being provided, as required by the Hayward Municipal Code, to preliminarily approve the Engineer's Report, to include the FY 2023 annual assessment and budget.

MD 1 was formed in 1995 as a financial funding mechanism to fund the ongoing operation, maintenance, repair, and replacement of a Storm Water Lift Station (SWLS) in perpetuity. The SWLS was built by the developer as a condition of development for construction of the Stratford Village neighborhood. The SWLS is the only privately built SWLS in the City, built only to service the Stratford Village neighborhood. Following construction of the facility, the Alameda County Flood Control District (County) was asked to take over ownership and maintenance of the facility since the County operated similar facilities within the City and the County. The agreement signed by both parties calls for the City to act as an intermediary, using District funds to reimburse the County for annual expenses and supply District funds annually for a capital replacement fund.

The FY 2023 assessment charged to the 174 property owners is being recommended to be levied at the maximum amount allowed by law (\$243.92), which is the same as the previous year. The District's account balance is currently negative, and staff will continue to analyze options to remedy the deficit account balance. The negative balance can be contributed to the following factors:

1. The District was formed without the inclusion of an annual inflation factor in its Maximum Base Assessment Rate calculation.

File #: CONS 22-369

2. Maintenance & Operation (M&O) charges from the County are inconsistent, and in recent years have gotten larger.
3. The Countywide System Upgrade's charge to this district is \$503,980.
4. Proposition 218 Election did not pass in FY 2021.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Engineer's Report - MD1



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT: Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Levy Assessments for Fiscal Year 2023 for Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit Located at Pacheco Way, Stratford Road and Ruus Lane, and Set July 5, 2022, as the Public Hearing Date

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) setting July 5, 2022 as the public hearing date for the levying of assessments for Maintenance District No. 1.

SUMMARY

This report is being provided, as required by the Hayward Municipal Code, to preliminarily approve the Engineer’s Report, to include the FY 2023 annual assessment and budget.

MD 1 was formed in 1995 as a financial funding mechanism to fund the ongoing operation, maintenance, repair, and replacement of a Storm Water Lift Station (SWLS) in perpetuity. The SWLS was built by the developer as a condition of development for construction of the Stratford Village neighborhood. The SWLS is the only privately built SWLS in the City, built only to service the Stratford Village neighborhood. Following construction of the facility, the Alameda County Flood Control District (County) was asked to take over ownership and maintenance of the facility since the County operated similar facilities within the City and the County. The agreement signed by both parties calls for the City to act as an intermediary, using District funds to reimburse the County for annual expenses and supply District funds annually for a capital replacement fund.

The FY 2023 assessment charged to the 174 property owners is being recommended to be levied at the maximum amount allowed by law (\$243.92), which is the same as the previous year. The District’s account balance is currently negative, and staff will continue to analyze options to remedy the deficit account balance. The negative balance can be contributed to the following factors:

1. The District was formed without the inclusion of an annual inflation factor in its Maximum Base Assessment Rate calculation.
2. Maintenance & Operation (M&O) charges from the County are inconsistent, and in recent years have gotten larger.
3. The Countywide System Upgrade’s charge to this district is \$503,980.

4. Proposition 218 Election did not pass in FY 2021.

BACKGROUND

Annual Report Compliance

In compliance with Section 10-10.25 of the Hayward Municipal Code, an annual Engineer's Report is required to be submitted to the Council. The report is attached (Attachment III) and includes:

1. Description of the improvements to be operated, maintained, and serviced;
2. FY 2023 recommended budget;
3. FY 2023 maximum base assessment rate;
4. FY 2023 recommended assessment rate; and
5. Map of the benefit zone (assessment diagram).

Formation

On June 6, 1995, the Council ordered the formation of MD 1 to provide for the maintenance, operation, and capital repair and replacement of storm drainage improvements. A Storm Water Lift Station (SWLS) was constructed to pump storm water run-off outside the neighborhood and into a flood control channel (Ward Creek). The drainage basin includes 29.1 acres, of which 24.7 acres are residential, 1.9 acres are for a park site, and 2.5 acres are for the collector streets of Stratford Road and Ruus Lane. Pacheco Way does not drain into this basin system nor does the industrial property to the south. The total number of lots in the drainage basin is 174. The original assessment rate did not include an annual inflation factor, which impedes the District's ability for revenue to keep up with expenses.

Following construction of the facility, the Alameda County Flood Control District (County) was asked to take over ownership and maintenance of the facility since the County operated similar facilities within the City and the County. The agreement signed by both parties calls for the City to act as an intermediary, using District funds to reimburse the County for annual expenses and supplying annual District funds to be deposited into a capital replacement fund. The storm water pumping facility includes a masonry building that houses the Supervisory Control and Data Acquisition (SCADA) System, generator, and four pumps.

Static, Unchangeable Maximum Base Assessment Rate

As part of any district formation, a base annual M&O budget is established, along with a capital replacement estimate. These figures form the basis for the Maximum Base Assessment (MBA) rate, which is the maximum charge that a parcel can be assessed annually. As costs generally increase over time by inflation, many district MBAs include an annual inflation factor in the original calculation so that the assessment revenue can keep up with increases in expenses. In the case of this district, an inflation adjustment factor was not included in the original calculation; therefore, the MBA cannot be increased without holding a successful Proposition 218 ballot election.

Countywide System Upgrade

In 2018, the County notified the City of its Countywide System Upgrade Project. Stratford Village’s SWLS cost for this upgrade now totals \$503,980. During the FY 2019¹, FY 2020², and FY 2021³ annual reports, staff advised the Council of the proposed County charges as the estimates were provided to the City. Since the last report, the County has informed the City of another \$42,281 consultant bill.

Failed Proposition 218 Election

On May 4, 2021, the Council initiated a Proposition 218 election, with results tallied on June 22, 2021. The majority of the property owners who submitted ballots rejected a low-interest, long-repayment term \$379,000 transfer of funds to pay for needed capital improvements, and to add an annual inflation factor to the maximum amount that can be charged annually. The measure overwhelmingly failed, whereas 69% of ballots cast (45/65) rejected the increased assessment and inclusion of an annual inflation factor.

DISCUSSION

This district was established 26 years ago and did not include an inflation factor adjustment for revenue so that income could keep pace with expenditures. Over the years, the district has struggled to pay for basic M&O costs and contribute to a capital reserve, as seen below.

M&O is performed by the County under contract. Over the years, charges for M&O have been inconsistent. In FY 2017 and 2018, M&O charges had increased so much that the City delayed payment for one year to have discussions with the County.

In April 2018, the County alerted the City of additional Stratford Village SWLS District costs. The County advised that they had commissioned consultants to complete a Pump Station Equipment Condition Assessment and were purchasing a new SCADA system which required design and construction consultants. The consultant studies and construction were systemwide, with the Stratford Village SWLS District’s charges totaling to \$503,980 as shown below. Payment for item 1 was made by zeroing out the District’s capital reserve fund.

Stratford Village SWLS District – Portion of Countywide System Upgrade⁴

1) Initial Consultant fee (paid in FY 2020 with capital reserve)	\$87,597
2) Second Consultant fee (paid in FY 2021 , resulting in negative balance)	\$36,613
3) SCADA construction	\$255,000
4) Equipment rehabilitation (0-5 years)	\$49,248
5) Equipment rehabilitation (5-10 years)	\$33,241
6) <u>Third Consultant fee⁵</u>	<u>\$42,281</u>
Total	\$503,980

¹ [URL](#) – PH 18-014, MD1 FY 2019 Annual Report (June 26, 2018)

² [URL](#) – PH 19-040, MD 1 FY 2020 Annual Report (June 4, 2019)

³ [URL](#) – PH 20-050, MD 1 FY 2021 Annual Report (June 23, 2020)

⁴ Reference: Attachment IV – County FY 2022 Annual Report, Stratford Village Storm Water Lift Station, dated February 2021.

⁵ Reference: Attachment V – County Invoice dated April 13, 2021.

(Legend: *Paid, Unpaid*)

For FY 2023, the District will collect a net annual amount of \$41,721. For FY 2023, the District will budget \$50,723 in annual expenses (which includes the County estimated M&O amount of \$43,549.) The estimated FY 2023 net result is estimated to be negative, as shown below.

FY 2023 Budget (Does not include \$379,770 *unpaid* estimate from above)

<u>Starting Balance</u>	<u><i>-\$24,924</i></u>
Net Revenue	\$41,721
<u>Net Expenditures</u>	<u>\$50,723</u>
<u>Difference</u>	<u><i>-\$9,002</i></u>
Ending balance	<i>-\$33,926</i>

This District does not have the funds, nor the ability to generate additional funds to pay the outstanding Countywide System Upgrade Project costs. Staff has exhausted current options, which included a request for a long-term payment option from the County and/or a successful Proposition 218 Election. To ensure the District’s account doesn’t carry a negative balance moving beyond FY 2023, staff is working to finalize a modest loan from the Storm Water Fund to ensure the baseline M&O functions continue uninterrupted until the final resolution of the funding shortage has been reached. City staff will continue to work with Alameda County Flood Control District on solutions for the long-term solvency of the district. In addition to working with the County, staff is considering holding some additional focus groups with the community in MD1 that will inform future plans for the long-term fiscal stability of the District.

FISCAL IMPACT

Staff has evaluated the District’s operating balance and confirms that the account has a negative balance which will continue to be negative through FY 2023.

PUBLIC CONTACT

City staff: 1) mailed a postcard notice to property owners to let them know of their recommended FY 2023 assessment rate, and to alert them to three Public meetings where they could provide input (June 15, June 21, and July 5); 2) held a virtual community meeting via Zoom on June 15; and 3) will publish a legal notice in the East Bay Times on June 24, 2022.

NEXT STEPS

Following this Council meeting, the City of Hayward is proposing to hold a public hearing on July 5, 2022, to provide an opportunity for any interested person to be heard. After the public hearing,

the Council may adopt a resolution setting the annual assessment amount as originally proposed or as modified.

Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the Alameda County Auditor's Office to be included on the FY 2023 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All revenue collected through the assessment must be placed in a special account and can only be used for the purposes stated within this report.

If the City Council adopts the attached resolution of intention, it will hold a noticed public hearing on July 5, 2022, to consider approving the Engineer's Report and order the levy of assessments for FY 2023.

Prepared by: Liz Sanchez, Management Analyst

Recommended by: Todd Rullman, Maintenance Services Director

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION OF INTENTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT; DECLARING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2023; AND SETTING JULY 5, 2022, AS THE PUBLIC HEARING DATE CONCERNING MAINTENANCE DISTRICT NO. 1 - STORM DRAINAGE PUMPING STATION AND STORM DRAIN CONDUIT - PACHECO WAY, STRATFORD ROAD, AND RUUS LANE

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

1. Maintenance District No. 1- Storm Drainage Pumping Station and Storm Drain Conduit –Pacheco Way, Stratford Road, and Ruus Lane (the District) was established by the adoption of Resolution No. 95-103 to provide funds to operate, maintain, and service a storm drainage pumping station and storm drain conduit constructed to provide a means of handling storm water runoff for Tracts 6472, 6560, 6682, and 6683. The District consists of properties as shown on the Assessment Roll which will be available on file in the Office of the Hayward City Clerk on July 5, 2022.
2. SCI Consulting Group is hereby designated as the Engineer of Work for purposes of these proceedings and is hereby ordered to prepare Engineer's Report in accordance with Section 10-10.25 of the Hayward Municipal Code.
3. The Engineer's Report has been made, filed with the City Clerk, and duly considered by this City Council and is hereby deemed sufficient and preliminarily approved. Said report shall stand as the report for all subsequent proceedings relating to the proposed levy of the District assessments for Fiscal Year 2023.
4. It is the intention of the City Council to order the levy and collection of assessments for the maintenance of the storm drainage pumping station and storm drain conduit pursuant to Part 3, Chapter 26 of Division 7 of the California Streets and Highways Code (commencing with Section 5820 thereof).
5. The proposed assessment for Fiscal Year 2023 is at the maximum base assessment amount of \$243.92 per parcel.

6. Reference is hereby made to the aforementioned Engineer’s Report on file with the City Clerk for a full and detailed description of the improvements, the boundaries of the proposed District, and the proposed assessments upon assessable lots within said District.

7. Public property owned by any public agency and in use in the performance of a public function within said District shall not be assessed, except for Stratford Park, owned by the City of Hayward, which is the only publicly owned property, which will receive a special benefit from the maintenance of the pumping station and storm drains financed by the District.

8. On July 5, 2022, at the hour of 7:00 p.m., a public hearing will be held on the levy of the proposed assessment. Prior to the conclusion of said public hearing, any interested person may file a written protest with the City Clerk, or having previously filed a protest, may file a written withdrawal of that protest. A written protest by a property owner shall contain a description sufficient to identify the property owned by such owner.

9. The City Clerk is hereby directed to cause a notice of said meeting and hearing to be made in the form and manner provided by applicable laws.

IN COUNCIL, HAYWARD, CALIFORNIA, June 21, 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

Fiscal Year 2023

ENGINEER'S REPORT

City of Hayward

Maintenance District No. 1

June 2022

Preliminary Report

Engineer of Work:

SCIConsultingGroup

Public Finance Consulting Services

4745 Mangels Boulevard
Fairfield, California 94534

707.430.4300

www.sci-cg.com

City of Hayward

City Council

Barbara Halliday, Mayor

Angela Andrews, Council Member

Sara Lamnin, Council Member

Elisa Márquez, Council Member

Mark Salinas, Council Member

Aisha Wahab, Council Member

Francisco Zermeño, Council Member

Clerk of the Council

Miriam Lens

City Manager

Kelly McAdoo

City Attorney

Michael Lawson

Engineer of Work

SCI Consulting Group

Table of Contents

Introduction	1
Overview.....	1
Legislative Analysis	2
Plans and Specifications	4
Introduction.....	4
Description of Improvements	4
Fiscal Year 2023 Estimate of Cost and Budget	5
Estimate of Costs.....	5
Alameda County Maintenance Contract, Facility Evaluation, & SCADA Upgrade	6
Method of Apportionment	8
Assessment	9
Vicinity Map	11
Assessment Diagram	12
Appendix A - Assessment Roll	14

List of Figures

Figure 1 – 2023 Estimate of Cost 7

Introduction

Overview

On January 5, 1993, by Resolution No. 93-010, the City Council approved the vesting tentative map of Tract 6472, which authorized the subdivision of land on both sides of Stratford Road into 148 single-family home lots. Conditions of approval for Tentative Map Tract 6472, which included Final Tract Maps 6472, 6560, 6682 and 6683, included provisions for storm drainage improvements and construction of an approved stormwater pumping facility. The drainage area and the stormwater pumping facility were analyzed in documents prepared by Wilsey & Ham, Civil Engineers. These documents indicated the following: the drainage basin includes 29.1 acres, of which 24.7 acres are residential, 1.9 acres are for a park site, and 2.5 acres are for the collector streets associated with Stratford Road and Ruus Lane. Pacheco Way does not drain into this drainage basin system nor does the industrial property to the south.

In addition to the 143 lots identified above, final Tract Map 6682, with a total of 31 lots located immediately to the east of Chutney Road, was also approved. Therefore, the total number of residential lots in the drainage basin is 174. In addition to the residential lots, there is a park located on one parcel of land.

On April 18, 1995, the City Council approve the preliminary Engineer's report, and on May 23, 1995, a public meeting was held to allow affected property owners an opportunity to speak. On June 6, 1995, by Resolution No. 95-103, the City Council ordered the formation of Maintenance District No. 1 to provide for the operation and maintenance of the storm drainage improvements and the stormwater pumping facility to serve the drainage basin. The FY 1996 Engineer's Report (formation report) included a FY 1996 Engineer's Cost Estimate of \$42,686.37.

A Storm Water Lift Station (SWLS) was constructed to pump storm water run-off for the developed area which is adjacent to the Alameda County Flood Control and Water Conservation District's ("Flood Control District") Line B, Zone No. 3A. The plans for the lift station were approved by the City and the Flood Control District. The SWLS was designed with capacity for only the development of the area encompassing the 174 parcels. No added capacity was constructed for run-off from other areas such as the Georgian Manor and Spanish Ranch Mobile Home Parks, which are presently served by a privately owned and operated pumping facility located within each park.

An agreement between the City and the Flood Control District transferred ownership of the SWLS to the Flood Control District. The agreement states that the Flood Control District concurred with the SWLS transfer subject to the City providing the Flood Control District with the funds to operate, maintain, and provide for capital equipment replacement and for modifications that may become necessary for the optimal performance of the SWLS.

Each year the City evaluates the need to increase the annual assessment to ensure there are adequate funds to continue to provide proper operation, maintenance, and capital replacement of the storm water pumping facilities within Maintenance District No. 1. As part of this effort, no later than December 1, the Flood Control District is required to furnish the City with an itemized estimate of the cost to operate, maintain, and supplement the capital equipment replacement fund for the fiscal year commencing on the next July 1.

Should the capital equipment replacement fund be inadequate to cover unscheduled/emergency repairs, equipment replacement or modifications that are found to be necessary for the normal and safe performance of the Storm Water Lift Station (SWLS), the Flood Control District will provide the City with written notice of the need for additional funding.

Currently there are not sufficient funds to replace the Maintenance District No. 1 capital facilities when they reach the end of their useful lives.

Legislative Analysis

Proposition 218 Compliance

On November 5, 1996, California voters approved Proposition 218 entitled "Right to Vote on Taxes Act," which added Articles XIII C and XIII D to the California Constitution. While its title refers only to taxes, Proposition 218 established new procedural requirements for the formation and administration of assessment districts.

Proposition 218 stated that any existing assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control on or before November 6, 1996, shall be exempt from the procedures and approval process of Proposition 218, unless the assessments are increased. Maintenance District No. 1 imposes an assessment exclusively for flood control and drainage improvements.

Proposition 218 defines increased, when applied to an assessment, as a decision by an agency that does either of the following:

- Increases any applicable rate used to calculate the assessment.
- Revises the methodology by which the assessment is calculated, if that revision results in an increased amount being levied on any person or parcel.

The formation methodology used to calculate the MBA that could be levied in any given year allows the MBA from the prior year to be increased by the prior year's change in the Consumer Price Index. Therefore, based upon the review of the City Attorney, imposing the assessment adjustment each year based upon the prior year's increase in the Consumer Price Index does not require Proposition 218 proceedings.

Noticing, Public Comment, and Public Hearing

Noticing and information regarding this report were provided via the following methods: 1) a notice was mailed to all affected property owners to provide detail of their recommended FY 2023 assessment rate and to alert them to three community meetings where they could provide input (June 15, June 21, July 5); and 2) published a legal notice in the East Bay Times on June 24, 2022.

On July 5, 2022, the City is proposing to hold a public hearing to provide an opportunity for any interested person to be heard. After the public hearing, the Council may adopt a resolution setting the annual assessment amounts as originally proposed or as modified. Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the Alameda County Auditor's Office to be included on the FY 2023 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

Plans and Specifications

Introduction

The annual Engineer's Report includes: (1) a description of the improvements to be operated, maintained, and serviced; (2) an estimated budget, (3) the maximum base assessment rate, and (4) a listing of the proposed collection rate to be levied upon each assessable lot or parcel.

Description of Improvements

The facilities, which have been constructed within the City of Hayward's Maintenance District No. 1 boundaries, and those which may be subsequently constructed, will be operated, maintained, and serviced and are generally described as follows:

The Stratford Village Storm Water Lift Station (SWLS):

- 2 - 15 H.P. Pumps
- 1 - 5 H.P. Pump
- 1 - 3 H.P. Dewatering Pump
- 1 - Generator
- 1 - Supervisory Control and Data Acquisition (SCADA) System
- 1 - Masonry Building to House the SCADA System and Generator

The operation and servicing of these facilities include but are not limited to personnel; electrical energy; materials, including diesel fuel and oil; hazardous materials clean up; and appurtenant facilities as required to provide sufficient run-off capacity.

Maintenance means the furnishing of services and materials for the ordinary and usual operations, maintenance, and servicing of the SWLS, including repair, removal or replacement of all or part of any of the SWLS.

Fiscal Year 2023 Estimate of Cost and Budget

Estimate of Costs

Chapter 10, Article 10, Section 10-10.25 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California provides that the total cost of operation, maintenance and servicing of the storm drainage improvements and storm water pumping station can be recovered by the District. Incidental expenses including administration of the District, engineering fees, legal fees and all other costs associated with these improvements can also be included.

Tract No. 6472, 6560, 6682, 6683 & 6682

Formed: June 6, 1995

Resolution Number: 95-103

FY 2023

Maximum Base Assessment Rate: **\$243.92**

Assessment Amount per Parcel: **\$243.92**

Number of Parcels: **174**

Assessment Income: **\$42,442.08**

The following is an overview of the FY 2023 assessment district:

- **Maximum Base Assessment (MBA) Rate:** is unchanged from the original amount of \$243.92 per parcel, set when the District was created.
- **Annual CPI increase:** the maximum base assessment amount cannot be increased annually based upon the prior year's change in the CPI.
- **Assessment revenue:** the FY 2023 amount needed to operate and maintain the facilities and contribute to the capital reserve is: \$42,442.08.
- **Annual assessment charge:** each of the 174 parcels shall be apportioned an equal share of the total assessment for this zone as the special benefit derived by the individual parcels is indistinguishable from each other. The FY 2023 per parcel charge will remain the same as the FY 2022 amount of \$243.92 per parcel. This amount is at the maximum base assessment and is sufficient for maintaining levels of service and for keeping a reserve balance.
- **Proposition 218:** Future increases in the assessment amount above the MBA amount would require the noticing and balloting of property owners per the requirements of Proposition 218.

Alameda County Maintenance Contract, Facility Evaluation, & SCADA Upgrade

In 2018, the County informed the City of the study, the estimated costs, and the need to repair and replace the infrastructure. The total proposed cost estimate from Alameda County was presented to the City in 2020, totaled \$461,699. To date, \$87,597 of that amount has been paid to the County, depleting the District's capital reserve account. An additional payment of \$36,613 was made in FY 2021 to cover the second consultant fee. In February 2021, the County presented a third consultant invoice to the City for \$42,281, increasing the total project cost to \$503,980.

To complete the recommended project scope, an outstanding amount of \$379,770 is required. To fund this outstanding amount, a Proposition 218 assessment balloting was conducted to propose an increase to the annual assessment and adding an annual cost-of-living adjustment mechanism to upgrade and restore this neighborhood's flood control infrastructure to the condition, efficiency, reliability, and effectiveness that was originally intended.

On June 22, 2021, the City Council conducted a public hearing to tabulate property owner ballots regarding formation and levying of assessments for the Stratford Village Flood Control Facilities Improvement Assessment District (MD1-2021). The tabulation resulted in a majority protest in opposition to the proposed assessment; therefore, the assessment was not imposed. As a result, the District remains underfunded and the needed capital improvements will not be made. City staff will continue to work with Alameda County Flood Control District on solutions for the long-term solvency of the district. In addition to working with the County, staff is considering holding a couple of additional focus groups with the community in MD1 that will inform future plans for the long-term fiscal stability of the District.

Figure 1 – 2023 Estimate of Cost

Maintenance District No. 1 - Pacheco Wy., Stratford Rd., Russ Ln., & Ward Crk.
Fund 270, Project 3745
Established 1993, 174 Parcels

	FY 2020 Actual	FY 2021 Actual	FY 2022 Estimated	FY 2023 Proposed
Assessment				
a. Maximum Base Assessment Amount	243.92	243.92	243.92	243.92
b. Annual Per Parcel Assessment	243.92	243.92	243.92	243.92
c. # of Parcels	174	174	174	174
d. Total Amount Assessed for the District:	42,442.08	42,442.08	42,442.08	42,442
Income				
a. Annual Assessment Revenue	42,442	42,442	42,442	42,442
b. Minus County Tax Collection Fee (1.7%)	(722)	(722)	(722)	(722)
c. Adjustment for Delinquencies	(196)	-	-	-
d. Other	628	-	-	-
e. Total Revenue:	42,153	41,721	41,721	41,721
Services				
a. Utilities: PGE	1,625	1,680	2,149	2,213
b. Pump Station O&M - ACFCO	21,359	54,613	42,281	43,549
c. Pump Station - O&M - ACFCO - Past Due Amt	-	-	-	-
d. Pump Station - ACFO Capital Reserve	-	-	-	-
e. SCADA Consultant	-	-	-	-
g. Proposition 218	-	-	27,500	-
h. Property Owner Noticing	73	-	-	103
i. Annual Reporting	2,168	553	1,050	1,032
j. City Administration	3,500	3,605	3,713	3,825
k. Total Expenditures:	28,724	60,451	76,693	50,723
Account Balance				
a. Beginning Account Balance	15,352	28,780	10,049	(24,924)
b. Net Change (Revenue - Expenditures)	13,428	(18,731)	(34,973)	(9,002)
c. Ending Account Balance:	28,780	10,049	(24,924)	(33,926)

Method of Apportionment

Chapter 10, Article 10, Section 10-10.25 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California permits the establishment of assessment districts by agencies to finance the maintenance and operation of drainage and flood control services, which include the operation, maintenance, and servicing of pump stations.

Proposition 218 requires that maintenance assessments must be levied according to benefit rather than according to assessed value. In addition, Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property.

Because assessments are levied on the basis of benefit, they are not considered a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Article XIID of the California Constitution provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements, and rights-of-ways.

The land uses within Maintenance District No. 1 consist of 174 residential parcels and one park parcel. These parcels receive a special benefit in that the pumping station and the storm drains protect the residential parcels and park parcel from storm water flooding. Even though there are only minor structures located on the park parcel it does receive special benefit from flood control improvements and services.

It is estimated that all residential and park parcels derive similar benefits from the flood control improvements and services, therefore the method for spreading the annual costs is on a per parcel basis.

The projected Fiscal Year 2023 maintenance and operation are estimated to be \$50,723. The expense does not include the deposit of funds into a capital replacement fund. The collection rate for Fiscal Year 2023 will be at the maximum assessment rate of \$243.92 per parcel.

Assessment

WHEREAS, the City Council of the City of Hayward, County of Alameda, California, Pursuant to Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California, and Chapter 10, Article 10, Section 10-10.25 of the Hayward Municipal Code, and in accordance with the Resolution of Intention, preliminarily approving the Engineer's Report, as adopted by the City Council of the City of Hayward, on June 21, 2022, and in connection with the proceedings for;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment District, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me and the order of the City Council of the City of Hayward, hereby make the following assessments to cover the portion of the estimated cost of Improvements, and the costs and expenses incidental thereto to be paid by the Assessment District.

As required, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the Assessment District. The distinctive number of each parcel or lot of land in the Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion said net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Assessment District, in accordance with the special benefits to be received by each parcel or lot from the improvements, and more particularly set forth in the Estimate of Costs and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within Assessment District, in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

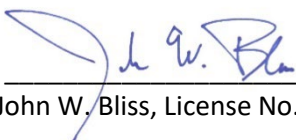
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2023. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2023 for each parcel or lot of land within said Maintenance District No. 1.

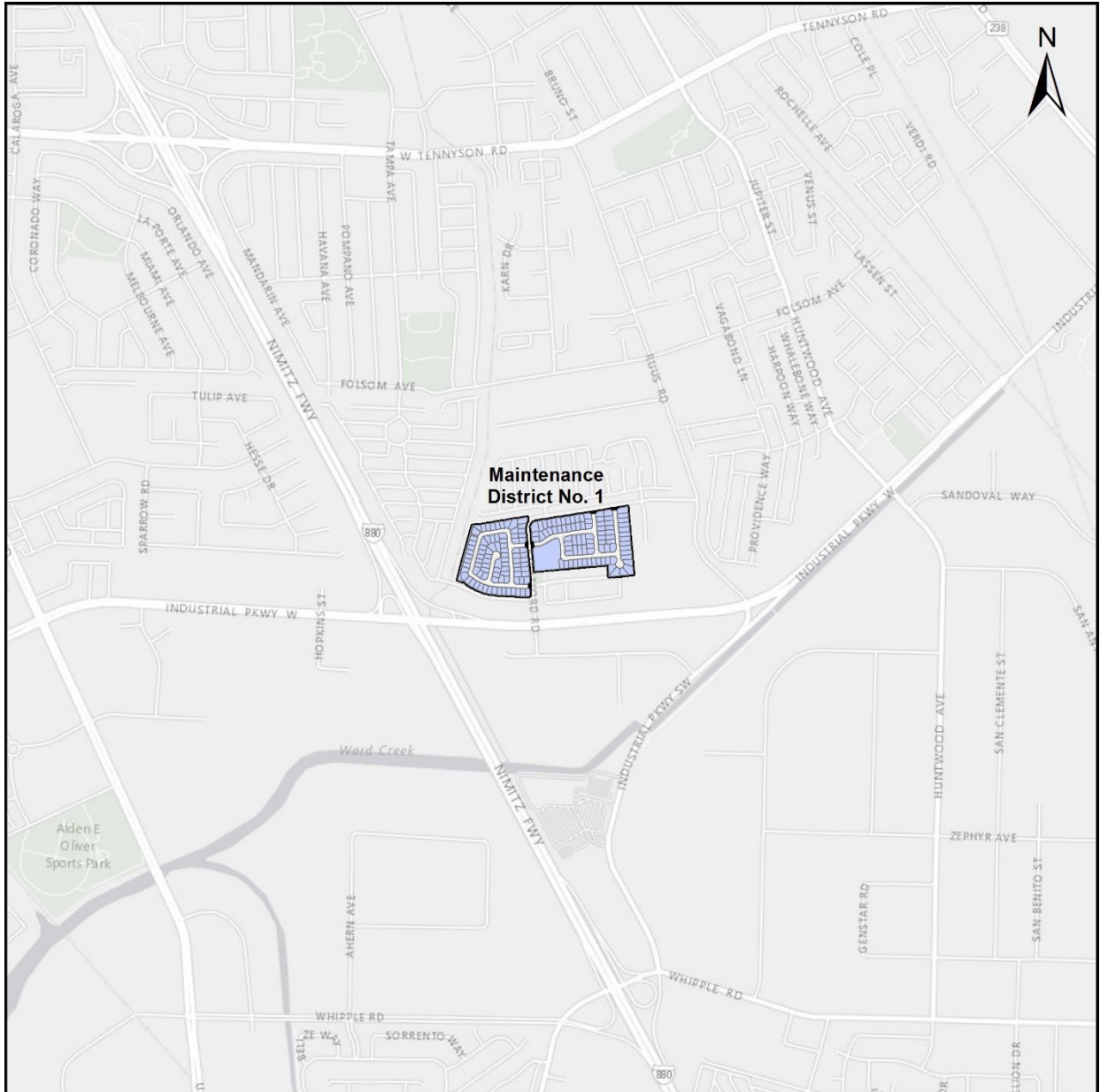
Dated: May 27, 2022



Engineer of Work

By 
John W. Bliss, License No. C052091

Vicinity Map

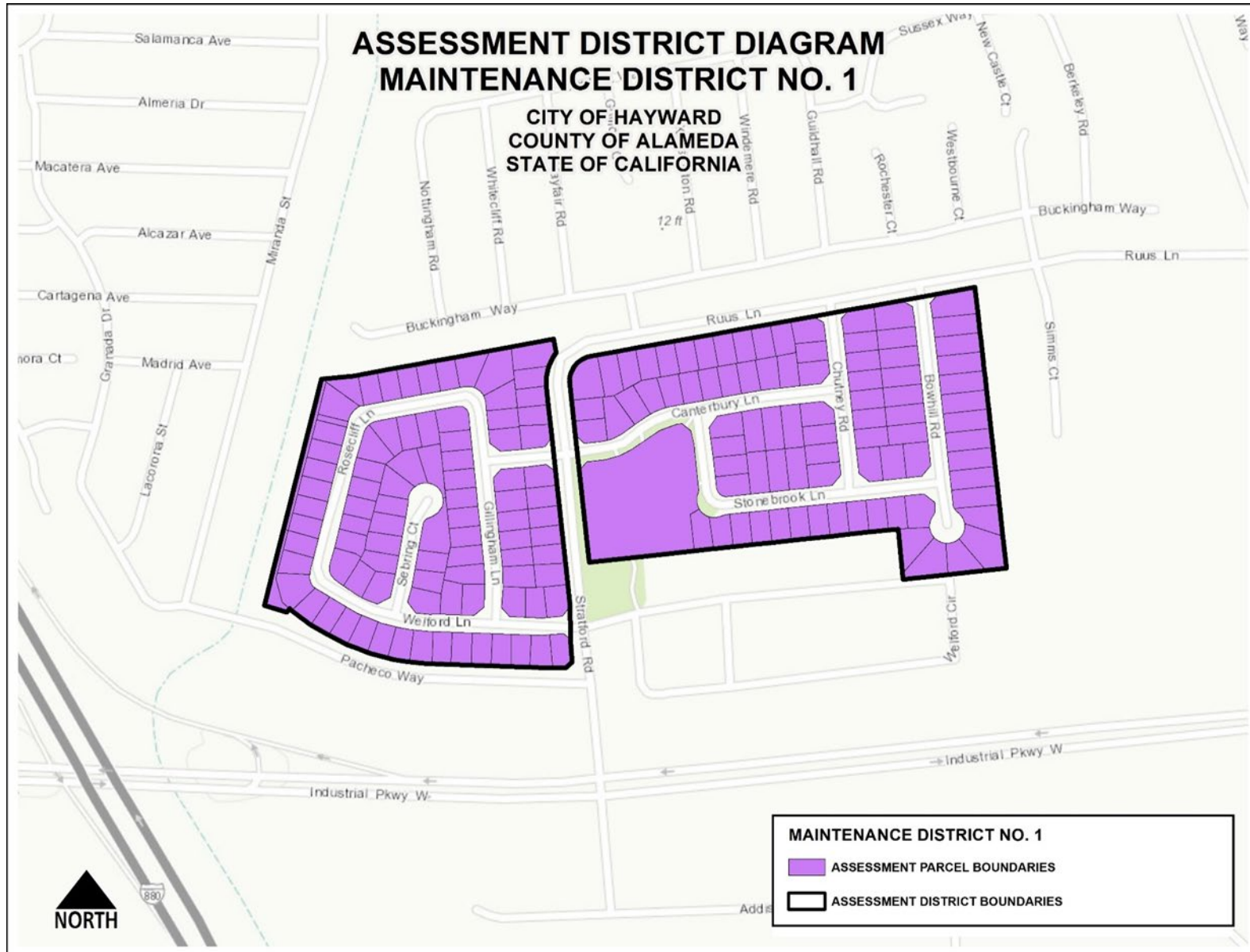


Assessment Diagram

The boundary of the City of Hayward's Maintenance District No. 1 is on file in the Office of the Hayward City Clerk and is incorporated in this report on page 12.

A detailed description of the lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Alameda for Fiscal Year 2023.

For additional information as to the bearings, distances, monuments, easements, etc. of subject subdivisions, reference is hereby made to Final Tract Maps No. 6472, 6560, 6682 and 6683 filed in the Office of the Recorder of Alameda County.



Appendix A - Assessment Roll

A list of names and addresses of the owners of all parcels within the City of Hayward's Maintenance District No. 1 are shown on the last equalized Property Tax Roll of the Assessor of the County of Alameda. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the Office of the Hayward City Clerk.



CITY OF HAYWARD

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

File #: CONS 22-371

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT

Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Levy and Assessments for Fiscal Year 2023 for Maintenance District No. 2 - Eden Shores Storm Water Facilities and Water Buffer, and Set July 5, 2022, as the Public Hearing Date

That Council adopts a resolution (Attachment II) to preliminarily approve the Engineer's Report (Attachment III) and declare intention to Levy Assessments for FY 2023 for Maintenance District No. 2 - Eden Shores Storm Water Facilities and Water Buffer and set July 5, 2022 as the public hearing date for such actions.

SUMMARY

Maintenance District No. 2 (MD 2) was formed in 2003 to fund the ongoing operation, maintenance, administration, and capital replacement of the water buffer and storm water facilities that border the Eden Shores residential community. This annual report is being provided, as required by the Hayward Municipal Code, to approve the annual assessment rate and expenditure budget.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Engineer's Report



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT: Adopt a Resolution to Preliminarily Approve the Engineer's Report and declare intention to Levy Assessments for Fiscal Year 2023 for Maintenance District No. 2 – Eden Shores Storm Water Facilities and Water Buffer, and Set July 5, 2022, as the Public Hearing Date

RECOMMENDATION

That Council adopts a resolution (Attachment II) to preliminarily approve the Engineer's Report (Attachment III) and declare intention to Levy Assessments for FY 2023 for Maintenance District No. 2 – Eden Shores Storm Water Facilities and Water Buffer and set July 5, 2022 as the public hearing date for such actions.

SUMMARY

Maintenance District No. 2 (MD 2) was formed in 2003 to fund the ongoing operation, maintenance, administration, and capital replacement of the water buffer and storm water facilities that border the Eden Shores residential community. This annual report is being provided, as required by the Hayward Municipal Code, to approve the annual assessment rate and expenditure budget.

BACKGROUND

On June 24, 2003, the Council ordered the formation of MD 2 to provide for the maintenance, operation, administration, and capital replacement of a water buffer and storm water pre-treatment facility. The water buffer consists of landscaping, recirculating pumps and filters, maintenance roads, pedestrian bridge, and anti-predator and perimeter fencing. The Eden Shores Maintenance District includes three residential tracts (7317, 7360, 7361) totaling 534 homes. The funds collected from the property owners within MD 2 pay for the ongoing annual operation, maintenance, administration, and capital contribution to operate and maintain this important infrastructure. Capital funds are collected and maintained so that the district has the financial resources available to utilize to repair or replace sections of fencing, pumps, or bridge components in the future.

In compliance with Section 10-10.25 of the Hayward Municipal Code, an annual Engineer's Report is required to be submitted to the Council. The report is attached (Attachment III), and includes:

- (1) Description of the improvements to be operated, maintained, serviced, and replaced;
- (2) FY 2023 recommended budget;
- (3) FY 2023 recommended assessment rate; and
- (4) Map of the benefit zone (assessment diagram).

DISCUSSION

Based upon revenues required to fund operations and maintenance, and maintain a capital replacement fund, staff is recommending a FY 2023 per parcel charge of \$240.22, which is an increase the assessment rate from FY 2022 (\$228.79). This increase does not exceed the \$1,069.14 Maximum Base Assessment (MBA) Rate for the District, and therefore does not require a Proposition 218 election and public hearing.

FISCAL AND ECONOMIC IMPACT

Staff has evaluated the District's fund balance and concurs that funds are adequate for FY 2023. There is no anticipated fiscal impact to the City's General Fund associated with this action, as all expenses will be paid using funds held in reserve by MD2.

STRATEGIC ROADMAP

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

PUBLIC CONTACT

City staff: 1) mailed a postcard notice to property owners to let them know of their recommended FY 2023 assessment rate, and to alert them to three public meetings where they could provide input (June 15, June 21, and July 5); 2) held a virtual community meeting via Zoom on June 15; and 3) will publish a legal notice in the East Bay Times on June 24, 2022.

NEXT STEPS

Following this Council meeting, the City is proposing to hold a public hearing on July 5, 2022, to provide an opportunity for any interested person to be heard. After the public hearing, the Council may adopt a resolution setting the annual assessment amount as originally proposed or as modified. Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the County Auditor's office to be included on the FY 2023 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report. If the Council adopts

the attached resolution of intention, it will hold a noticed public hearing on July 5, 2022, to consider approving the Engineer's Report and order the levy of assessments for FY 2023.

Prepared by: Liz Sanchez, Management Analyst

Recommended by: Todd Rullman, Maintenance Services Director

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION OF INTENTION PRELIMINARILY APPROVING ENGINEER'S REPORT, DECLARING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2023, AND SETTING JULY 5, 2022, AS THE PUBLIC HEARING DATE CONCERNING MAINTENANCE DISTRICT NO. 2 - EDEN SHORES STORM WATER FACILITIES AND WATER BUFFER

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

1. Maintenance District No. 2 - Eden Shores Storm Water Facilities and Water Buffer (the "District") was established by the adoption of Resolution No. 03-102 to provide funds to operate, maintain, and service a storm water facility and the water buffer bordering the residential portion of Eden Shores, which encompasses the three residential tracts 7316, 7360, and 7361 in the Eden Shores development, totaling 534 homes.
2. SCI Consulting Group is hereby designated as Engineer of Work for purposes of these proceedings and was ordered to prepare an Engineer's Report in accordance with Article XIIIID of the California Constitution.
3. The Engineer of Work has prepared a report in accordance with Section 10-10.25 of the Hayward Municipal Code. Said report has been made, filed, and duly considered by this City Council and is hereby deemed sufficient and preliminarily approved. Said report shall stand as the report for all subsequent proceedings related to the proposed levy of District assessments for Fiscal Year 2023.
4. It is the intention of the City Council to order the levy and collection of assessments for the maintenance of the storm water facility and water buffer pursuant to Part 3, Chapter 26 of Division 7 of the California Streets and Highways Code (commencing with Section 5820 thereof).
5. The proposed assessment for the District for Fiscal Year 2023 is \$240.22, which is an increase from the previous fiscal year's assessment of \$228.79. The maximum base assessment amount for the District is subject to an annual adjustment equal to the change in the San Francisco-Oakland-Hayward the Consumer Price Index for All Urban Consumers (CPI-U) from the previous year. The maximum base assessment amount for the District for Fiscal Year 2023 has been increased from the previous

year’s maximum base assessment amount of \$1,016.39 by 5.19%, which is equal to the percentage increase in CPI-U from February 2021 to February 2022. The maximum base assessment amount for the District for Fiscal Year 2023 is \$1,069.14.

- 6. Reference is hereby made to the aforementioned report on file with the City Clerk for a full and detailed description of the improvements, the boundaries of the proposed District, and the proposed assessments upon assessable lots within said District.
- 7. On July 5, 2022, at the hour of 7:00 p.m., a public hearing will be held on the levy of the proposed assessment.
- 8. Prior to the conclusion of said public hearing, any interested person may file a written protest with the City Clerk, or having previously filed a protest, may file a written withdrawal of that protest. A written protest by a property owner shall contain a description sufficient to identify the property owned by such owner.
- 9. The City Clerk is hereby directed to cause a notice of said meeting and hearing to be made in the form and manner provided by applicable laws.

IN COUNCIL, HAYWARD, CALIFORNIA, June 21, 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

Fiscal Year 2023

ENGINEER'S REPORT

City of Hayward

Maintenance District No. 2

June 2022

Preliminary Report

Engineer of Work:



4745 Mangels Boulevard
Fairfield, California 94534
707.430.4300
www.sci-cg.com

City of Hayward

City Council

Barbara Halliday, Mayor

Angela Andrews, Council Member

Sara Lamnin, Council Member

Elisa Márquez, Council Member

Mark Salinas, Council Member

Aisha Wahab, Council Member

Francisco Zermeño, Council Member

Clerk of the Council

Miriam Lens

City Manager

Kelly McAdoo

City Attorney

Michael Lawson

Engineer of Work

SCI Consulting Group

Table of Contents

- Introduction 1**
 - Overview..... 1
 - Legislative Analysis 1
- Plans and Specifications 3**
 - Introduction..... 3
 - Description of Improvements 3
- Fiscal Year 2023 Estimate of Cost and Budget 4**
 - Estimate of Costs..... 4
- Method of Apportionment 6**
- Assessment 7**
- Vicinity Map..... 9**
- Assessment Diagram 10**
- Appendix A - Assessment Roll..... 12**

List of Figures

Figure 1 – 2023 Estimate of Cost 5

Introduction

Overview

On April 16, 2002, by Resolution No. 02-043, the City Council approved the Final Map of Tract 7317 for a 114-lot residential subdivision, with 109 single-family homes, located on the northerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On November 26, 2002, by Resolution No. 02-171, the City Council approved the Final Map of Tract 7361 for a 120 lot residential subdivision, with 116 single-family homes, located on the southerly side of Eden Shores Boulevard and westerly of the Union Pacific Railroad.

On June 3, 2003, by Resolution No. 03-083, the City Council approved the Final Map for Tract 7360, for a 318-lot residential subdivision, with 309 single-family homes located on the southwesterly side of Eden Shores Drive and westerly of the Union Pacific Railroad. The additional lots in each subdivision, 27 in total, will be landscaped areas, parks, wetlands or buffer areas.

Conditions of approval for Tracts No. 7317, 7360 and 7361, included provisions for construction of a water buffer channel and storm-water pretreatment pond, masonry walls, anti-predator fences, and landscaping within the proposed development area. Maintenance District No. 2 provides a funding source to operate and maintain these improvements, including the furnishing of water and electrical energy along with debris removal, weeding, trimming, and pest control spraying.

On June 24, 2003, by Resolution No. 03-102, the City Council ordered the formation of Maintenance District No. 2 to provide the funding for the operation and maintenance of these facilities. The FY 2004 Final Engineer's Report (formation report) included a FY 2004 budget which proposed \$343,875.00 in expenditures at buildout for an anticipated 525 assessable parcels which equated to Maximum Base Assessment (MBA) Rate of \$655.00 per parcel. This MBA rate which may be levied is increased each fiscal year by the prior year's change in the Consumer Price Index.

Legislative Analysis

Proposition 218 Compliance

On November 5, 1996, California voters approved Proposition 218 entitled "Right to Vote on Taxes Act," which added Articles XIII C and XIII D to the California Constitution. While its title

refers only to taxes, Proposition 218 established new procedural requirements for the formation and administration of assessment districts.

Proposition 218 stated that any existing assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control on or before November 6, 1996, shall be exempt from the procedures and approval process of Proposition 218, unless the assessments are increased. Proposition 218 defines increased, when applied to an assessment, as a decision by an agency that does either of the following:

- Increases any applicable rate used to calculate the assessment.
- Revises the methodology by which the assessment is calculated, if that revision results in an increased amount being levied on any person or parcel.

The formation methodology used to calculate the MBA that could be levied in any given year allows the MBA from the prior year to be increased by the prior year's change in the Consumer Price Index. Therefore, based upon the review of the City Attorney, imposing the assessment adjustment each year based upon the prior year's increase in the Consumer Price Index does not require Proposition 218 proceedings.

Noticing, Public Comment, and Public Hearing

Noticing and information regarding this report were provided via the following methods: 1) a notice was mailed to all affected property owners to provide detail of their recommended FY 2023 assessment rate and to alert them to three community meetings where they could provide input (June 15, June 21, July 5); and 2) published a legal notice in the East Bay Times on June 24, 2022.

On July 5, 2022, the City is proposing to hold a public hearing to provide an opportunity for any interested person to be heard. After the public hearing, the Council may adopt a resolution setting the annual assessment amounts as originally proposed or as modified. Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the Alameda County Auditor's Office to be included on the FY 2023 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All funds collected through the assessment must be placed in a special fund and can only be used for the purposes stated within this report.

Plans and Specifications

Introduction

The annual Engineer's Report includes: (1) a description of the improvements to be operated, maintained, and serviced; (2) a listing of the proposed collection rate to be levied upon each assessable lot or parcel; and (3) an estimated budget.

Description of Improvements

The facilities, which have been constructed within the City of Hayward's Maintenance District No. 2 boundaries, and those which may be subsequently constructed, will be operated, maintained, and serviced and are generally described as follows:

- Water Buffer Channel;
- Storm-water Pre-Treatment Pond;
- Masonry Walls;
- Anti-predator Fences; and
- Miscellaneous Landscaping

The operation, maintenance and servicing of these improvements include, but are not limited to personnel, water (for irrigation and buffer replenishment), electrical energy, materials (including diesel fuel and oil), debris removal, weeding, trimming, pest control spraying, etc.

Fiscal Year 2023 Estimate of Cost and Budget

Estimate of Costs

Chapter 10, Article 10, Section 10-10.25 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California provides that the total cost of operation, maintenance and servicing of the water buffer channel, water treatment pond, masonry walls, anti-predator fences and landscaping can be recovered by the District. Incidental expenses including administration of the District, engineering fees, legal fees and all other costs associated with these improvements can also be included.

Tract No. 7317, 7360 & 7361

Formed: June 24, 2003

Resolution Number: 03-102

FY 2023

Maximum Base Assessment Rate: **\$1,069.14**

Assessment Amount per Parcel: **\$240.22**

Number of Parcels: **534**

Assessment Income: **\$128,277.48**

The following is an overview of the FY 2023 assessment district:

- **Maximum Base Assessment (MBA) Rate:** was increased from the prior year's MBA rate of \$1,016.39 to **\$1,069.14** by applying CPI-U for the San Francisco-Oakland-Hayward MSA (5.19% for the period February 2021 to February 2022).
- **Annual CPI increase:** the MBA amount can increase annually based upon the prior year's change in the CPI.
- **Assessment revenue:** the FY 2023 amount needed to operate and maintain the facilities and contribute to the capital reserve is: **\$128,277.48**
- **Annual assessment charge:** each of the 534 parcels shall be apportioned an equal share of the total assessment for this zone as the special benefit derived by the individual parcels is indistinguishable from each other. The FY 2023 per parcel charge will increase from the previous year from \$228.79 to \$240.22. This amount is below the MBA and is sufficient for maintaining levels of service and for keeping a reserve balance. In future years, if there is a need for additional funds, the assessment amount may be increased up to the MBA amount.

- **Proposition 218:** Future increases in the assessment amount above the MBA amount would require the noticing and balloting of property owners per the requirements of Proposition 218.

Figure 1 – 2023 Estimate of Cost

Maintenance District No. 2 - Eden Shores - Water Buffer
Fund 271, Project 3718
Established 2003, 534 Parcels

	FY 2020	FY 2021	FY 2022	FY 2023
	Actual	Actual	Estimated	Proposed
Assessment				
a. Maximum Base Assessment Amount	967.00	1,000.68	1,016.39	1,069.14
b. Annual Per Parcel Assessment	198.95	198.95	228.79	240.22
c. # of Parcels	534	534	534	534
d. Total Amount Assessed for the District:	106,239	106,239	122,175	128,277
Income				
a. Annual Assessment Revenue	106,239	106,239	122,175	128,277
b. Minus County Tax Collection Fee (1.7%)	(1,806)	(1,806)	(2,077)	(2,181)
c. Adjustment for Delinquencies	(683)	-	-	-
d. Other	8,756	3,000	3,200	3,400
e. Total Revenue:	112,507	107,433	123,298	129,497
Services				
a. Utilities: Water	65,030	48,063	63,000	64,890
b. Utilities: PGE	8,209	9,204	14,500	14,935
c. Maintenance - Landscaping - New Image	5,400	-	-	-
d. Maintenance - Pond - Solitude	24,024	2,184	-	-
e. Maintenance - Sediment Removal	-	-	-	-
f. Maintenance - One-Time Project/Maintenance	4,584	39,288	32,688	47,000
g. Maintenance Pre-Treatment Pond - ACFCO	-	-	-	-
h. Fence Repair	-	-	4,491	50,000
i. Pump Repair	-	-	40,779	30,000
j. Fire Hazard Mitigation (Goats)	6,000	-	-	-
k. Weather Based Irrigation Controllers	-	-	-	-
m. Property Owner Noticing	223	172	180	260
n. Annual Reporting	2,167	1,032	1,100	1,032
o. City Administration	2,575	4,080	4,202	4,328
p. Total Expenditures:	118,210	104,023	160,940	212,446
Account Balance				
a. Beginning Account Balance	377,230	371,526	374,936	337,294
b. Net Change (Revenue - Expenditures)	(5,704)	3,410	(37,642)	(82,949)
c. Ending Account Balance:	371,526	374,936	337,294	254,345

Method of Apportionment

Chapter 10, Article 10, Section 10-10.25 of the Hayward Municipal Code and as supplemented by the provisions of Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping.

Proposition 218 requires that maintenance assessments must be levied according to benefit rather than according to assessed value. In addition, Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property.

Because assessments are levied on the basis of benefit, they are not considered a tax, and, therefore, are not governed by Article XIII A of the California Constitution.

Article XIID of the California Constitution provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements, and rights-of-ways.

The properties benefiting from the operation, maintenance and servicing of water buffer channels, water treatment ponds, masonry walls, predator fences and landscaping consist of the 534 single-family residential lots located within Tracts No. 7317, 7360 and 7361.

Each of the 534 single-family residential lots receive a special benefit in that they are able to be developed because protection to the adjacent open space has been provided through the construction of these improvements. The special benefit derived by the individual parcels is indistinguishable between parcels. Therefore, all residential parcels derive the same benefit and the corresponding method of assessment for residential land uses is based on a per parcel basis.

The estimated Fiscal Year 2023 proposed assessment revenue is \$128,277.48. The proposed assessment for the District for Fiscal Year 2023 is \$240.22 per parcel, which is the same amount as the previous fiscal year's assessment. The MBA amount for the District is subject to an annual adjustment equal to the change in the applying CPI-U for the San Francisco-Oakland-Hayward MSA from the previous year. The MBA amount for the District for Fiscal Year 2023 has been increased from the previous year's MBA amount of \$1,016.39 by 5.19%, which is equal to the percentage increase in CPI-U from February 2021 to February 2022. The MBA amount for the District for Fiscal Year 2023 is \$1,069.14.

Assessment

WHEREAS, the City Council of the City of Hayward, County of Alameda, California, Pursuant to Chapter 26 of Part 3 of Division 7 of the Streets and Highways Code of the State of California, and Chapter 10, Article 10, Section 10-10.25 of the Hayward Municipal Code, and in accordance with the Resolution of Intention, being Resolution No. XX, preliminarily approving the Engineer's Report, as adopted by the City Council of the City of Hayward, on June 21, 2022, and in connection with the proceedings for;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Assessment District and an assessment of the estimated costs of the improvements upon all assessable parcels within the Assessment District, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me and the order of the City Council of the City of Hayward, hereby make the following assessments to cover the portion of the estimated cost of Improvements, and the costs and expenses incidental thereto to be paid by the Assessment District.

As required, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the Assessment District. The distinctive number of each parcel or lot of land in the Assessment District is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion said net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Assessment District, in accordance with the special benefits to be received by each parcel or lot from the improvements, and more particularly set forth in the Estimate of Costs and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within Assessment District, in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

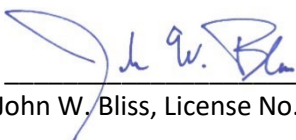
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2023. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2023 for each parcel or lot of land within said Maintenance District No. 2.

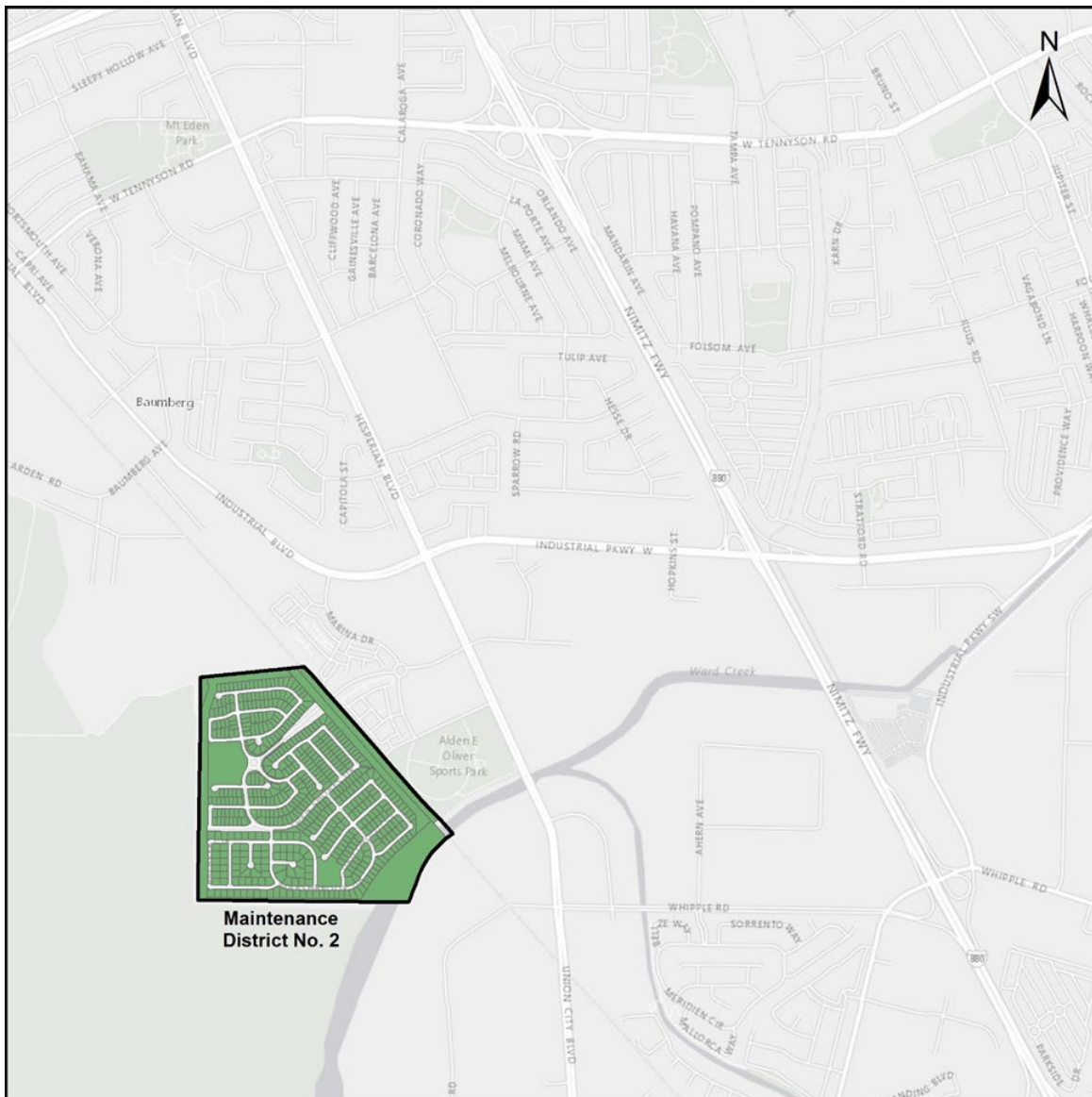
Dated: May 27, 2022



Engineer of Work

By  _____
John W. Bliss, License No. C052091

Vicinity Map

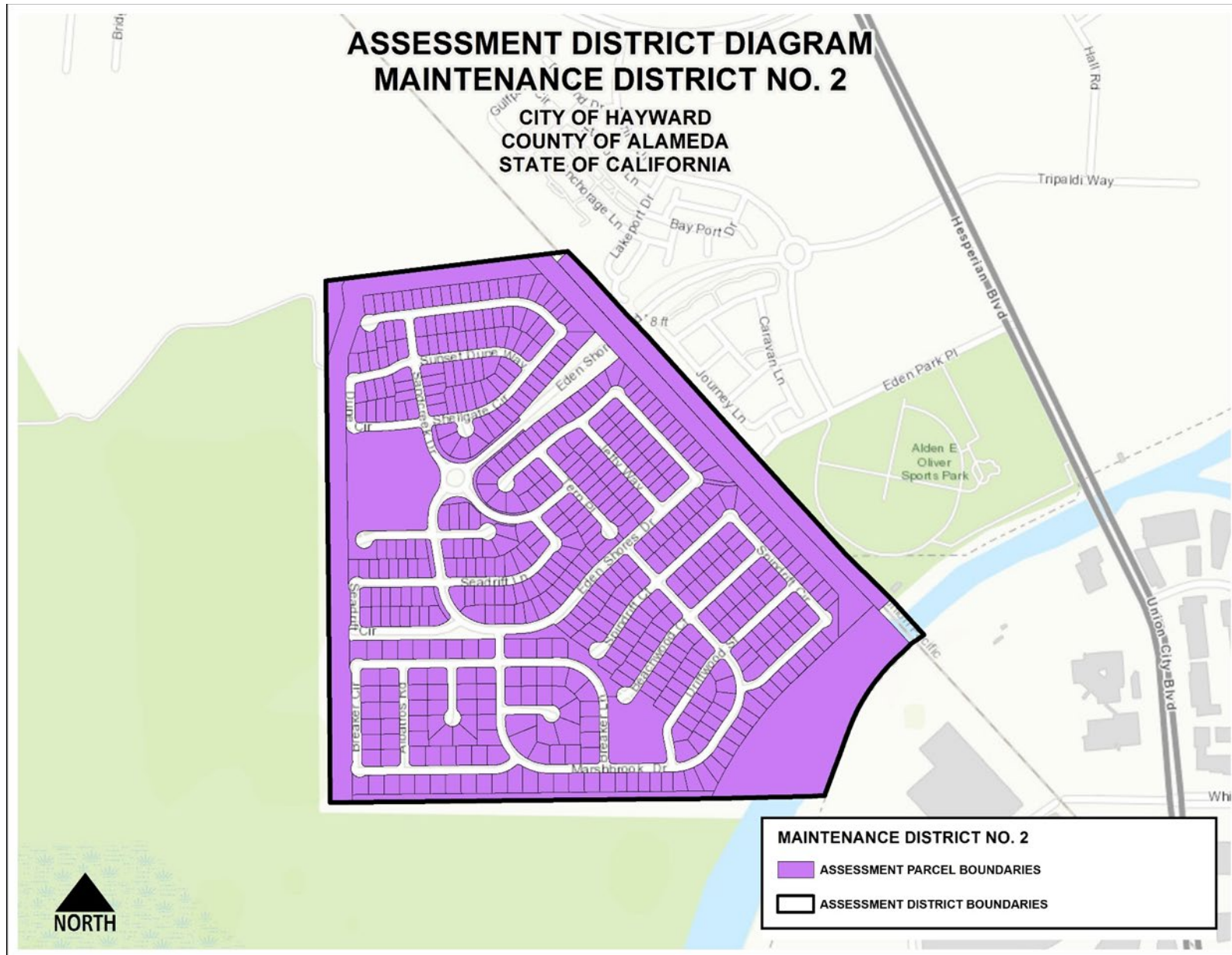


Assessment Diagram

The Assessment District Diagram for the City of Hayward's Maintenance District No. 2 (Eden Shores) is on file in the Office of the Hayward City Clerk and is incorporated in this report in Appendix "A".

A detailed description of the lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Alameda for Fiscal Year 2023.

For additional information as to the bearings, distances, monuments, easements, etc. of subject subdivisions, reference is hereby made to Final Tracts Maps No. 7317, 7360 and 7361 filed in the Office of the Recorder of Alameda County



Appendix A - Assessment Roll

A list of names and addresses of the owners of all parcels within the City of Hayward's Maintenance District No. 2 are shown on the last equalized Property Tax Roll of the Assessor of the County of Alameda. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the Office of the Hayward City Clerk.



CITY OF HAYWARD

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

File #: CONS 22-370

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT

Adopt Resolutions Authorizing the City Manager to Establish a Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program in the Amount of \$10,000 per Qualified Candidate and Authorizing the Establishment of a Hiring Incentive Referral Program (HIRP) in the Amount of \$2,000 to Be Paid to Qualifying City of Hayward Employees Who Successfully Refer Communications Operator Candidates

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to establish a Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program and a resolution (Attachment III) authorizing the City Manager to establish a Communications Operator Hiring Incentive Referral Program (HIRP). The COLE Hiring Bonus Program will offer bonuses in the amount of \$10,000 per Qualified Candidate hired. The HIRP will offer current City of Hayward employees a \$2,000 incentive for referring qualified candidates who achieve full-time, permanent positions as Communications Operators.

SUMMARY

The City of Hayward Communications Operation Center has experienced a significantly diminished pool of well-qualified Communications Operator applicants. This is partially due to the competitive market, factors related to COVID, increasing flexibility to work remotely, and the heightened demands and expectations of those who work in public safety. To attract more qualified applicants, and to keep pace with industry standards, staff recommends the permanent establishment of the Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program in the amount of \$10,000 per qualified candidate. The bonus awards for the COLE Hiring Bonus Program would be distributed over a three to four-year period based on the candidate being hired as a Lateral or Entry-level Communications Operator. To further increase the recruitment of qualified candidates, staff also recommends that a Hiring Referral Incentive Program (HIRP) in the amount of \$2,000 be extended to City of Hayward Employees who successfully refer Communication Operator Candidates that achieve full-time employment.

ATTACHMENTS

Attachment I Staff Report

File #: CONS 22-370

Attachment II	COLE Bonus Program Resolution
Attachment III	Communications Operator HIRP Resolution
Attachment IV	COLE Bonus Program Agreement
Attachment V	Communications Operator HIRP Referral Application



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Adopt Resolutions Authorizing the City Manager to Establish a Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program in the Amount of \$10,000 per Qualified Candidate and Authorizing the Establishment of a Hiring Incentive Referral Program (HIRP) in the Amount of \$2,000 to Be Paid to Qualifying City of Hayward Employees Who Successfully Refer Communications Operator Candidates

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to establish a Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program and a resolution (Attachment III) authorizing the City Manager to establish a Communications Operator Hiring Incentive Referral Program (HIRP). The COLE Hiring Bonus Program will offer bonuses in the amount of \$10,000 per Qualified Candidate hired. The HIRP will offer current City of Hayward employees a \$2,000 incentive for referring qualified candidates who achieve full-time, permanent positions as Communications Operators.

SUMMARY

The City of Hayward Communications Operation Center has experienced a significantly diminished pool of well-qualified Communications Operator applicants. This is partially due to the competitive market, factors related to COVID, increasing flexibility to work remotely, and the heightened demands and expectations of those who work in public safety. To attract more qualified applicants, and to keep pace with industry standards, staff recommends the permanent establishment of the Communications Operator Lateral & Entry Level (COLE) Hiring Bonus Program in the amount of \$10,000 per qualified candidate. The bonus awards for the COLE Hiring Bonus Program would be distributed over a three to four-year period based on the candidate being hired as a Lateral or Entry-level Communications Operator. To further increase the recruitment of qualified candidates, staff also recommends that a Hiring Referral Incentive Program (HIRP) in the amount of \$2,000 be extended to City of Hayward Employees who successfully refer Communication Operator Candidates that achieve full-time employment.

BACKGROUND

The Hayward Police Department, like many other municipalities, is experiencing a diminished pool of well-qualified applicants. On March 22, 2022, City Council approved the establishment of hiring bonuses and HIRP programs for the position of Police Officer. The approval of the programs met industry standards and aims to attract more qualified candidates for the position. This is the same goal intended with the COLE Hiring Bonus for Communications Operators. From past practice, hiring bonuses have effectively increased applicant interest and resulted in hiring better-qualified candidates. With the COVID pandemic and other issues facing Public Safety recruitment, it is more imperative than ever that our Communications Center gains a competitive edge and establishes the COLE Hiring Bonus and the HIRP employee referral program. These programs are best practices and are consistent with recruitment strategies within the region.

Many agencies have incorporated incentive programs to assist in increasing their pool of eligible candidates for jobs by utilizing one or more recruiting strategies. Hiring bonuses are now industry standard and are strategically used by departments to engage and attract the best talent. Our recruitment research has shown that utilizing two types of hiring bonus programs can aid in attracting top candidates to our agency by offering monetary bonuses to entry-level and lateral Communications Operators. The COLE Hiring Bonus program will target both groups of candidates, providing monetary incentives that other agencies do not offer.

DISCUSSION

COLE PROGRAM:

Regionally, very few agencies utilize a Hiring Bonus program for Entry-Level candidates. Table 1 below shows regional jurisdictions where entry-level classification positions qualify for a signing bonus. Currently, there are no local agencies that utilize a Hiring Bonus Program for entry-level Communications Operators. Offering the COLE hiring bonus to entry-level candidates, would provide our Communications Center with a distinct advantage over nearby competitors.

**TABLE 1: JURISDICTIONS OFFERING SIGNING BONUSES FOR ENTRY LEVEL/POST GRADUATES
BONUSES VERIFIED AS 5/18/22**

JURISDICTION	EXAMPLE OF SIGNING BONUSES OFFERED
Placer County Sheriff	<ul style="list-style-type: none">• \$2,500 Signing Bonus
Sonoma County Sheriff	<ul style="list-style-type: none">• \$600 cash allowance
San Joaquin County Sheriff	<ul style="list-style-type: none">• \$10,000 (3 installments)

Staff recommends that the City adopts the Communications Operator Entry-Level Hiring Bonus Program as outlined through COLE. Based on surveying local agencies within

California and the Western United States, staff recommends a \$10,000 hiring bonus incentive for qualifying Entry-level candidates. This amount is competitive to the cost of living in San Francisco Bay Area and provides for a substantial recruitment advantage as compared to other agencies recruiting in the region.

The Entry-level employee hired would make a four-year commitment or repay the City on a prorated basis. For Laterals who are hired, the employee would make a 3-year commitment or be required to repay the bonus on a prorated basis. Staff further recommends that the COLE hiring bonus for Entry-level and Laterals be distributed over the phases as illustrated in Tables 2 and 3 below:

TABLE 2: ELIGIBILITY AND BONUS DISTRIBUTION FOR ENTRY LEVEL COMMUNICATIONS OPERATOR CANDIDATES

PHASE	QUALIFICATION	BONUS AMOUNT
1 - 25%	Successful Completion of the testing process and acceptance of a final offer of employment to be paid on first pay period	\$2,500
2 - 25%	Successful Completion of Communications Training Program (CTO)	\$2,500
3 - 25%	Successful Completion of the Communications Probationary Period	\$2,500
4 - 25%	Two years after the completion of Probationary Period	\$2,500
TOTAL BONUS (Distributed Over a 4-Year Period):		\$10,000

TABLE 3: ELIGIBILITY AND BONUS DISTRIBUTION FOR LATERAL COMMUNICATIONS OPERATOR CANDIDATES

PHASE	QUALIFICATION	BONUS AMOUNT
1 - 25%	Acceptance of a final offer of employment to be paid on first pay period	\$2,500
2 - 50%	Successful Completion of Communications Training Program (CTO)	\$5,000
3 - 25%	One year after completion of the Probationary Period	\$2,500
TOTAL BONUS (Distributed Over a 3-Year Period):		\$10,000

Table 4 below describes the internal monitoring of the signing bonus implementation.

TABLE 4: INTERNAL MONITORING PROCEDURE FOR SIGNING BONUS IMPLEMENTATION

LEAD DEPARTMENT	PROCEDURE
Police Department: Personnel & Training Unit Division	<ul style="list-style-type: none"> ○ Determine COLE Communications Operator Applicant's eligibility to participate in the program and notify applicant. ○ Certify that the applicant has successfully accepted a Final Offer of Employment. ○ Notify Payroll of applicant's eligibility of each level of distribution of COLE Hiring Bonus Program.
Finance Department: Payroll	<ul style="list-style-type: none"> ○ Process COLE Hiring Bonus distributions as taxable income.

LATERAL COMMUNICATIONS OPERATOR HIRING BONUS PROGRAM:

The Lateral hiring programs have intensified over the past 2-3 years and industry standards in Public Safety recruiting have seen many law enforcement agencies incorporating robust monetary Lateral Bonus Programs to help attract more qualified candidates. Local agencies are all competing for the same group of experienced candidates. An effectively managed Lateral Bonus Program is expected to help in expanding our agency’s pool of well-qualified Lateral Communications Operator applicants and attract them to our department.

Across the state, several agencies have initiated Lateral Bonus Programs that offer monetary incentives to qualified applicants. This recruitment tool is utilized to counter several economic factors such as housing costs, increased cost of living, and rising inflation. Table 5 illustrates jurisdictions both regionally and throughout the state that currently offer signing bonuses for Lateral Communications Operators.

TABLE 5: JURISDICTIONS OFFERING SIGNING BONUSES FOR LATERAL COMMUNICATIONS OPERATOR BONUSES VERIFIED AS OF 5/18/22

JURISDICTION	EXAMPLE OF SIGNING BONUSES OFFERED
Fairfield Police Department	• \$10,000 Signing Bonus
Chico Police Department	• \$20,000 Signing Bonus
Chino Police Department	• \$5,000 Signing Bonus
Eureka Police Department	• \$10,000 Signing Bonus
Contra Costa County Sheriff's Department	• \$3,000 Signing Bonus
San Joaquin County Sheriff's Department	• \$10,000 Signing Bonus
Yuba County Sheriff's Department	• \$2,500 - \$10,000 (DOE)

To attract more qualified Lateral Communications Operators, staff recommends that the Hayward Police Department implement the COLE Hiring Bonus Program. Based on the survey of regional agencies within California, it is suggested that a \$10,000 hiring bonus incentive be established for qualifying Lateral Communications Operators. This amount is competitive and provides for a substantial recruitment advantage as compared to other local agencies in the area. As previously noted in Table 3, staff recommends that the Bonus Program for Laterals be paid incrementally over three (3) phases during the first 3-years of employment.

Monitoring of signing bonus installments for Lateral and Entry-level Communications Operators will be managed by the HPD Personnel and Training Unit. Table 6 below describes the internal monitoring of the signing bonus implementation.

TABLE 6: INTERNAL MONITORING PROCEDURE FOR COLE HIRING BONUS IMPLEMENTATION

LEAD DEPARTMENT	PROCEDURE
Police Department: Personnel & Training Unit Division	<ul style="list-style-type: none"> ○ Determine Lateral Communication Operator Applicant’s eligibility to participate in the program and notify applicant. ○ Classify that applicant has successfully completed the Lateral Communications Operator hiring process and accepted a Final Offer of Employment. ○ Notify Payroll of applicant’s eligibility of each level of distribution of the Lateral Communications Operator Bonus Program.
Finance Department: Payroll	<ul style="list-style-type: none"> ○ Process Lateral Communications Operator bonus distributions as taxable income.

HIRING INCENTIVE REFERRAL PROGRAM (HIRP) PROGRAM:

A recruitment strategy that utilizes an agency’s current employees to provide word-of-mouth recruiting can be an effective tool to engage and recruit new employees. Employee incentive plans have been around for years and often highlight new employees who have an interaction with a current departmental employee. This engagement can provide some of the best candidates to fill vacancies within the Communications Center. To help supplement this word-of-mouth type of recruiting, staff recommends establishing a Hiring Incentive Referral Program (HIRP) to help achieve recruitment and hiring goals for the Communications Center.

The HIRP will pay a total of \$2,000 to current City of Hayward employees who refer non-City employees to the City of Hayward Police Department for employment into a full-time, permanently budgeted position. The new employee must have no prior work history with the City and notification of the referral must be provided to the Personnel and Training Unit via written notification.

ELIGIBILITY GUIDELINES:

- a. The Referrer must be a current employee of the City of Hayward.
- b. The new employee must be hired into a vacant full-time, permanently budgeted position.
- c. The new employee must pass probation to obtain full benefits of the HIRP.
- d. The new employee must have no prior work history with the City of Hayward.
- e. Written notification regarding the employee referral must be provided to the Personnel and Training Unit from the referring employee prior to any formal offer of employment.
- f. Only one (1) incentive award can be granted per new employee referral.

INELIGIBILITY GUIDELINES:

- a. A referring employee cannot be at the Executive level or above.
- b. Employees assigned to the HPD Personnel and Training Unit and COH Human Resources Department are not eligible for this program.
- c. HPD employees assigned to the Recruitment Team are ineligible for referrals made during any department-sponsored recruiting event.

TABLE 7: EXTERNAL AND INTERNAL MONITORING PROCEDURE FOR HIRP

EMPLOYEE/LEAD DEPARTMENT	PROCEDURE
Employee	<ul style="list-style-type: none"> ○ Refers potential candidates to apply for open positions with the City of Hayward Communications Operator.
Police Department: Personnel & Training Unit Division	<ul style="list-style-type: none"> ○ Offers referral information from the new hire’s job application. ○ Notifies the referring employee if they are eligible to participate in the program. ○ Confirms new employee provided a formal offer of employment. If all eligibility requirements are met, notification to Payroll to process payment for HIRP incentive award. ○ Any disputes or interpretations of the program will be handled through Special Operations Division Commander.
Finance Department: Payroll	<ul style="list-style-type: none"> ○ Process HIRP incentive award payment in two installments as taxable income.

Payment/Award options for the HIRP are illustrated in Table 8:

TABLE 8: PAYMENT INSTALLMENTS

OPTION	PROCEDURE
Cash/Monetary Award	<ul style="list-style-type: none"> ○ Referring Employee receives a \$2,000 total cash incentive phased as follows: <ul style="list-style-type: none"> ▪ Referring employee receives \$1,000 of award after formal offer of employment has been accepted by the new employee. ▪ Referring employee receives the remaining \$1,000 of the award upon completion of probationary period by the new employee.

FISCAL IMPACT

The Communications Operator Lateral and Entry Level (COLE) Hiring Bonus Program will cost up to \$10,000 per hire, which will be paid through installments over 3-4 years following the applicant’s hire date and position of hire. Based on current vacancies, the Police Department anticipates hiring a minimum of 5-7 Communications Operators eligible for the COLE bonus per year. The estimated cost anticipated for the COLE Hiring Bonus Program if a minimum of five operators are hired in a single year is up to \$50,000 (*cost spread over three to four years.*) It is anticipated that the cost of this program will be funded using salary savings from vacancies in currently budgeted positions, therefore no additional General Fund impact is anticipated.

The Hiring Incentive Referral Program (HIRP) will cost up to \$2,000 per referral leading to a hire and will be paid over two years according to the payment schedule discussed above. Based on the hiring trends of the department, it is anticipated that a minimum of 5 Communications Operators will be hired per year. The annual costs of the HIRP, assuming 5 employees are hired through the program per year, is \$5,000 - \$10,000. This is likely to be offset by salary savings and should not require additional appropriations.

STRATEGIC ROADMAP

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

NEXT STEPS

If the Council authorizes this action, staff will appropriate the funding into the Police Department's budget to fund the Communications Operator Lateral and Entry Level (COLE) Hiring Bonus Program, and the Communications Operator Hiring Incentive Referral Program (HIRP).

Prepared by: Ryan Sill, Lieutenant – Personnel and Training

Recommended by: Toney Chaplin, Chief of Police

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ESTABLISH A COMMUNICATIONS OPERATOR LATERAL AND ENTRY-LEVEL (COLE) HIRING BONUS PROGRAM

WHEREAS, the recruitment of well-qualified Communications Operators in today's workforce has become very competitive; and,

WHEREAS, the City of Hayward has experienced a significantly diminished pool of well-qualified Communications Operator applicants; and,

WHEREAS, hiring incentive programs will help the City of Hayward to be competitive in recruiting well-qualified Communications Operators; and,

WHEREAS, the Police Department anticipates hiring a minimum of 5 Communications Operators eligible for COLE program per year; and,

WHEREAS, the COLE Bonus Program will offer \$10,000 per entry-level candidate over a four-year four (4) phased approach; and,

WHEREAS, the COLE Bonus Program will offer \$10,000 per lateral candidate over a three-year three (3) phased approach; and,

WHEREAS, this program will be funded with currently appropriated Police Department budgeted salary and benefit savings that result from vacant positions.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the City Manager to establish a Communications Operator Lateral and Entry-Level (COLE) Hiring Bonus Program.

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 AUTHORIZING THE CITY MANAGER TO ESTABLISH A COMMUNICATIONS OPERATOR HIRING INCENTIVE REFERRAL PROGRAM (HIRP) IN THE AMOUNT OF \$2,000 TO QUALIFIED REFERRING EMPLOYEES

WHEREAS, recruitment of well-qualified Communication Operators in today's workforce has become very competitive; and,

WHEREAS, the City of Hayward has experienced a significantly diminished pool of well-qualified Communications Operator applicants; and,

WHEREAS, hiring incentive programs will help the City of Hayward be competitive in recruiting well-qualified Communications Operator staff; and,

WHEREAS, the Police Department anticipates hiring a minimum of 5 employees per year; and,

WHEREAS, this program will be funded with currently appropriated Police Department budgeted salary and benefit savings that result from vacant positions.

NOW, THEREFORE, BE IT RESOLVED that the City Council authorizes the City Manager to reestablish a Communication Operator Hiring Incentive Referral Program (HIRP) in the amount of \$2,000 to qualified referring employees.

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
HIRING BONUS AGREEMENT
Communications Operator Lateral & Entry Level (COLE)**

This Agreement is made between the CITY OF HAYWARD ("City") and
_____ ("Employee").

WHEREAS the Employee begins employment with the City in the Police Department ("Department") for the first time as an entry level or lateral Communications Dispatcher who meets the City requirements as an entry level or lateral Communications Operator;

WHEREAS the Department wishes to bestow upon the Employee a hiring bonus ("Hiring Bonus") as an incentive for the Employee to accept employment at the City and remain satisfactory employed in the Department for at least three (3) full years;

WHEREFORE, City and the Employee agree to the following terms.

1. City, acting through the Department, agrees to bestow upon the Lateral Communications Operator the amount of \$10,000 as a Hiring Bonus in return for the Employee accepting City's offer of employment. This amount shall be paid directly to the Employee on the Employee's paycheck as follows:

- a. 25% paid upon successful completion of the testing process and accept a final offer of employment (to be paid on first pay period of employment).;
- b. 50% paid upon successful completion of Communications Training Program (CTO);
- c. 25% paid one year after completion of the Probationary Period

2. City, acting through the Department, agrees to bestow upon the Entry-Level Communications Operator the amount of \$10,000 as a Hiring Bonus in return for the Employee accepting City's offer of employment. This amount shall be paid directly to the Employee on the Employee's paycheck as follows:

- a. 25% paid upon successful completion of the testing process and accept a final offer of employment (to be paid on first pay period of employment).;
- b. 25% paid upon successful completion of Communications Training Program (CTO);
- c. 25% paid upon successful completion of the Communications Probationary Period;
- d. 25% paid two years after the completion of Probationary Period

3. City will apply all required federal and state tax deductions and will report all payments made under this Agreement as required by federal and state law. Taxes shall be

withheld as bonus earnings from the Hiring Bonus and reported to the Internal Revenue Service as income on the Employee's W-2. **The Hiring Bonus is not considered "salary" and shall not be included for the purposes of retirement benefit calculations or salary increases.**

4. Department will adhere to all relevant City and Department policies during the hiring process and in making bonus payments to employees.

5. In return for accepting the Hiring Bonus as provided in paragraphs 1 and 2 above, the Employee agrees to work for the Department, on a regular and full-time basis for at least 3 years beginning on _____ and ending on _____. Should the Employee resign, quit, or be terminated for cause before the above stated ending date the Employee shall repay a prorated amount of the Hiring Bonus as provided in the following paragraphs.

6. The Employee's failure to remain employed by the Department for three years, will trigger the Employee's duty to repay, pro-rata, the amount paid by the Department pursuant to paragraph 1, above. (This amount may be more than the Employee received due to tax or other withholdings.) For example, if the Employee leaves one year prior to the end date, he/she will repay 12/36 of such amount. To facilitate the repayment, the Employee, by signing below, expressly gives City a lien on all his/her salary, wages, and other sums payable to him/her by City. In addition, the Employee hereby authorizes City to withhold all amounts so due from any sum payable to the Employee by the Department and City. The Employee also agrees that any tax consequences borne as a result of the repayment of the Hiring Bonus or any portion thereof will be the sole and exclusive responsibility of the Employee.

7. If the Employee fails to remain employed by the Department for three years for reasons beyond his/her control (e.g. injury, illness or death), other than just cause termination, the Department may in its sole discretion waive all or part of the liability owed by the Employee. Any such waiver must be approved in writing by the Employee's Department Head, the Director of Human Resources and the City manager.

8. In the event the Employee is unable or unwilling to work, is taken off work, or is placed on leave of absence at any time during the period that this Agreement is effective, any payment owed or due to be owed to Employee shall be delayed the same amount of time as the Employee remains off work. For purposes of this section, any period in excess of 10 consecutive days that the Employee does not work during the time period of the Agreement shall delay the bonus payment periods owed to Employee by this Agreement.

9. In the event the Employee leaves the Department to work at another Department within City during the three-year period noted above, the Department and the Department to which the employee is transferring ("New Department") shall negotiate in good faith for the re-payment, pro-rata, of the Hiring Bonus by the New Department. Unless the New Department affirmatively agrees to reimburse the Department for the pro-rated portion of the Hiring Bonus, the Employee remains responsible for repaying the Department.

10. If any part of this Agreement is found to be invalid or unenforceable, the other parts shall remain valid and enforceable and Employee agrees, represents, and warrants that he/she will be held to any applicable repayment of Hiring Bonus.

BY SIGNING BELOW, the Employee certifies that he/she has not accepted a financial incentive for accepting employment at City, other than described in this Agreement.

IN WITNESS THEREOF:

By: _____ Date: _____
Employee

By: _____ Date: _____
Chief of Police

By: _____ Date: _____
City Manager

Attest:

By: _____ Date: _____
City Clerk

Approved as Form:

By: _____ Date: _____
City Attorney



HAYWARD POLICE DEPARTMENT
HIRING INCENTIVE REFERRAL PROGRAM
REFERRAL APPLICATION



Applicant Eligibility

_____ has been determined to be eligible for:
(Name of Applicant)

- Lateral Communications Operator**
- Entry-Level Communications Operator**
- Other: _____**

Referring Employee

_____ has referred this Candidate.
(Name of Employee)

By agreeing to serve as a Referring Employee for the Applicant, this employee is eligible to receive the following incentive (*select one*):

- \$1000** effective after candidate is hired
- \$1000** after employee completes probationary period.

Referring Employee Signature: _____ **Date:** _____



CITY OF HAYWARD

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

File #: CONS 22-390

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT

Adopt a Resolution Authorizing an Amendment to the FY 2022 Operating Budget for Fleet Management Fund (Fund 735) to Increase the Annual Appropriation in the Maintenance Services Department Budget by \$195,000 Through Use of Existing Funds

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving an amendment to the FY 2022 budget for Fleet Management Fund (Fund 735), through use of existing fund balance to increase the overall annual appropriation by \$195,000 for anticipated bulk fuel expenses through June 30, 2022.

SUMMARY

The Maintenance Services Department requests an additional appropriation of existing fund balance in the amount \$195,000 in the Fleet Management Fund (Fund 735) for unanticipated bulk fuel expenses. There will be no impact to the General Fund due to this increase.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Maintenance Services Director

SUBJECT: Adopt a Resolution Authorizing an Amendment to the FY 2022 Operating Budget for Fleet Management Fund (Fund 735) to Increase the Annual Appropriation in the Maintenance Services Department Budget by \$195,000 Through Use of Existing Funds

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving an amendment to the FY 2022 budget for Fleet Management Fund (Fund 735), through use of existing fund balance to increase the overall annual appropriation by \$195,000 for anticipated bulk fuel expenses through June 30, 2022.

SUMMARY

The Maintenance Services Department requests an additional appropriation of existing fund balance in the amount \$195,000 in the Fleet Management Fund (Fund 735) for unanticipated bulk fuel expenses. There will be no impact to the General Fund due to this increase.

BACKGROUND AND DISCUSSION

Maintenance Services Fleet Division manages the City's fuel usage in all City-owned vehicles and equipment. While fuel is Fleet's largest operating expense, normal price fluctuations can typically be absorbed within the appropriated budget. Unfortunately, current global market conditions have seen the price of traditional gasoline and diesel double in cost when compared to recent fiscal years. The current budgeted bulk fuel amount of \$950,000 will be expended prior to the end of FY 2022, to continue bulk fuel deliveries uninterrupted through June 30, 2022, an additional appropriation of \$195,000 is requested.

The continued rise in global fuel prices has resulted in increased costs that will exceed the original Fleet Management Fund (Fund 735) FY 2022 budget appropriation of \$4,032,365 established by Resolution 21-100.

Staff seeks Council approval to increase the expenditure appropriation for bulk fuel purchases by an additional \$195,000, for a total revised budget of \$1,145,000 for bulk fuel used by the City's fleet of public safety and miscellaneous vehicles.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The additional \$195,000 of appropriated funds in the Fleet Management Fund (Fund 735) will be appropriated from fund balance.

STRATEGIC ROADMAP

This agenda item is a routine operational item that does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap.

NEXT STEPS

Should Council approve this action, staff will prepare a Budget Adjustment Form to request the appropriation of funds.

Prepared and Recommended by: Todd Rullman, Director of Maintenance Services

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING AN AMENDMENT TO THE FY 2022 OPERATING BUDGET FOR FLEET MANAGEMENT FUND (735) TO INCREASE THE ANNUAL APPROPRIATION IN THE MAINTENANCE SERVICES DEPARTMENT BUDGET BY \$195,000 THROUGH USE OF EXISTING FUNDS

WHEREAS, the Maintenance Services Department – Fleet Management Division received an appropriation of \$950,000 for bulk fuel used by the City’s fleet of public safety and miscellaneous vehicles in the FY 2022 Operating Budget; and

WHEREAS, the Maintenance Services Department - Fleet Management Division manages the City’s fuel usage in all City-owned vehicles and equipment; normal price fluctuation can typically be absorbed within the appropriated budget. Unfortunately, the current global market conditions have seen the price of traditional gasoline and diesel double in cost when compared to previous fiscal years; and

WHEREAS, the Maintenance Services Department – Fleet Management Division requests an appropriation of \$195,000 to enable the Division to continue bulk fuel deliveries uninterrupted through June 30, 2022; and

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD the amendment to the FY 2022 Budget Resolution, Resolution 21-100, for an increase in appropriation in the amount of \$195,000 in the Fleet Management Fund (Fund 735).

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

File #: CONS 22-395

DATE: June 21, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

RECOMMENDATION

That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

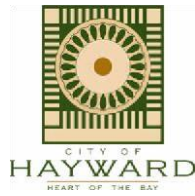
SUMMARY

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Exhibit A to Resolution

File #: CONS 22-395



DATE: June 21, 2022

TO: Mayor and City Council

FROM: City Manager
City Clerk

SUBJECT: Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

RECOMMENDATION

That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

SUMMARY

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

BACKGROUND

In general, the Brown Act allows legislative bodies to use teleconferencing during a public meeting as long as certain requirements are met, such as:

- Identification of any remote location from which a member of the legislative body is participating via teleconference;
- Posting of agendas at all remote locations from which members of the legislative body are participating;
- Public accessibility to the remote location and the technological means for allowing the public to participate in the meeting from the location; and
- A quorum of the members must be participating from a location within the jurisdiction of the legislative body.

In response to the COVID 19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements.

With the expiration of Executive Order N-29-20, AB 361 amends the Brown Act to allow virtual public meetings during a state of emergency proclaimed by the Governor. A local agency may hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body.

AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency. However, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist:

- The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- State or local officials continue to impose or recommend measures to promote social distancing.

DISCUSSION

On February 25, 2022, the Governor issued Executive Order N-04-22 repealing many of his prior Executive Orders imposing various mandates intended to address the impact of COVID 19. However, the Governor did not lift the State of Emergency related to COVID 19 that he initially proclaimed on March 4, 2020. As of the date of this report, the State of Emergency proclaimed by the Governor remains in effect.

Current guidance and orders of the Alameda County Health Official satisfy both conditions necessary for the AB 361 findings described above:

- Order No. 20-05g, originally issued April 3, 2020 and most recently amended on January 10, 2022, imposes a mandate that all individuals diagnosed or likely to have COVID 19 must isolate themselves and follow requirements further specified in the Order.
- Order No. 20-06q, originally issued April 3, 2020 and most recently updated on May 9, 2022, requires individuals to comply with California Department of Public Health Guidance on Isolation and Quarantine of the General Public except in the specific circumstances described in the order, including, persons who are not fully vaccinated must quarantine for at least 5 days after close contact with an individual infected with COVID-19.
- On June 3, 2022 the Alameda County Health Officer issued Order No. 22-02 requiring all individuals in Alameda County, regardless of vaccination status or prior history of COVID illness, to wear face coverings in the following situations:
 - Indoors at businesses, government offices, youth-serving facilities, and workplace settings.
 - On trains, buses, ferries, taxis and rideshare
 - In transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation.
 - Healthcare settings.
 - State and local correctional facilities and detention centers.
 - Shelters and cooling centers.
- The Alameda County Public Health Department recommends everyone to wear a mask in outdoor crowded settings, and in non-public indoor settings, like a private residence, when they are around people who may be unvaccinated, elderly, or immunocompromised.
- Workplaces must comply with Cal/OSHA safety standards.

The following current guidance from the California Department of Public Health satisfies the AB 361 findings:

- The Department strongly recommends that all persons, regardless of vaccination status, continue to mask while in indoor public settings and businesses, on public transit, and in transportation hubs.
- Face coverings are required for all individuals in the following indoor settings, regardless of vaccination status: homeless shelters, emergency shelters, cooling and heating centers, healthcare settings, state and local correctional facilities and detention centers, long term care settings and adult and senior care facilities.
- Fully vaccinated individuals are recommended to continue indoor masking when the risk may be high.

- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended and vaccination/boosting is strongly encouraged.

Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City’s public meetings because they do not necessarily involve a stable group of vaccinated individuals.

Currently, the Council is holding hybrid Council meetings that allow for virtual participation via the Zoom platform as well as in-person participation. This format also allows for real-time public comments, in compliance with AB 361. In compliance with Alameda County public health orders, everyone who is unvaccinated inside the Council Chamber is required to wear a mask or other face-covering. All City commissions, task forces, and Council committees continue meeting entirely virtually over the Zoom platform.

Based on the above, staff recommends that the Council adopts the attached resolution making the necessary findings to allow the Council and the appointed boards and commissions identified in Exhibit A to the resolution to continue holding teleconferenced meetings pursuant to AB 361.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

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

NEXT STEPS

Adoption of the resolution will allow the Council and specified appointed boards and commissions to hold a subsequent teleconferenced meeting pursuant to the provisions of AB 361. Additional resolutions must be adopted every thirty days during the existence of the state of emergency in order to continue holding teleconferenced meetings.

Prepared by: Kelly McAdoo, City Manager
Miriam Lens, City Clerk

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO AB 361 TO
CONTINUE TO HOLD TELECONFERENCED PUBLIC MEETINGS DURING THE
COVID 19 STATE OF EMERGENCY

WHEREAS, the Brown Act (Government Code section 54950 et seq.) allows for public meetings of a legislative body to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction; and

WHEREAS, in response to the COVID-19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements; and

WHEREAS, the Governor signed AB 361 prior to the expiration of Order N-29-20; and

WHEREAS, AB 361 amends the Brown Act to the legislative body of a local agency to hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body; and

WHEREAS, AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency, however, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings specified in the statute justifying the continued use of teleconferenced public meetings; and

WHEREAS, it shall be the policy of the City that the appointed boards and commissions of the City will hold teleconferenced public meetings in compliance with the provisions of AB 361 during the COVID-19 state of emergency; and

WHEREAS, the COVID-19 state of emergency declared by the Governor remains active; and

WHEREAS, public meetings involve many people in shared indoors spaces for hours, when the number of people present does not always allow for a minimum six foot distance between persons, and close contacts raise the risk of the spread of COVID-19; and

WHEREAS, the California Department of Public Health has mandated that everyone in California wear a mask in indoor public spaces and workplaces through February 15, 2022; and

WHEREAS, the Alameda County Health Officer has issued Order No. 20-05g (originally issued April 3, 2020 and most recently amended on January 10, 2022) imposing a mandate that all individuals diagnosed or likely to have COVID-19 must isolate themselves and follow requirements further specified in the Order; and

WHEREAS, the Alameda County Health Officer has issued Order No. 20-06q (originally issued April 3, 2020 and most recently amended on May 9, 2022) requires individuals to comply with California Department of Public Health Guidance on Isolation and Quarantine of the General Public except in the specific circumstances described in the order, including, persons who are not fully vaccinated must quarantine for at least 5 days after close contact with an individual infected with COVID-19. ; and

WHEREAS, the Alameda County Health Officer has issued Order No. 22-02 (effective on June 3, 2022), which requires all individuals within the County of Alameda – regardless of vaccination status or history of prior COVID-19 illness – to wear face coverings when indoors in workplaces and other indoor public settings, with limited exemptions, and recommends that businesses make face coverings available to individuals entering the business.; and

WHEREAS, the Alameda County Public Health Department requires face coverings in the following situations:

- Indoors at businesses, government offices, youth-serving facilities, and workplace settings.
- On trains, buses, ferries, taxis and rideshare.
- In transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation.
- Healthcare settings.
- State and local correctional facilities and detention centers.
- Shelters and cooling centers; and

WHEREAS, the Alameda County Public Health Department recommends everyone wear a mask in outdoor crowded settings, and in non-public indoor settings, like a private residence, when they are around people who may be unvaccinated, elderly, or immunocompromised; and

WHEREAS, workplaces must comply with Cal/OSHA safety standards; and

WHEREAS, the California Department of Public Health has issued the following current guidance:

- The Department strongly recommends that all persons, regardless of vaccination status, continue to mask while in indoor public settings and businesses, on public transit, and in transportation hubs.
- Face coverings are required for all individuals in the following indoor settings, regardless of vaccination status: homeless shelters, emergency shelters, cooling and heating centers, healthcare settings, state and local correctional facilities and detention centers, long term care settings and adult and senior care facilities.
- Fully vaccinated individuals are recommended to continue indoor masking when the risk may be high.
- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended and vaccination/boosting is strongly encouraged; and

WHEREAS, Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward makes the following findings pursuant to AB 361 to continue holding teleconferenced public meetings during the COVID-19 state of emergency:

- The City Council has reconsidered the circumstances of the state of emergency.
- The COVID 19 state of emergency declared by the Governor remains active and continues to directly impact the ability of Councilmembers to meet safely in-person.
- State and local officials continue to recommend or impose measures to promote social distancing.
- The Alameda County Health Officer has issued orders imposing measures to promote social distancing via isolation and quarantine of individuals infected or likely infected with COVID-19 and individuals with close contact to persons infected with COVID-19.
- The Alameda County Health Officer recommends that everyone wear a mask in outdoor crowded settings, and in non-public indoor settings, like a private residence,

when they are around people who may be unvaccinated, elderly, or immunocompromised.

- The Alameda County Health Officer requires face coverings to be worn in the following settings:
 - Indoors at businesses, government offices, youth-serving facilities, and workplace settings.
 - On trains, buses, ferries, taxis and rideshare.
 - In transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation
 - Healthcare settings.
 - State and local correctional facilities and detention centers.
 - Shelters and cooling centers.

- The California Department of Public Health strongly recommends that all persons, regardless of vaccination status, continue to mask while in indoor public settings and businesses, on public transit and in transportation hubs.

- Workplaces must comply with Cal/OSHA safety standards.

BE IT FURTHER RESOLVED that in the interest of public health and safety, based on the findings contained herein, the City Council of the City of Hayward and the appointed boards and commissions identified in Exhibit A of this Resolution shall continue to hold teleconferenced public meetings pursuant to AB 361.

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

EXHIBIT A

- Community Services Commission
- Keep Hayward Clean and Green Task Force
- Library Commission
- Personnel Commission
- Planning Commission
- Council Airport Committee
- Council Budget and Finance Committee
- Council Economic Development Committee
- Council Infrastructure Committee
- Council Homelessness-Housing Task Force
- Council Sustainability Committee
- Hayward Youth Commission
- Hayward Police Department Community Advisory Panel



CITY OF HAYWARD

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

File #: CONS 22-399

DATE: June 21, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Calling for the City of Hayward General Municipal Election to be Consolidated with the General Election to Be Held on November 8, 2022, for the Purpose of Electing Two Council Members and One Mayor for Full Terms of Four Years; and Adopt a Resolution Setting Regulations for Candidates Pertaining to Candidate Statements

RECOMMENDATION

That Council 1) adopts a resolution: a) calling and ordering to be held in the City of Hayward, California, on Tuesday, November 8, 2022, a General Municipal Election for the purpose of electing two Council Members and one Mayor for full terms of four years; and b) requesting the Alameda County Board of Supervisors to render specified services to the City relating to the conduct of a General Municipal Election (Attachment II); and 2) adopts a resolution establishing regulations for candidates pertaining to candidate statements submitted to the voters (Attachment III).

SUMMARY

A general municipal election will be held in the City of Hayward on Tuesday, November 8, 2022, under the authority of the City Charter and laws in the State of California. The purpose of the election is to elect two Council Members and one Mayor for full terms of four years. The incumbents are Council Member Lamnin, Council Member Wahab, and Mayor Halliday.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Election Resolution
Attachment III	Candidate Statements Resolution
Attachment IV	General Municipal Election Calendar



DATE: June 21, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adopt a Resolution Calling for the City of Hayward General Municipal Election to be Consolidated with the General Election to Be Held on November 8, 2022, for the Purpose of Electing Two Council Members and One Mayor for Full Terms of Four Years; and Adopt a Resolution Setting Regulations for Candidates Pertaining to Candidate Statements

RECOMMENDATION

That Council 1) adopts a resolution: a) calling and ordering to be held in the City of Hayward, California, on Tuesday, November 8, 2022, a General Municipal Election for the purpose of electing two Council Members and one Mayor for full terms of four years; and b) requesting the Alameda County Board of Supervisors to render specified services to the City relating to the conduct of a General Municipal Election (Attachment II); and 2) adopts a resolution establishing regulations for candidates pertaining to candidate statements submitted to the voters (Attachment III).

SUMMARY

A general municipal election will be held in the City of Hayward on Tuesday, November 8, 2022, under the authority of the City Charter and laws in the State of California. The purpose of the election is to elect two Council Members and one Mayor for full terms of four years. The incumbents are Council Member Lamnin, Council Member Wahab, and Mayor Halliday.

BACKGROUND AND DISCUSSION

Pursuant to the requirements of the City Charter and the Elections Code of the State of California relating to general municipal elections, the City Council is requested to adopt a resolution calling a general municipal election and requesting the Alameda County Board of Supervisors to order the consolidation of the City of Hayward General Municipal Election with the General Election to be held on Tuesday, November 8, 2022. Due to expiring terms, it is necessary to elect two Council Members and one Mayor for full terms of four years. The Council is also requested to adopt a resolution setting forth particulars of the election relating to candidate statements.

According to Elections Code 10220, the first day for issuing nomination papers is Monday, July 18, 2022, and the last day is Friday, August 12, 2022, at 5:00 p.m. If an incumbent decides not

to seek re-election, the nomination period extends to Wednesday, August 17, 2022. The Secretary of State will conduct a random alpha drawing on August 18, 2022, to determine the order in which candidate names will appear on the ballot.

The Alameda County Registrar of Voters, through direction from the Alameda County Board of Supervisors, will provide the following services: verify signatures on nomination papers; prepare and supply indices with precinct information; provide voter registration information; assist in all election services as required in the conduct of this election; and provide services to complete the canvass of returns. With this consolidation, the City's sample ballot and optional candidate statements will be incorporated into the Alameda County Voter Pamphlet.

The Alameda County Registrar of Voters estimates the total cost of printing, handling, translating, and mailing the candidates' statements, including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended. Each candidate filing a statement will be required to pay in advance an estimated pro rata share as a condition of having the statement included in the voter's pamphlet. The estimated cost is an approximation of the actual cost which varies from one election to another and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements and other factors. Accordingly, the candidate could be billed for additional actual expenses or refunded any excess paid depending upon the final actual cost.

The 2022 Consumer Price Index adjustment for the City's Campaign Voluntary Expenditure Limit was calculated on February 2, 2022, and adjusted to \$82,672. Hayward's Municipal Code, Chapter 2, Article 13, Section 2-13.04 states that if candidates accept the voluntary expenditure limit, then they are entitled to accept the established contribution limit, now adjusted to \$1,620 per contributor. If candidates do not accept the voluntary expenditure limit, then the contribution limit is \$378 per contributor. During the election cycle, campaign disclosure statements for all candidates will be posted on the City's website under the City's Elections webpage: Public Portal for Campaign Finance Disclosure¹ within twenty-four hours of receipt.

The General Municipal Election Calendar (Attachment IV) provides a list of pertinent dates related to the election.

STRATEGIC ROADMAP

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

¹ Elections Page – Public Portal for Campaign Finance Disclosure
<https://public.netfile.com/pub2/Default.aspx?aid=HWD>

FISCAL IMPACT

The Alameda County Registrar of Voters has published the estimated cost for consolidated elections at \$4 to \$6 per registered voter. Based on the published amount and 2020 estimates, the City has estimated the cost at \$300,000. The actual election expense will be brought before Council for authorization at Mid-Year.

PUBLIC CONTACT

Information regarding the election is available on the City's website at: <https://www.hayward-ca.gov/your-government/elections>

The Notice of Election will be published in the East Bay Times – Daily Review on Friday, July 1, 2022, as prescribed by Section 12101 of the California Elections Code. Additionally, requirements pertaining to the election will be published on the City's Elections webpage and included in the 2022 Election Guide which will be provided to each candidate running for office in the November 8, 2022 election.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-__

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD CALLING FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, FOR THE PURPOSE OF ELECTING TWO MEMBERS OF THE CITY COUNCIL AND ONE MAYOR FOR TERMS OF FOUR YEARS; AND REQUESTING THE ALAMEDA COUNTY BOARD OF SUPERVISORS TO PROVIDE FOR THE CONSOLIDATION OF A GENERAL MUNICIPAL ELECTION OF THE CITY OF HAYWARD WITH THE GENERAL ELECTION

WHEREAS, under the provisions of the Hayward City Charter, a General Municipal Election for the election of officers shall be consolidated with the General Election held in even numbered years; and

WHEREAS, a General Election will be held on Tuesday, November 8, 2022.

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

SECTION 1. That the City of Hayward General Municipal Election is hereby called and ordered to be consolidated with the General Election to be held on Tuesday, November 8, 2022, for the purpose of electing two Council Members and one Mayor for terms of four years ending in 2026.

SECTION 2. That in accordance with the provisions of the State of California Elections Code Section 10002 and 10403, the Alameda County Board of Supervisors is requested to consolidate the City of Hayward General Municipal Election with the General Election.

SECTION 3. That the City Clerk is hereby authorized, instructed and directed to coordinate with the Alameda County Registrar of Voters to procure and furnish any and all official ballots, sample ballot, voter information pamphlet, and all other supplies and equipment that may be necessary to conduct the election properly and lawfully.

SECTION 4. That the Alameda County Board of Supervisors is further requested to order the Alameda Registrar of Voters to render services at the request of the City Clerk. These services include all necessary services related to:

- a. Verify signatures on nomination papers; and
- b. Prepare and supply indices to precinct information; and
- c. Provide voter registration information; and
- d. Assist in election services as ordered by State of California; and
- e. Provide services to complete the canvass of returns.

SECTION 5. That in the particulars not recited in this resolution, the election shall be held and conducted as provided by State law for holding municipal elections.

SECTION 6. The City Clerk is hereby directed to cause the posting, publication, and printing of all notices or other election materials pursuant to the requirements of Elections and Government Codes of the State of California.

SECTION 7. That in the event of a tie vote (if any two or more persons receive an equal number of votes for an office) as certified by the Alameda County Registrar, the City Council, in accordance with Election Code Section 15651(b), shall conduct a special runoff election to resolve the tie vote and such special runoff election is to be held on a Tuesday no less than 40 nor more than 125 days after the administrative or judicial certification of the election which resulted in a tie vote.

SECTION 8. That the City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 9. That the Alameda County Board of Supervisors is hereby authorized to canvass, or cause to be canvassed, as provided by law, the returns of the General Municipal Election with respect to the votes cast for two Council Members and one Mayor and to certify such canvass of the votes cast.

SECTION 10. That the City Clerk is hereby authorized and directed to certify to the duly adoption of this resolution and to transmit a copy thereof so certified to the Alameda County Clerk and the Alameda County Registrar.

SECTION 11. That the City Council shall meet at a regular meeting to review the canvass of the returns of the General Municipal Election and declare the results thereof, scheduled for December 13, 2022.

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 OF THE CITY COUNCIL OF THE CITY OF HAYWARD, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022

WHEREAS, Section 13307 of the Elections Code of the State of California provides that the City Council may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate statement.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY HAYWARD, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS.

Candidate statements must be filed at the same time nomination papers are filed. Statements may not be changed once they are submitted. Statements may be withdrawn until 5:00 p.m. on the next business day after the close for the nomination period. Statements are confidential until the close of the nomination period. Statements are subject to public review and contest. Statements may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications. Word counting guidelines in Elections Code Section 9 will govern the counting of words. Any partisan activity or membership is prohibited. Any mention of any opponent or other candidate for the same office is prohibited. Statements must be typed or printed from a computer. Statements must be submitted in plain text formatting, single paragraph, without any formatting such as underline, bold, italics, or all caps. Signed and completed consent forms are required for each resident referenced as an endorser and for any person and any organization mentioned in the text of the statement as an endorser or supporter. Candidate statements must be attached to the form provided by the City Clerk.

SECTION 2. The City Clerk shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

SECTION 3. FOREIGN LANGUAGE POLICY.

- A. Pursuant to the Federal Voting Rights Act, candidate statements will be translated into all languages as required. Alameda County is required to translate candidate statements into Spanish, Chinese, Vietnamese and Tagalog.
- B. The Alameda County Registrar of Voters will mail separate sample ballots and candidate statements in Spanish, Chinese, Vietnamese and Tagalog to those voters who are on the county voter file as having requested a sample ballot in a particular language.

SECTION 4. PAYMENT

Candidates filing a statement are required to pay in advance the estimated pro rata share as a condition of having a statement included in the voter's pamphlet. The Alameda County Registrar of Voters estimates the total cost of printing, handling, translating, and mailing, including costs incurred as a result of complying with the Voting Rights Act of 1965. The estimate is an approximation of the actual cost which varies from one election to another election and may be significantly more or less than the estimate depending upon the actual number of candidates filing statements. Accordingly, the City Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expenses or refund any excess paid depending upon the final actual cost. In the event of underpayment, the City Clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the City Clerk will prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

SECTION 5. The City Clerk shall provide each candidate or the candidate's representative with a copy of this resolution at the time nominating petitions are issued.

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



GENERAL MUNICIPAL ELECTION ABBREVIATED CALENDAR
Tuesday, November 8, 2022

DATE	ACTION
July 18, 2022	EC § 10220 Nomination Period Opens First day candidates may pick up nomination papers.
August 1, 2022	FPPC Form 460 Semi-Annual Statement Due Deadline for financial disclosure report covering 1/1/22 to 6/30/22.
August 10, 2022 – November 8, 2022	FPPC Form 497 24-hour Contribution Report Sums of \$1,000 or more to/from a single source must be reported within 24-hours.
August 12, 2022	EC § 10220 Nomination Period Closes Deadline to file all required nomination papers.
August 13, 2022 – August 17, 2022	EC § 10225 Nomination Extended Period If the incumbent fails to file a Declaration of Candidacy by the deadline for their office, there will be a 5-calendar-day extension during which any candidate, other than the incumbent, may file for said office.
August 18, 2022	EC § 13111 Randomized Alphabet Drawing The Secretary of State will conduct a drawing of letters of the alphabet to determine the order in which candidates appear on the ballot.
September 12, 2022 – October 25, 2022	EC § 10229 Filing Period Candidate Nomination Papers for Write-In Candidates.
September 29, 2022	FPPC Form 460 1st Pre-Election Statement Due Deadline to file financial disclosure report covering 7/1/22 - 9/24/22.
October 24, 2022	EC § 2102 Last Day to register to vote for the November election.
October 27, 2022	FPPC Form 460 2nd Pre-Election Statement Due Deadline for financial disclosure report covering 9/25/22 - 10/22/22.
November 8, 2022	EC § 1000 ELECTION DAY Vote Centers opens from 7 a.m. to 8 p.m. for dropping off ballot or voting in person. Ballots must be postmarked by this date.
December 8, 2022	EC § 15372 Official Canvass of Votes Last Day for Registrar of Voters to certify election results.
December 13, 2022	EC §§ 9217, 10262, 10263 Council to certify election results.
January 31, 2023	FPPC Form 460 Semi-Annual Statement Due Deadline for financial disclosure report covering 10/23/22 - 12/31/22.



CITY OF HAYWARD

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

File #: WS 22-024

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Police Department Dash Cameras: Work Session to Review a Proposed Hayward Police Department Capital Improvement Project Regarding the Purchase of Axon Fleet Vehicle Dash Cameras with Automated License Plate Reading (ALPR) Technology

RECOMMENDATION

That the Council reviews and provides comments on a proposed capital improvement project whereby the Hayward Police Department would enter into a five-year purchase/service agreement with Axon Enterprises, Inc. to equip the patrol fleet with video dash cameras with integrated ALPR technology.

SUMMARY

In a continuing effort to broaden transparency, mitigate liability, advance investigative capabilities, and improve crime solvability, the Hayward Police Department is recommending purchasing and installing Axon Dash / ALPR cameras in fifty-three patrol vehicles.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Policy 429



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Police Department Dash Cameras: Work Session to Review a Proposed Hayward Police Department Capital Improvement Project Regarding the Purchase of Axon Fleet Vehicle Dash Cameras with Automated License Plate Reading (ALPR) Technology

RECOMMENDATION

That the Council reviews and provides comments on a proposed capital improvement project whereby the Hayward Police Department would enter into a five-year purchase/service agreement with Axon Enterprises, Inc. to equip the patrol fleet with video dash cameras with integrated ALPR technology.

SUMMARY

In a continuing effort to broaden transparency, mitigate liability, advance investigative capabilities, and improve crime solvability, the Hayward Police Department is recommending purchasing and installing Axon Dash / ALPR cameras in fifty-three patrol vehicles.

BACKGROUND

In 2014, the Hayward Police Department purchased ALPR cameras for its patrol fleet. These systems from Motorola Solutions consisted of four externally mounted cameras (two forward-facing and two rear-facing) which were attached to the roofs of two patrol vehicles. These cameras were only capable of capturing license plate data and as of 2021, they reached the end of their serviceable lifespan. During their operational years, the ALPR camera systems averaged over a million license plate reads annually.

In fiscal year 2019, \$150,000 was budgeted into CIP to purchase dash cameras for HPD's patrol vehicles. (The project and related funds were suspended due to COVID fiscal impacts). Moving forward, dash camera technology has advanced to a point where a single front-facing camera can now not only capture video footage but can also capture vehicle license plate information.

DISCUSSION

The Hayward Police Department began its Body Worn Camera (BWC) program in 2015. BWC's have proven to be an invaluable tool for law enforcement in documenting interactions with the community, investigating and prosecuting criminal behavior, and providing litigation protection for the city. Some limitations of BWCs are their inability to provide a stable overview of an incident and, based on the BWC's positioning on officers (upper chest area), they are unable to capture officers' observations while they are driving their patrol vehicles. BWCs are also prone to potential non-activation by an officer in dynamic, high-stress critical incidents.

Axon Fleet 3 system is made up of a front-facing dual-view camera that can record both video footage as well as capture images of license plates. These actions occur simultaneously. In addition, a second infrared camera is positioned inside the passenger compartment to provide coverage of the prisoner transport area. The camera system for video footage can be activated manually, or by up to ten triggering events such as activation of emergency lights, unlocking of less lethal or lethal weapons from the vehicle, reaching a certain vehicle speed, or upon the recognition that a collision has occurred. In addition, Fleet 3 cameras can be paired with officers' current BWCs to allow their BWCs to be automatically activated upon the activation of the Fleet 3 cameras.

Video footage and license plate images, captured by the system, are wirelessly uploaded into Axon's cloud-based storage accessed through "Evidence.com." This is the same storage platform that HPD uses to store and manage BWC video footage. Axon's storage platform is Criminal Justice Information Service (CJIS) certified. To receive this certification Axon must adhere to the FBI's CJIS security policy, which provides a set of security requirements to protect and safeguard Criminal Justice Information (CJI) used by law enforcement.

The image captured in an ALPR scan, and stored by Axon, contains a picture of the license plate, the date and time of the scan, and the GPS location of the scan. No personally identifiable information is captured with the ALPR scan or stored in the database.

The ALPR camera not only records a vehicle's location but can also alert officers, in real-time, if a scanned license plate has an associated want for the vehicle. This includes sex registrant information, statewide alerts such as "Amber Alerts" for abducted or endangered children, missing persons, vehicles used in felony crimes, stolen vehicles, and stolen license plates.

Axon has not built out the capability to grant access to ALPR data to other Law Enforcement Axon customers. If the capability is created in the future, HPD will have to grant each individual agency permission via a memorandum of understanding (MOU). Axon does not grant access to any unauthorized third parties. Pursuant to California Government Code Section 3, Chapter 17.25 (commencing with section 7284), federal, state, or local law enforcement agencies shall not use any non-criminal history information contained within the database for immigration enforcement purposes.

The records retention period of the scanned license plates is customizable through Axon. HPD currently retains license plate data for one year, unless the data is evidentiary in a criminal or civil action, as outlined in HPD's ALPR Policy #429 (Attachment II).

Current regional police departments that have already invested in this technology are Livermore PD, Campbell PD, Tracy PD, Vacaville PD, Vallejo PD, and the Solano County Sheriff's Office.

On April 11, 2022, this proposal was brought before the Chief's Advisory Panel (CAP) for review and input. While there was overall support for the implementation of the program, the two areas of concern dealt with security and sharing of data. Those concerns were addressed by providing the CAP with the information sharing and security measures outlined in this Staff Report.

On April 27th, 2022, this proposal was brought before the Council Infrastructure Committee. A discussion occurred regarding ACLU's position on ALPR technology and the general capabilities and features of the fleet cameras. Committee recommendations included advocacy group outreach and a Council work session to enable further dialogue on the proposal.

In addition to the Fleet 3 camera system, staff are also recommending the purchase of an Auto-Tagging subscription for each officer. Currently, officers are required to label each one of their BWC recordings. The labeling process includes inputting an incident or report number, a "Title" for the recording such as a crime type or type of call for service, and a retention period based on the recording's content. With the purchase of the Fleet 3 cameras, this would require officers to label two separate videos if both their Fleet 3 camera and BWC were used for an event. This is not only time-consuming but also increases the chances of the videos being mislabeled. Auto-Tagging syncs Evidence.com with HPD's Computer Aided Dispatch system to auto-populate the incident or report number and category.

Community Engagement Efforts

As part of HPD's ongoing efforts to be transparent, provide information, and engage community dialogue, the following steps have been taken:

- As stated above, on April 11th, 2022, the proposal was presented to the CAP.
- HPD made notification, via email, of the proposed project and our ALPR Policy to the following community groups:
 - o The Community Advisory Panel (CAP) to the Chief of Police
 - o The Hayward Concerned Citizens
 - o The Hayward Community Coalition

FISCAL IMPACT

As with the BWC agreement HPD signed with AXON in 2021, Axon spreads out the cost of the equipment and services over a five-year period. During this five-year period, all hardware

components supplied are warranted, and at the conclusion of contract, through Axon’s Technology Assurance Plan, all hardware components are upgraded and replaced at no cost. The annual costs, listed below, includes installation services for all fifty-three vehicles.

Payment	Fleet 3	Auto-Tagging	Tax	Total
Year 1	125,928	23,328	7,847.51	157,103.51
Year 2	125,928	23,328	7,847.51	157,103.51
Year 3	125,928	23,328	7,847.51	157,103.51
Year 4	125,928	23,328	7,847.51	157,103.51
Year 5	125,928	23,328	7,847.51	157,103.51
Total	629,640	116,640	39,237.55	785,517.55

Funding has been secured via CIP to cover nearly all the costs associated with year one of the agreement. Moving forward, HPD will request funding in CIP to cover the remaining four years of the agreement (FY’s 2023, 2024, 2025, 2026).

Due to current supply chain issues, implementation, if approved by Council, would take approximately eighteen months.

NEXT STEPS

HPD intended to use this Work Session to provide Council with a better understanding of the equipment and technology being sought by the Hayward Police Department. Following this Work Session, HPD will request the item go before City Council seeking approval for purchase.

Prepared by: William Deplitch, Police Captain

Recommended by: Toney Chaplin, Chief of Police

Approved by:



Kelly McAdoo, City Manager

Automated License Plate Readers (ALPRs)

429.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Hayward Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

429.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.9

429.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Support Services Division Commander. The Support Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

429.2.1 ALPR ADMINISTRATOR

The Support Services Division Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

429.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. [Department/Office] members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

Hayward Police Department

Hayward PD Policy Manual

Automated License Plate Readers (ALPRs)

- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this [department/office] shall operate ALPR equipment or access ALPR data without first completing [department/office]-approved training.
- (e) No ALPR operator may access [department/office], state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

429.4 DATA COLLECTION AND RETENTION

The Support Services Division Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with [department/office] procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

429.5 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or [department/office]-related civil or administrative action.

Hayward Police Department

Hayward PD Policy Manual

Automated License Plate Readers (ALPRs)

- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

429.6 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.

- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.

- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

- (e) ALPR system audits should be conducted on a regular basis.

429.7 POLICY

The policy of the Hayward Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

429.8 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 1. The name of the agency.
 2. The name of the person requesting.

Hayward Police Department

Hayward PD Policy Manual

Automated License Plate Readers (ALPRs)

3. The intended purpose of obtaining the information.
 - (b) The request is reviewed by the Support Services Division Commander or the authorized designee and approved before the request is fulfilled.
 - (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

429.9 TRAINING

The Personnel and Training Administrator should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

429.10 REVISIONS

Enacted: March 31, 2015

Revised: May 23, 2016

Revised: June 21, 2021



CITY OF HAYWARD

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

File #: LB 22-016

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Military Equipment Use Policy: Introduction of an Ordinance Approving Military Equipment Use Policy No. 706 Regarding the Hayward Police Department's Funding, Acquisition, and Use of "Military Equipment," as Defined by Assembly Bill 481

RECOMMENDATION

That the Council introduces an Ordinance (Attachment III) approving a Military Equipment Use Policy (Attachments II and IV) regarding the Hayward Police Department's (HPD) funding, acquisition, and use of military equipment, as defined in Assembly Bill (AB) 481.

SUMMARY

On January 1, 2022, AB 481, which governs the funding, acquisition, and use of military equipment by law enforcement agencies in the state of California, went into effect. AB 481 specifically requires all law enforcement agencies in California to obtain the approval of their respective governing bodies before funding, acquiring, or using equipment now defined under AB 481 as "military equipment." As the governing body for the HPD, Council is tasked with reviewing and approving, via ordinance at a public meeting, a policy consistent with the requirements in AB 481. The purpose of this staff report is to present information to the Council regarding the proposed policy, ordinance, and the relevant equipment currently in the HPD's inventory. Additionally, this staff report will highlight HPD's community engagement efforts, address some of the concerns raised, and will provide recommendations to approve the Military Equipment Use Policy and adopt the ordinance.

If Council does not approve the policy via the adoption of the ordinance, then HPD must cease the use of all equipment now defined as "military equipment." Such would be detrimental to the HPD and the safety of community members and officers alike, as explained further in this report.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Military Equipment Use Policy 706
Attachment III	Ordinance
Attachment IV	Equipment List



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Military Equipment Use Policy: Introduction of an Ordinance Approving Military Equipment Use Policy No. 706 Regarding the Hayward Police Department's Funding, Acquisition, and Use of "Military Equipment," as Defined by Assembly Bill 481

RECOMMENDATION

That the Council introduces an Ordinance (Attachment III) approving a Military Equipment Use Policy (Attachments II and IV) regarding the Hayward Police Department's (HPD) funding, acquisition, and use of military equipment, as defined in Assembly Bill (AB) 481.

SUMMARY

On January 1, 2022, AB 481, which governs the funding, acquisition, and use of military equipment by law enforcement agencies in the state of California, went into effect. AB 481 specifically requires all law enforcement agencies in California to obtain the approval of their respective governing bodies before funding, acquiring, or using equipment now defined under AB 481 as "military equipment." As the governing body for the HPD, Council is tasked with reviewing and approving, via ordinance at a public meeting, a policy consistent with the requirements in AB 481. The purpose of this staff report is to present information to the Council regarding the proposed policy, ordinance, and the relevant equipment currently in the HPD's inventory. Additionally, this staff report will highlight HPD's community engagement efforts, address some of the concerns raised, and will provide recommendations to approve the Military Equipment Use Policy and adopt the ordinance.

If Council does not approve the policy via the adoption of the ordinance, then HPD must cease the use of all equipment now defined as "military equipment." Such would be detrimental to the HPD and the safety of community members and officers alike, as explained further in this report.

BACKGROUND

On September 30, 2021, Governor Newsom signed a series of eight (8) pieces of policing

reform legislation aimed at increasing transparency around policing. AB 481 was one of those pieces of legislation. AB 481, which became effective on January 1, 2022, was created to address transparency issues in the funding, acquisition, and use of law enforcement equipment that lawmakers have deemed to be “military equipment.” AB 481, codified at California Government Code Section(s) 7070 through 7075, requires law enforcement agencies to “commence a governing body approval process,” for the adoption of a military equipment use policy by ordinance, in a public forum, by May 1, 2022, in order to continue the use of previously acquired “military equipment.” The bill also requires such approval (of the policy by ordinance), by the governing body in a public forum, before a law enforcement agency may fund, acquire, or use new “military equipment.” Moreover, the bill requires further public review and approval actions by the governing body, annually, to continue the use of “military equipment,” and requires the City to host annual community meetings regarding the agency’s use of “military equipment” under the bill. These requirements are more specifically outlined below.

The term “military equipment,” as used in the legislation, does not necessarily indicate equipment used by the military. Items deemed to be “military equipment,” include, but are not limited to equipment such as unmanned vehicles, command and control vehicles, armored vehicles, pepper balls, less lethal shotguns, and long-range acoustic devices. These types of equipment, as well as others considered “military equipment” under AB 481, are commonly used and employed by law enforcement agencies across the country to enhance resident and officer safety.

AB 481 “Military Equipment”:

The following law enforcement equipment is now deemed to be “military equipment” for purposes of adhering to AB 481 under §7070(c):

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected vehicles or armored personnel carriers.
3. Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature.
8. Firearms of .50 caliber or greater. Standard issue shotguns excluded.
9. Ammunition of .50 caliber or greater. Standard issue shotgun ammunition is excluded.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.

12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls."
13. Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD).
14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
16. Notwithstanding paragraphs (1) through (15), "military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

A current list of equipment (Attachment IV) contained in HPD's inventory is attached to this staff report and is a part of the Policy (Exhibit A) at issue. The department does not currently utilize some of the equipment on the above list – the list in Attachment IV identifies under which category from the above list HPD's equipment falls.

AB 481 Legal Requirements:

To continue to use, seek funding for, or acquire any of the above equipment, a law enforcement agency must obtain approval of its governing body (the City Council) "by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant" to the Brown Act. Gov't Code. § 7071(a)(1). The law enforcement agency must "commence" the "governing body approval process," in accordance with AB 481, by "no later than May 1, 2022." § 7071(a)(2). The process is "commenced" by "submission of the proposed military equipment use policy to the governing body." *Id.* Once the proposed policy is provided to the governing body, the governing body (City Council) has 180 days to approve of the continuing use of military equipment, including by adoption of the proposed policy. *Id.* If the use of military equipment and proposed policy are not approved within that timeframe, the agency must cease all use of such equipment until such approval is received. *Id.*

For transparency purposes, the bill requires that the proposed policy (to be submitted to the governing body for approval), be made available "on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue." § 7071(b). Moreover, the governing body (City Council) is required to consider the proposed policy, "as an agenda item for an open session of a regular meeting and provide for public comment in accordance with" the Brown Act. § 7071(c).

The proposed policy, must, at a minimum, contain the following: (1) a description of each type of military equipment, quantity sought, its capabilities, expected lifespan, and product descriptions from manufacturer; (2) the purposes and authorized uses for which the agency proposes to use each type of equipment; (3) the fiscal impact of each type of equipment, including initial costs of obtaining the equipment and the estimated annual cost for maintaining the equipment; (4) the legal and procedural rules that govern each authorized use; (5) the training that must be completed before an

employee is allowed to use each type of equipment; (6) the mechanisms in place to ensure compliance with the policy, including which independent persons or entities have oversight/authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy; and (7) the procedures by which members may register complaints or concerns about the use of equipment and how the agency will ensure the complaints or concerns are received and responded to in a timely manner. HPD's Military Equipment Use Policy is included with this memo as Attachment I. § 7070(d).

In reviewing the proposed policy, the City Council shall only approve the policy if it determines the following: (1) the equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; (2) the proposed policy will safeguard the public's welfare, safety, civil rights and civil liberties; (3) the equipment, if being purchased, is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and (4) prior military equipment use complied with the military equipment use policy that was in effect at the time, or if it did not, corrective action has been taken to remedy nonconforming uses and ensure future compliance. § 7071(d)(1).

Following the approval of any such policy, the proposed or final policy must be made publicly available on the law enforcement agency's website for as long as the military equipment is available for use. §7071(d)(2). Moreover, the law enforcement agency must submit, to the City Council, within a year of approval, and annually thereafter for as long as the military equipment is available for use, a "military equipment report for each type of military equipment approved by the governing body." § 7072. The report must include the following information: (1) A summary of how the military equipment was used and the purpose of its use; (2) a summary of complaints or concerns received regarding military equipment; (3) the results of internal audits, any information about violations of the Policy, and actions taken in response; (4) the total annual cost for each piece of equipment, including the cost of acquisition, personnel, training, transportation, maintenance, storage, upgrade, ongoing costs and information about where source funds will be provided from in the calendar year following the submission of the annual report; (5) the quantity of each type of equipment possessed; and (6) whether the agency intends to acquire additional military equipment next year and the quantity sought for each. *Id.*

Within 30 days of submitting and publicly releasing the annual military equipment report, the law enforcement agency must hold "at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report" and the funding/use of equipment. § 7072(b)

Additionally, the City Council must review the ordinance that it has adopted, approving of the funding, acquisition, or use of military equipment, at least annually, and vote on whether to renew the ordinance at a regular meeting held pursuant to the Brown Act. § 7071(e)(1). During the review process, the City Council must determine, based on the military equipment report submitted under § 7072, whether each type of military equipment in the report has complied with the standards for approval set forth in

§7071(d)(1). §7071(e)(2). If it determines a type of equipment identified in the report has not complied with the standards for approval, the City Council must either disapprove of the renewal or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance.

DISCUSSION

By its very nature, law enforcement is an increasingly difficult and dangerous job. History has shown that armed encounters between law enforcement officers in the United States and heavily armed, violent offenders can be traced back to the prohibition era of the 1920s. During this time, communities were impacted by offenders and organized crime groups who were often armed with automatic weapons, wearing body armor, and using military style tactics to commit offenses (e.g., bank robberies, shootings, etc.). Since that time, law enforcement officers continued encountering heavily armed individuals and groups who were willing to engage in armed confrontations. Traditional methods of law enforcement response placed officers and community members at risk, so new equipment and methods of response had to be developed.

In addition to increased contacts with heavily armed, violent offenders, high-profile international, state, and local incidents contributed to the evolution of law enforcement response and equipment. While this is certainly not an exhaustive list, below are several incidents that led to changes in methods of response and equipment for law enforcement agencies in the United States, including the HPD:

- *Los Angeles, California:* In the 1960s, the first Special Weapons and Tactics (SWAT) Team was formed in response to several incidents involving snipers firing upon community members and officers during rioting.
- *Munich, Germany:* Multiple Israeli athletes were killed during a hostage taking in the Olympic Village during the 1972 Olympic Games in Munich, Germany. During a failed rescue attempt, 9 hostages were killed as the German Police were not trained or equipped to deal with such a sophisticated threat.
- *Hayward, California:* In the mid-1970s, HPD officers responded to a call for service and were fired upon by a subject armed with a high-powered rifle. A 72-hour stand-off ensued after the subject barricaded himself inside his residence and HPD officers were not trained or equipped to deal with such a sophisticated threat. Some HPD officers were sent to retrieve their personal hunting rifles as they were not able to get close enough to the residence without being fired upon. This led to the creation of the HPD's Special Response Unit (SRU).
- *Los Angeles, California:* Two subjects, armed with high-powered rifles and body armor, robbed a bank in the North Hollywood neighborhood of Los Angeles. LAPD officers, armed only with pistols, revolvers, and shotguns, were considerably outmatched as the subjects were armed with AK-47 and AR-15 style rifles, which can defeat body armor. In total, nearly 2,000 rounds were fired, 12 LAPD officers were shot, 8 community members were shot, and both subjects were ultimately killed after LAPD officers retrieved rifles from a nearby firearms dealer. After this incident, every law enforcement agency in the United States moved to equip officers with carbine rifles.

In addition to these historical events, recent national events have highlighted the need to continually evaluate methods of response and to maintain “military equipment” in the HPD’s inventory, including the following:

- *Buffalo, New York:* A subject, armed with an AR-15 style rifle and wearing body armor, entered a supermarket and began shooting people in what law enforcement officials identified as a hate crime (all of the victims were members of the Black community). A total of 10 people were killed, including a retired police officer working as a security guard. The retired police officer exchanged gunfire with the subject and was killed after rounds from his handgun failed to penetrate the subject’s ballistic vest.
- *Laguna Woods, California:* A subject, armed with multiple firearms, entered a place of worship and shot multiple people, killing one and critically injuring 5 others in what law enforcement officials described as a “hate incident” (all of the victims were members of the AAPI community).
- *Uvalde, Texas:* A subject, armed with an AR-15 style rifle, shot his grandmother, then drove to an elementary school where he shot multiple students and school staff members in one of the deadliest school shootings in United States history. In total, 19 students and 2 teachers were killed, and 17 others were critically wounded. The law enforcement response is being investigated by the Department of Justice and has sparked debate regarding methods of response and “military equipment.”

According to ABC News, 11 mass shootings took place in the United States during the weekend of June 3 – 5, 2022, including shootings in Philadelphia, Pennsylvania (3 killed, 11 wounded), Chattanooga, Tennessee (3 killed, 11 wounded), Socorro, Texas (3 killed), and Phoenix, Arizona (1 killed, 8 wounded). According to The Gun Violence Archive, there have been 247 mass shootings, or shootings where at least 4 people were killed or wounded, in the United States this year (as of June 6, 2022). Additionally, the following statistics from 2021 were shared during several community engagement events:

- According to a study published by the FBI in May 2022, there were 61 active shooter events in the United States in 2021 (a 52.5% increase from 2020 and a 96.8% increase from 2017).
- On average, there was at least one person shot per week in the City of Hayward in 2021.
- On average, HPD officers seized at least one firearm every other day in the City of Hayward in 2021.

Now, perhaps more than ever, law enforcement officers must have access to equipment that will allow them to perform their duties safely and to address sophisticated threats like those highlighted in the examples above. Much of the equipment listed in AB 481 and included in the HPD’s inventory is to address some of the critical incidents our community members expect us to safely resolve, such as:

- High-risk offender apprehension
- Barricaded subjects

- Hostage rescue
- Dignitary protection
- Crowd control
- Active shooter response

At the same time, it is critically important that a balance is struck between providing law enforcement officers with the equipment they need and the need to ensure accountability for its use. It is incumbent upon law enforcement agencies to develop appropriate policies, procedures, and training to ensure such equipment is being used properly. The HPD's equipment inventory (Attachment III) is governed by policies and procedures and can only be used by HPD officers who have met all training requirements. Much of the equipment listed in HPD's inventory can only be used by members of the SRU during critical incidents and only after SRU members have been trained and have shown proficiency.

It should be noted that much of the equipment listed in AB 481 has never been in HPD's inventory nor has HPD sought to acquire it. These categories include:

- Category 3 (Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached)
- Category 4 (Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion)
- Category 6 (Weaponized aircraft, vessels, or vehicles of any kind.)
- Category 8 (Firearms of .50 caliber or greater. Standard issue shotguns excluded.)
- Category 9 (Ammunition of .50 caliber or greater. Standard issue shotgun ammunition is excluded.)
- Category 11 (Any firearm or firearm accessory that is designed to launch explosive projectiles.)
- Category 13 (Taser Shockwave, microwave weapons, water cannons, and the Long-Range Acoustic Device (LRAD)).

HPD "Military Equipment" Usage

The following data includes the estimated uses of the items contained in the HPD equipment inventory for the last 5 years, both operationally and in training (2017 to the present):

Operational Use:

- Robot **(30)**
- UAS **(26)**
- Armored Personnel Carrier **(200-250)**
- Command and Control Vehicle **(85)**
- Breaching Shotgun **(0)**
- Carbine Rifles / Precision and Long Rifles **(2)**
- NFDDs **(10)**
- CS / OC Munitions **(5)**
- FN 303 Less Lethal Launcher **(2)**

- 40 mm Less Lethal Launcher **(25-30)**

Training Use:

- Robot **(5)**
- UAS **(5)**
- Armored Personnel Carrier **(150)**
- Command and Control Vehicle **(12)**
- Breaching Shotgun **(5)**
- Carbine Rifles / Precision and Long Rifles **(50)**
- NFDDs **(5)**
- CS / OC Munitions **(5)**
- FN 303 Less Lethal Launcher **(5)**
- 40 mm Less Lethal Launcher **(20)**

It should be noted that, per AB 481, the HPD will be tracking usage for each item listed in the HPD's equipment list and will be reporting usage to the Council on an annual basis.

Community Engagement Efforts

As part of the HPD's ongoing efforts to be transparent, provide information, and engage the community in dialogue regarding AB 481 and the "military equipment" contained in the HPD's equipment inventory, the following steps have been taken:

- On April 11, 2022, the HPD and City staff created an informational web page¹, which is prominently displayed on the front of the HPD website and contains information regarding AB 481, the HPD's equipment inventory, and proposed policy documents.
- A Council Work Session was held on April 26, 2022, during which the provisions set forth in AB 481, the HPD's equipment inventory, and draft policy documents were discussed with the Council. This Council Work Session was a public meeting, which included a public comment period and provided a space for Council members to engage in dialogue with HPD staff regarding "military equipment."
- The HPD held virtual community engagement meetings on May 26, 2022, and June 6, 2022, during which information regarding the HPD's equipment inventory was shared, questions were asked and answered, and community members expressed concerns and shared perspectives on the impacts of possessing "military equipment." These meetings were recorded and can be viewed by community members on the HPD website.
- The HPD held an in-person community engagement event at the North Resource Center on June 11, 2022, during which HPD's "military equipment" was displayed and HPD staff members were present to engage in dialogue with community members.
- The HPD created an informational video regarding AB 481 and the HPD's equipment inventory, which can be viewed by community members on the HPD website.

¹ [Proposed Military Equipment Use Policy: funding, acquisition, and use | City of Hayward - Official website \(hayward-ca.gov\)](https://www.cityofhayward.org/DocumentCenter/View/11111/Proposed-Military-Equipment-Use-Policy-funding-acquisition-and-use)

Additionally, the HPD specifically provided final drafts of the proposed Military Equipment Use Policy, the ordinance, and the HPD equipment inventory to the following community groups:

- The Community Advisory Panel (CAP) to the Chief of Police
- The Hayward Community Coalition
- The Hayward Concerned Citizens

Community Feedback

During conversations and written feedback regarding AB 481, the Military Equipment Use Policy, and the HPD equipment inventory, there were several themes and concerns that surfaced. These themes and concerns included the following:

- *Concerns Regarding the Inclusion of CS (commonly referred to as “tear gas”) in the HPD’s inventory:*

CS, or “tear gas”, is equipment commonly possessed by law enforcement agencies across California and the United States. It is a less-lethal force option designed for use during high-risk incidents, including riots and certain critical incidents (e.g., barricaded subjects, tactical operations, etc.). The use of CS during such high-risk incidents is strictly governed by HPD policy, AB 48, and California Penal Code section 13652 and can only be used during qualifying incidents with the approval of an Incident Commander. Additionally, there is no effective alternative to CS that HPD, or any other California law enforcement agency, is aware of.

- *Concerns Regarding the International Chemical Weapons Convention Ban on the Use of Riot Control Agents (RCAs) During Warfare:*

According to the International Committee of the Red Cross (ICRC), the 1925 Geneva Convention led to the adoption of the Geneva Gas Protocol as international law and prohibits the use of asphyxiating, poisonous, or “any other” gases during war (the protocol does not specifically list CS or other gases). Additionally, according to the Organization for the Prohibition of Chemical Weapons (OPCW), the International Chemical Weapons Convention (CWC) confirmed the restriction of using “riot control agents (RCAs)”, which are defined as “any chemical...which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure (Article II(7))”, as methods of warfare. However, Article II(9) provides for “Purposes Not Prohibited Under This Convention” and includes an exception for the use of RCAs by law enforcement for domestic riot control purposes (Article II(9)(d)), among others. Additionally, the UN, including the United States Military, has used RCAs during riots while assigned to peacekeeping missions. Further, the United States Naval Handbook acknowledges the international agreement to prohibit the use of RCAs as “methods of warfare”, but notes the CWC does not define that term (Section 10.3.2). The United States Naval Handbook also

provides for the use of RCAs, with presidential approval, in “defensive military modes to save lives”, including “riot control situations in areas under effective U.S. military control, to include rioting prisoners of war” (Section 10.3.2.1).

- *Concerns Regarding the HPD’s Use of “Military Equipment” During Protests/Demonstrations:*

There exists a legal distinction between a protest or demonstration, which is a public expression of disapproval and is an individual right granted under the First Amendment of the United States Constitution’s Bill of Rights, and a riot. According to the California Penal Code Section 404(a), a riot is defined as “any use of force or violence, disturbing the public peace, or any threat to use force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without the rule of law”. As such, the HPD would not use “military equipment”, including CS, during a protest or demonstration nor would “military equipment” be used indiscriminately on a crowd. Additionally, there exist HPD policies that restrict the use of “military equipment” during protests or demonstrations as a matter of routine and several statutes that clearly define the circumstances under which CS can be used in a riot (e.g., AB 48, California Penal Code Section 13652, etc.).

- *Concerns Regarding the HPD’s “Military Equipment” Inventory Volume and Current Deployment Model:*

The HPD’s equipment inventory volume, particularly the number of carbine rifles, rounds of ammunition, and CS/OC munitions, are based upon annual anticipated operational and training needs. Because the HPD cannot predict when or where critical incidents will happen, the HPD has carbine rifles in every patrol vehicle and motorcycle in the field, which has been a standard deployment model for years among California law enforcement agencies. In addition, the HPD maintains a pool of carbine rifles for training and to replace those pulled from service for maintenance or repairs. Ammunition needs are assessed annually and take into account projected training, including continuous professional training (CPT), SRU training, hiring (lateral officers and trainees in the academy), etc. CS/OC munitions have a 5-year shelf life and, once they reach that point, they are used for training and replaced. The HPD often maintains overstock on these items as experiencing supply chain, shipping, or product manufacturing delays is commonplace, as we compete with other law enforcement agencies and the military when purchasing this equipment.

- *Authorization for the Use of “Military Equipment”:*

Most of the items included in the HPD’s equipment inventory are specifically maintained and used by the SRU during high-risk, critical incidents. Like the HPD, the SRU has a hierarchical structure, with a Commander (Lieutenant), Assistant Commander (Sergeant), and Team Leaders (Sergeants). When critical incidents occur, including those that don’t rise to the level of a SRU activation, the HPD utilizes the

Incident Command Structure (ICS) where a Lieutenant is designated as the Incident Commander with operational control over HPD's response. Authorization to use the "military equipment," including the robot, UAS, command and control vehicles, breaching shotgun, NFDDs, chemical agents, or specialty impact munitions, rests with the Incident Commander and/or the Tactical Commander.

- *Requests to Incorporate Exclusionary Language and Relevant Policy/Statute References in the Military Equipment Use Policy:*

During the community engagement events referenced above, 2 specific requests surfaced regarding the HPD's Military Equipment Use Policy (Policy 706). The first was to incorporate exclusionary language in the Military Equipment Use Policy to address the categories of "military equipment" not contained in the HPD's inventory. In response to this request, the HPD included Section 706.6 (Military Equipment Exclusions) and incorporates language preventing the HPD from seeking to acquire, borrow, or use items that fall within Category 3, Category 4, Category 6, Category 8, Category 9, Category 11, and Category 13 as outlined in AB 481. The second request was to specifically reference other relevant laws and/or policies in the Military Equipment Use Policy. In response to this request, Section 706.2 incorporates language requiring "military equipment" to be used in accordance with all other applicable policies and laws. Those specifically referenced include HPD Policy 300 (Use of Force), HPD Policy 302 (Control Devices and Techniques), AB 48, and California Penal Code Section 13652.

HPD Equipment Inventory – Removal of Specific Items

As previously mentioned, the HPD listened to concerns regarding the use of "military equipment" during a protest or demonstration. After community engagement and dialogue regarding the "military equipment" contained in HPD's equipment inventory, HPD took a comprehensive look at each item to determine whether it should remain and whether there were effective alternatives. Based on this assessment, the HPD recommends the following items be removed from the HPD's equipment inventory:

- (6) Model 1088 CS Stingerballs
- (9) Model 1090 Stingerballs
- (6) Model 1089 OC Stingerballs

These munitions are comprised of a rubber housing and contain combinations of CS, OC, flash powder, and rubber balls designed for dispersal within a 50-foot radius. The use of these munitions during a riot could inadvertently strike non-participants and/or those who do not meet the criteria set forth in AB 48 and California Penal Code Section 13652. Unintended injury could result and, given the common ground shared between HPD and community members who expressed concerns regarding the indiscriminate use of munitions on a crowd, the recommendation was made to permanently remove these munitions from the HPD's equipment inventory.

FISCAL IMPACT

None.

NEXT STEPS

Upon approval of the Military Equipment Use Policy and the ordinance by the Council, the HPD will continue to possess and use the authorized items in accordance with applicable policies and laws. Further reports, community engagement efforts, and Council review will occur annually as outlined above and in the Policy.

Prepared by: Bryan Matthews, Deputy Chief
Amy Rothman, Deputy City Attorney

Recommended by: Toney Chaplin, Chief of Police

Approved by:



Kelly McAdoo, City Manager

Policy

706**Hayward Police
Department**

Hayward PD Policy Manual

Military Equipment

706.1 PURPOSE AND SCOPE

Assembly Bill 481 (AB 481), signed into law on September 30, 2021, requires law enforcement agencies to create a policy establishing guidelines and requirements for the funding, acquisition, and use of “military equipment” (Government Code § 7070, 7071, and 7072), including requirements to host informational meetings with the public, generate annual “military equipment” use reports, and seek annual approval from their respective governing bodies. The purpose of this policy is to make sure that safeguards exist, including transparency, governing body oversight, and accountability measures, to ensure the funding, acquisition, and use of “military equipment” is consistent with the provisions set forth by the governing body and as outlined in AB 481. This policy will also provide the public with a transparent view of the “military equipment” utilized by the Hayward Police Department.

706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The City of Hayward’s Mayor and City Council.

Exigent Circumstances – A law enforcement agency’s good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.

Military equipment – Includes but is not limited to the following:

- *Category 1* - Unmanned, remotely piloted, powered aerial or ground vehicles.
- *Category 2* - Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- *Category 3* - High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- *Category 4* - Tracked armored vehicles that provide ballistic protection to their occupants.
- *Category 5* - Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- *Category 6* - Weaponized aircraft, vessels, or vehicles of any kind.

- *Category 7* - Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- *Category 8 and 9* – Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- *Category 10* - Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code §30515, with the exception of standard-issue handguns.
- *Category 11* - Any firearm or firearm accessory that is designed to launch explosive projectiles.
- *Category 12* - Noise-flash diversionary devices, explosive breaching tools, “tear gas”, and “pepper balls”, excluding standard, service-issued handheld pepper spray.
- *Category 13* - TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- *Category 14* – Kinetic energy weapons and munitions.
- *Category 15* - Any other equipment as determined by a governing body or a state agency to require additional oversight.

706.2 POLICY

It is the policy of the Hayward Police Department that members of the department comply with the provisions of Government Code § 7071 with respect to qualifying “military equipment”. “Military equipment” shall be used by members of the Department who have completed applicable training, including training required by the Commission on Peace Officer Standards and Training (POST). See the Military Equipment Inventory List (section 706.5 below), attached hereto as **Exhibit A** for associated “military equipment” training requirements.

“Military equipment”, which has been approved for use by the governing body, shall be used in accordance with all other applicable department policies and laws. These policies and laws include, but are not limited to:

- Hayward Police Department Policy 300 (Use of Force)
- Hayward Police Department Policy 302 (Control Devices and Techniques)
- California Assembly Bill No. 48
- California Penal Code Section 13652 (Use of Kinetic Energy Projectiles and Chemical Agents)

The Hayward Police Department acknowledges the historical use of certain police equipment to intimidate and oppress certain communities and groups more than others, including those that are defined by a common race, ethnicity, religion, national origin, income level, sexual

orientation, or political perspective. As such, this policy expressly prohibits the use of “military equipment” on individuals or groups solely based on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

706.3 APPROVAL BY THE GOVERNING BODY

The Hayward Police Department shall obtain approval from the governing body annually prior to engaging in any of the following activities:

- (a) Requesting “military equipment” made available pursuant to section 2576a of Title 10 of the United States Code.
- (b) Seeking funds for military equipment including, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring new “military equipment”, either permanently or temporarily, including by borrowing or leasing.
- (d) Absent exigent circumstances, collaborating with another law enforcement agency in the deployment or other use of “military equipment” within the territorial jurisdiction of the governing body.
- (e) Absent exigent circumstances, using any new or existing “military equipment” for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to policy.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of “military equipment”.

The Hayward Police Department shall submit a proposed Military Equipment Use Policy (this policy), or associated amendments, to the governing body and the public via the Hayward Police Department’s website at least 30 days prior to any public hearing concerning the “military equipment” at issue.

706.4 MILITARY EQUIPMENT COORDINATOR

The Chief of Police shall designate a member of the Hayward Police Department to act as the Military Equipment Coordinator. The responsibilities of the Military Equipment Coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying Hayward Police Department equipment that qualifies as “military equipment” in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all “military equipment” at least annually. The inventory list shall include the following:

1. The manufacturer's description of the equipment.
 2. The capabilities of the equipment.
 3. The purposes and authorized uses for which the Hayward Police Department proposes to use the equipment.
 4. The expected lifespan of the equipment.
 5. The fiscal impact of the equipment, both initially and for ongoing maintenance.
 6. The quantity of the equipment, whether maintained or sought.
- (d) Collaborating with any allied agency that may use "military equipment" within the jurisdiction of Hayward Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the Hayward Police Department's funding, acquisition, and use of equipment.
- (f) Preparing the annual "military equipment" report for submission to the Chief of Police and ensuring that the report is made available on the Hayward Police Department's website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of "military equipment", and how the Hayward Police Department will respond in a timely manner.

706.5 MILITARY EQUIPMENT INVENTORY LIST

The Hayward Police Department shall prepare a Military Equipment Inventory List, which shall include the following information:

- (a) A description of each type of "military equipment", the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the "military equipment".
- (b) The purpose and authorized use for which the Hayward Police Department proposes to use each type of "military equipment".
- (c) The fiscal impact of each type of "military equipment", including initial costs of obtaining the equipment and estimated annual cost of maintaining the equipment.
- (d) The legal and procedural rules that govern each authorized use.
- (e) The training, including any course required by POST, that must be completed before any Department member is allowed to use each specific type of "military equipment" to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment Use Policy.

The Military Equipment Inventory List shall be updated as necessary due to directives from the governing body or a change in the inventory. The Military Equipment Inventory List and associated amendment(s) shall be submitted to the governing body and the public via the Hayward Police Department's website at least 30 days prior to any public hearing concerning this policy.

The current Military Equipment Inventory List is attached hereto as **Exhibit A**.

706.6 MILITARY EQUIPMENT EXCLUSIONS

The Hayward Police Department acknowledges the list of "military equipment", as outlined in AB 481, is extensive and includes items that members of the department shall not seek to acquire, borrow, or use. These "military equipment" items include those that fall within the following categories:

- *Category 3* - High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- *Category 4* - Tracked armored vehicles that provide ballistic protection to their occupants.
- *Category 6* - Weaponized aircraft, vessels, or vehicles of any kind.
- *Category 8 and 9* - Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- *Category 11* - Any firearm or firearm accessory that is designed to launch explosive projectiles.
- *Category 13* - TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).

706.7 PROCUREMENT AND USE IN EXIGENT CIRCUMSTANCES

Notwithstanding the provisions of this policy, the Hayward Police Department may acquire, borrow, and/or use "military equipment" in exigent circumstances without following the requirements of this policy.

If the Hayward Police Department acquires, borrows, and/or uses "military equipment" in exigent circumstances, in accordance with this section, the following action must be taken:

- (a) The Chief of Police or the authorized designee must provide written notice to the governing body within 30 days following the commencement of the exigent circumstances, unless such information is confidential or privileged under local, state, or federal law.

- (b) If it is anticipated the use will continue beyond the exigent circumstances, the Chief of Police or the authorized designee must submit a proposed amendment to the Military Equipment Use Policy to the governing body within 90 days and the Hayward Police Department may only continue use if approved, as applicable, by the governing body.
- (c) The Chief of Police or the authorized designee must include the acquisition, borrowing, and/or use of the “military equipment” in the next annual Military Equipment Report.

706.8 POLICY COMPLIANCE AND SUBMITTING COMPLAINTS

The Chief of Police or the authorized designee will ensure that all Hayward Police Department employees comply with this policy. Suspected violations of the provisions set forth in this policy, or in other laws or policies governing the use of “military equipment”, shall be referred to the Internal Affairs Unit and handled in accordance with Hayward Police Department Policy 324 (Standards of Conduct). Additionally, violations of the provisions set forth in this policy, or in other laws or policies governing the use of “military equipment”, will be reported to the governing body via the annual Military Equipment Report.

Any member of the community can submit a complaint regarding the use of “military equipment” to any Hayward Police Department employee and in any form (e.g., in person, telephone, email, etc.). Once a complaint is received, it will be referred to the Internal Affairs Unit and handled in accordance with Hayward Police Department Policy 324 (Standards of Conduct).

706.9 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

706.10 ANNUAL MILITARY EQUIPMENT REPORT

Upon approval of this Military Equipment Use Policy, the Chief of Police or the authorized designee shall submit an annual Military Equipment Report to the governing body for each type of “military equipment” approved and in the Hayward Police Department inventory. This report must be submitted to the governing body within one year of approval, and annually thereafter for as long as the “military equipment” is available for use. Each annual report shall be made publicly available on the Hayward Police Department’s website for as long as the “military equipment” is available for use.

The annual Military Equipment Report must address each type of “military equipment” approved for department use and shall, at a minimum, include the following information for the preceding year for each type of “military equipment”:

- (a) A summary of how the “military equipment” was used and the purpose of its use.
- (b) A summary of any complaints or concerns received regarding the “military

equipment”.

- (c) The results of any internal audits, any information about violations of the Military Equipment Use Policy, and any actions taken in response.
- (d) The total annual cost for each type of “military equipment”, including acquisition costs, personnel costs, training costs, maintenance costs, and other ongoing costs, and from what funding source these costs came from.
- (e) The quantity possessed for each type of “military equipment”.
- (f) If the Hayward Police Department intends to acquire additional “military equipment” in the next year, including the nature of the items and quantity sought.

706.11 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing an annual Military Equipment Report, the Hayward Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the community may discuss and ask questions regarding the report. The community may also discuss and ask questions regarding the Hayward Police Department’s funding, acquisition, or use of “military equipment”.

706.12 REVISIONS

Adopted: XXX

ORDINANCE NO. 22-AN ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA,
ADDING ARTICLE 15 TO CHAPTER 3 OF THE HAYWARD
MUNICIPAL CODE RELATING TO THE USE OF MILITARY
EQUIPMENT BY LAW ENFORCEMENT

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, (creating Government Code Section 7070, et seq.) relating to the use of military equipment by law enforcement agencies; and

WHEREAS, Assembly Bill No. 481 (“AB 481”), requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment” use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term “military equipment” is defined in California Government Code section 7070; and

WHEREAS, AB 481 allows the governing body of a City to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations; and

WHEREAS, the proposed Military Equipment Use Policy is attached hereto as Exhibit “A” and incorporated herein by this reference (the “Military Equipment Use Policy”); and

WHEREAS, the proposed Military Equipment Use Policy No. 706 and a list of “military equipment” in the current possession of the Hayward Police Department was submitted to the City Council and published, and has remained published, on the Hayward Police Department’s internet website on April 11, 2022, more than 30 days before the Military Equipment Use Policy was considered at a public hearing before the City Council on June 21, 2022; and

WHEREAS, the Military Equipment Use Policy meets the requirements of California Government Code section 7070, subdivision (d).

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

SECTION 1. Article 15 is added to Chapter 3 of the City of Hayward Municipal Code of the City of Hayward to read as follows:

SEC. 3-15.00 Title.

- A. This Article shall be known as the “Military Equipment Use Policy.”

SEC. 3-15.10 Definitions.

- A. **"Military Equipment"** includes all of the following (Per CA Gov. Code § 7070)
1. Unmanned, remotely piloted, powered aerial or ground vehicles.
 2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
 3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
 4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
 5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
 6. Weaponized aircraft, vessels, or vehicles of any kind.
 7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
 8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
 9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
 10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
 11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
 12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
 13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).
 14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
 15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
 16. Notwithstanding paragraphs (1) through (15), "Military Equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
- B. **"City"** means any department, agency, bureau, and/or subordinate division of the City of Hayward.

- C. **"Police Department"** means any division, section, bureau, employee, volunteer and/or contractor of the Hayward Police Department.
- D. **"City Council"** means the governing body that is the Hayward City Council.
- E. **"Military Equipment Use Policy"** means a publicly released, written document that includes, at a minimum, all the following:
 1. A description of each type of Military Equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the Military Equipment.
 2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of Military Equipment.
 3. The fiscal impact of each type of Military Equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
 4. The legal and procedural rules that govern each authorized use.
 5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of Military Equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the Military Equipment use policy.
 6. The mechanisms to ensure compliance with the Military Equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
 7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of Military Equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

F. **"Exigent Circumstances"** means a law enforcement agency's good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.

G. **"State agency"** means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

H. **"Type"** means each item that shares the same manufacturer model number.

SEC. 3-15.11 Military Equipment Use Policy Requirement.

- A. The Hayward Police Department shall obtain City Council approval of a Military Equipment Use Policy in accordance with Government Code Section 7071 at a regular meeting of the City Council held pursuant to the Ralph M. Brown Act

(Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) prior to engaging in any of the following:

1. Requesting Military Equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
 2. Seeking funds for Military Equipment, including, but not limited to, applying for a grant, soliciting, or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
 3. Acquiring Military Equipment either permanently or temporarily, including by borrowing or leasing.
 4. Collaborating with another law enforcement agency in the deployment or other use of Military Equipment within the territorial jurisdiction of the City of Hayward.
 5. Using any new or existing Military Equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
 6. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, Military Equipment.
 7. Acquiring Military Equipment through any means not provided by this section.
- B. No later than May 1, 2022, if seeking to continue the use of any Military Equipment that was acquired prior to January 1, 2022, the Hayward Police Department shall commence a City Council approval process in accordance with this section. If the City Council does not approve the continuing use of Military Equipment, including by adoption pursuant to a Military Equipment Use Policy, within 180 days of submission of the proposed Military Equipment Use Policy to City Council, the Hayward Police Department shall cease its use of the Military Equipment until it receives the approval of City Council.
- C. In seeking the approval of City Council, the Hayward Police Department shall submit a proposed Military Equipment Use Policy to the City Council and make those documents available on the Police Department's internet website at least 30 days prior to any public hearing concerning the Military Equipment at issue.
- D. The City Council shall only approve a Military Equipment Use Policy pursuant to this chapter if it determines all the following:
1. The Military Equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 2. The proposed Military Equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
 3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
 4. Prior Military Equipment use complied with the Military Equipment Use Policy that was in effect at the time, or if prior uses did not comply with the

accompanying Military Equipment Use Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

- E. In order to facilitate public participation, any proposed or final Military Equipment Use Policy shall be made publicly available on the internet website of the Police Department for as long as the Military Equipment is available for use.
- F. The City Council shall review this ordinance at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 3-15.12 Use in Exigent Circumstances.

- A. Notwithstanding the provisions of this Chapter, the Police Department may acquire, borrow and/or use Military Equipment in Exigent Circumstances without following the requirements of this code.
- B. If the Police Department acquires, borrows, and/or uses Military Equipment in Exigent Circumstances, in accordance with this section, it must take all the following actions:
 - 1. Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.
 - 2. If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
 - 3. Include the Military Equipment in the Police Department's next annual Military Equipment Report.

SEC. 3-15.13 Military Equipment Use Reports.

- A. The Police Department shall submit to City Council an annual Military Equipment Report for each type of Military Equipment approved by the City Council within one year of approval, and annually thereafter for as long as the Military Equipment is available for use.
- B. The Police Department shall also make each annual Military Equipment Report required by this section publicly available on its internet website for as long as the Military Equipment is available for use.
- C. The annual Military Equipment Report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of Military Equipment:
 - 1. A summary of how the Military Equipment was used and the purpose of its use.

2. A summary of any complaints or concerns received concerning the Military Equipment.
 3. The results of any internal audits, any information about violations of the Military Equipment Use Policy, and any actions taken in response.
 4. The total annual cost for each type of Military Equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the Military Equipment in the calendar year following submission of the annual Military Equipment Report.
 5. The quantity possessed for each type of Military Equipment.
 6. If the law enforcement agency intends to acquire additional Military Equipment in the next year, the quantity sought for each type of Military Equipment.
- D. Within 30 days of submitting and publicly releasing an annual Military Equipment Report pursuant to this section, the Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the public may discuss and ask questions regarding the annual Military Equipment report and the law enforcement agency's funding, acquisition, or use of Military Equipment.
- E. The City Council shall determine, based on the annual Military Equipment Report submitted pursuant to this section, whether each type of Military Equipment identified in that report has complied with the standards for approval set forth in this code and the Military Equipment Use Policy. If the City Council determines that a type of Military Equipment identified in that annual Military Equipment Report has not complied with the standards for approval, the City Council shall either disapprove a renewal of the authorization for that type of Military Equipment or require modifications to the Military Equipment Use Policy in a manner that will resolve the lack of compliance.

SEC. 3-15.14 City Council Findings.

The Hayward City Council has made the following determinations:

- A. In accordance with Government Code § 7071:
- (1) The military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; and
 - (2) The Military Equipment Use Policy ("Policy") will safeguard the public's welfare, safety, civil rights, and civil liberties; and

- (3) The military equipment identified in the Military Equipment Use Policy is reasonably cost effective compared to available alternatives that can achieve the same objective of Officer and civilian safety; and
- (4) Prior military equipment use complied with the applicable Equipment Use Policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses did not comply with the accompanying Military Equipment Use Policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
- B. The Hayward Police Department commenced a City Council approval process in accordance with Government Code § 7071 subdivision (a) paragraph (2) prior to May 1, 2022.
- C. The Hayward Police Department submitted a proposed Military Equipment Use Policy and Military Equipment Inventory List to the City Council and made those documents available on the Hayward Police Department's website at least 30 days prior to the public hearing concerning the military equipment at issue in accordance with Government Code § 7071 subdivisions (a) and (b).
- D. The Policy was considered by the City Council as an agenda item in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act, at which public comment was permitted in accordance with Government Code § 7071 subdivision (c).
- E. The Policy shall be made publicly available on the Hayward Police Department's website for as long as the military equipment is available for use.
- F. The Hayward Police Department shall submit an annual Military Equipment Report to the City Council, containing the information required in Government Code § 7072, and the City Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in Section (A) subdivisions (1) through (4), above.
- G. The City Council shall review this ordinance, and vote on whether to renew it, on an annual basis at a regular meeting, in accordance with Government Code § 7071 subdivision (e) paragraph (2).
- H. The City Council approves the use of the Military Equipment Use Policy and finds that it satisfies the requirements of Government Code § 7070(d).

SEC. 3-15.15 CEQA.

This Ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential to result in physical change in the environment, directly or indirectly. This Ordinance is also exempt

under CEQA Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SEC. 3-15.16 Severance.

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

SEC. 3-15.16 Effective Date.

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

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 21st day of June, 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

HPD Policy 706 – EXHIBIT A***AB 481 – HPD “Military Equipment” Inventory*****CURRENT EQUIPMENT:****1. Robot (Category 1)**

- a. Description, quantity, capability, and purchase cost:
Avatar Tactical Robot – Unit Cost: \$30,000 (purchased under a Bay Area UASI grant). Quantity: 2. This equipment is a battery powered, remote operated device equipped with cameras and communication capabilities. This equipment is for (potential) use during high-risk incidents and use is authorized for all members of the department who have been trained in its use. Incidents that may qualify for its use include, but are not limited to, high-risk warrant services, barricaded subjects, and hostage negotiation/rescue operations. Before entering a structure, particularly in a tactically compromised and dangerous situation, knowledge of a subject’s location is very important, and the robot can provide that without placing anyone at risk. Cameras can also help determine if a subject is armed and if there are other subjects inside that need assistance. The two-way speakers can be used to communicate, de-escalate, and determine resistance level.
- b. Purpose:
To be used to remotely gain visual/audio information during high-risk incidents, deliver CNT phone, open doors, and clear buildings.
- c. Authorized Use:
Only members of the department who have been trained in the use of the robot shall be permitted to operate the robot. Use is authorized by the on-scene Incident or Tactical Commander and shall comply with all associated HPD and City policies regarding privacy.
- d. Expected Lifespan:
10 years
- e. Fiscal Impact:
No known annual maintenance cost.
- f. Training Requirements (initial and ongoing):
Initial training on how to operate the robot is the only requirement. There is no ongoing training or POST certifications required.

2. Unmanned Aerial Systems (Category 1)

- a. Description, quantity, capability, and purchase cost:
DJI Mavick Advanced unmanned aerial system (UAS) – Unit Cost: \$6,500. Quantity: 2. The DJI Mavick Advanced is a commercial grade UAS. This UAS is a battery powered, remote operated device. The controller allows operators to fly UAS and view live feed from UAS-mounted cameras in accordance with HPD and City policy. The cameras have both RGB (normal) and FLIR (heat sensing)

capabilities consistent with those mounted on all law enforcement helicopters. Flight time is approximately 25-30 minutes per battery, depending on weather and flight conditions. The UAS has also proven to be useful to public safety agencies in emergency response, search and rescue, and other situations where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

The DJI Mini 2 unmanned aerial system (UAS) – Unit Cost: \$1,411.39. Quantity: 2. This UAS is a battery powered, remote operated device. The controller allows operators to fly UAS and view live feed from UAS-mounted cameras in accordance with HPD and City policy. This is a smaller UAS specifically designed for clearing structures or other areas that are difficult or unsafe to reach for first responders. Flight time is approximately 25-30 minutes per battery, depending on weather and flight conditions. The UAS has also proven to be useful to public safety agencies in emergency response, search and rescue, and other situations where aerial views enhance the safety and efficiency of law enforcement and fire personnel.

b. Purpose:

To be deployed when its use would assist members of the department with the situations outlined in HPD Policy subsection 611.6 (Approved Uses).

c. Authorized Use:

Only assigned operators who have completed the required training, including obtaining their FAA Part 107 certification, shall be permitted to operate UAS during approved missions.

d. Expected Lifespan:

3-4 years

e. Fiscal Impact:

No known annual maintenance cost. Repairing damage and/or updating software could be necessary to keep the UAS operational. This cost can vary from \$20-\$2,000 and would be based on need.

f. Training Requirements (initial and ongoing):

UAS initial training (required):

- Passing the Part 107 test required by the FAA to operate a UAS
- HPD training on the operations manual, proper reporting forms, HPD policy, and HPD procedure
- 8-hour flight training on how to operate the UAS properly and efficiently
- UAS written test on the operations manual and HPD policy

UAS ongoing training (required):

- Each UAS deployment is considered ongoing training
- The UAS team meets quarterly

- Joint training with allied agency UAS teams
- Annual UAS written test on the operations manual and HPD policy

3. **Armored Personnel Carrier (Category 2)**

a. Description, quantity, capability, and purchase cost:

Armored Solutions Armored Rescue Vehicle – Unit Cost: \$82,660.00. Quantity: 1. The ARV is a Ford F550 truck designed to provide ballistic protection during high-risk incidents. It is designed to withstand multiple bullet impacts and low-level explosions. The ARV is equipped with emergency lights, siren, and a public address system for communications. It is not weaponized, nor does it contain any breaching apparatuses. Common uses of the ARV include community member or officer rescues, evacuations, and it provides ballistic protection for officers during in-progress, high-risk incidents. The ARV is also a regional mutual-aid asset, which has been requested by and deployed to assist neighboring agencies in Alameda County.

b. Purpose:

To be used during responses to high-risk incidents to enhance the safety of community members and officers, improve scene containment and stabilization, and to contribute to the safe resolution of evolving critical events.

c. Authorized Use:

The use of the ARV can be requested by any Officer based on the specific circumstances of in-progress, high-risk incidents or high-risk planned operations. The ARV shall only be used by Officers trained in its deployment and in a manner consistent with departmental training. Use shall be authorized by the Special Operations Lieutenant or the on-duty Watch Commander.

d. Expected Lifespan:

20 years

e. Fiscal Impact:

Annual maintenance cost of approximately \$1,050.

f. Training Requirements (initial and ongoing):

There are no POST certifications required for use of the Armored Personnel Carrier. HPD's Armored Personnel Carrier initial training requirements:

- How to operate the different functions, placement considerations, and appropriate usage of the vehicle

HPD's Armored Personnel Carrier ongoing training requirements:

- Refresher training for all officers on the different functions, placement considerations, and appropriate usage of the vehicle

4. Command and Control Vehicle (Category 5)**a. Description, quantity, capability, and purchase cost:**

Freightliner MT-55 LDV Model C34MCC-10 – Unit Cost: \$387,672.00. Quantity: 1. The Command Vehicle is a bus style vehicle with front and rear doors. It is painted white with HPD markings affixed to the front, sides, and rear of the vehicle. There are 2 separate internal office-style working spaces, most commonly used by Dispatch or Crisis Negotiations personnel. It can be used as a field-based, mobile command center for major incidents and as a backup Communications Center for the City. The Command Vehicle is also capable of transporting equipment and personnel.

b. Purpose:

To be used as a field-based mobile command center, communications center, and crisis negotiations center during major incidents. It also serves as a backup Communications Center in the event the City's primary Communications Center experiences technical issues.

c. Authorized Use:

The Command Vehicle can be requested by any member of the department for use in the field during major incidents. Use of the Command Vehicle shall be approved by the Special Operations Lieutenant and can only be operated by members of the department specifically trained in its use.

d. Expected Lifespan:

20 years

e. Fiscal Impact:

Annual maintenance cost of approximately \$840.

f. Training Requirements (initial and ongoing):

Initial training is required for employees assigned as drivers of the Command Vehicle. The training consists of an overall familiarization, how to operate the vehicle's equipment, and how to safely drive the vehicle. There is no ongoing training or POST certifications required.

5. Breaching Apparatus: Shotgun Slugs (Category 7)**a. Description, quantity, capability, and purchase cost:**

Royal Arms Tesar-2 – Unit Cost: \$4 per round. Quantity: 50. Shotgun breaching rounds are specialty shotgun shells utilized for door breaching. The Royal Arms Tesar-2 rounds contain compressed copper powder and are fired through a specialized breaching shotgun barrel. The copper powder is designed to strike and destroy the locking mechanism inside of the door, allowing entry into the room or structure. The powder is designed to dissipate after striking the locking mechanism in order to minimize entry into the target space for the safety of occupants and operators. These rounds are designed to breach heavy locks, dead-bolts, and hinges mounted inside of solid oak or steel doors. Royal Arms Tesar-2 rounds are good until they are expended if stored properly.

- b. Purpose:
To gain rapid entry into a structure during critical incidents.
- c. Authorized Use:
Only members of the department assigned to the SRU who have been trained in the use of a breaching shotgun shall deploy a breaching shotgun in the field. Shotgun breaching may only occur after authorization by the Incident Commander or Tactical Commander in the field and during training exercises.
- d. Expected Lifespan:
Until expended
- e. Fiscal Impact:
Replaced as needed (estimated \$0 to \$200 annually).
- f. Training Requirements (initial and ongoing):
Initial and ongoing training in the safe and appropriate use of the breaching shotgun is provided by POST certified instructors. The initial and ongoing training requirements are the same and consist of an overview of the breaching shotgun, breaching slug capabilities, safe and appropriate operation of the breaching shotgun, and deployment considerations (including when not to use). Members of the department assigned to the SRU conduct annual training on breaching, including the use of the breaching shotgun, and must demonstrate proficiency through the practical application of this equipment.

6. Specialized Firearms and Ammunition (Category 10)

- a. Description, quantity, capability, and purchase cost:
 - (1) Carbine Rifle – Unit Cost: \$1,039.75. Quantity: 64. The carbine rifle is a firearm capable of stopping an armed subject at various distances. It is a light weight, air-cooled, gas operated, magazine fed, shoulder fired weapon capable of operating in semi-automatic and selective fire modes. These rifles fire a .223 or 5.56 caliber cartridge, which is capable of penetrating soft body armor worn by armed subjects.
 - (2) H&K MP5 and H&K MP5 PDW entry rifle – Unit Cost: \$1,200. Quantity: 4. The H&K MP5 and MP5 PDW are firearms capable of stopping an armed subject at various distances. They are a light weight, magazine fed, shoulder fired weapon capable of operating in semi-automatic and selective fire modes. These rifles fire a 9mm caliber cartridge.
 - (3) PWS MK216-LE .308 precision rifle – Unit Cost: \$1,994.99. Quantity: 5. The PWS MK216-LE is a precision rifle capable of stopping an armed subject at various distances. It is a magazine fed, shoulder fired weapon capable of operating in semi-automatic mode. This rifle fires a .308 caliber cartridge, which is capable of penetrating soft body armor worn by armed subjects, and is utilized by the department's Special Response Unit during high-risk situations.

(4) Remington 700 .308 long rifle – Unit Cost: \$1,300. Quantity: 5. The Remington 700 is a long-range firearm capable of stopping an armed subject at various distances. It is a bolt action, shoulder fired weapon capable of firing single precision shots out to significant distances. This rifle fires a .308 caliber cartridge, which is capable of penetrating soft body armor worn by armed subjects, and is utilized by the department’s Special Response Unit during high-risk situations.

(5) Winchester .223 Ranger power-point 64 grain cartridge – Unit Cost: \$9.76 (per 20 rounds). Quantity: 25,000. The .223 cartridge is the primary duty ammunition for the department’s carbine rifles.

(6) Winchester 5.56 full metal jacket 55 grain cartridge – Unit Cost: \$7.16 (per 20 rounds). Quantity: 67,000. The 5.56 cartridge is the primary training ammunition for the department’s carbine rifles.

(7) Winchester .223 Ranger frangible 55 grain cartridge – Unit Cost: \$12 (per 20 rounds). Quantity: 1,000. The .223 frangible cartridge is training ammunition used by the Special Response Training during live-fire exercises.

(8) Winchester .308 match king 168 grain cartridge – Unit Cost: \$50 (per 20 rounds). Quantity: 2,000. The .308 cartridge is both duty and training ammunition for the PWS MK216-LE and Remington 700 rifles, which are specifically used by the department’s Special Response Unit.

b. Purpose:

To be used during high-risk situations, including those where precision and distance are factors, as they are more accurate and effective than standard issued department firearms.

c. Authorized Use:

Only department members who are POST certified and who show proficiency during department training are authorized to carry a carbine rifle. The H&K MP5, H&K MP5 PDW, PWS MK216-LE, and Remington 700 are firearms that are only authorized for use by specially trained members of the department’s Special Response Unit.

d. Expected Lifespan:

- (1) Carbine rifles – 10 years or sooner depending on usage in training
- (2) .308 rifles – 10-15 years or sooner depending on usage in training
- (3) Ammunition – No expiration if stored properly

e. Fiscal Impact:

All rifles are inspected and serviced annually by certified department armorers. They are replaced according to date of purchase and as needed depending on usage.

(1) Carbine rifles – Annual replacement and service costs between \$10,000 and \$20,000

(2) .308 rifles – Annual replacement and service costs between \$0 and \$10,000

(3) Ammunition – Annual replacement costs between \$50,000 and \$100,000

f. Training Requirements (Initial and ongoing):

(1) Carbine rifle initial required training (all officers):

- POST certified basic academy rifle training and qualification (provided by POST certified instructors)
- POST certified 2-day rifle course and qualification (provided by POST certified instructors)
- HPD training on policy, procedure, and safety considerations
- Safety test

Carbine rifle ongoing required training (all officers):

- Annual POST certified rifle training and qualification (provided by POST certified instructors)
- Annual HPD review of policy, procedure, and safety considerations
- Bi-annual firearms training at an approved range (provided by POST certified instructors)

(2) H&K MP5 and PDW initial training (SRU members only):

- POST certified SRU firearms/rifle training and qualification (provided by POST certified instructors)
- Training on policy, procedure, and safety considerations
- Safety test

H&K MP5 and PDW ongoing training (SRU members only):

- Annual POST certified firearms training and qualification (provided by POST certified instructors)
- Five additional SRU firearms trainings throughout the calendar year
- Training on policy, procedure, and safety considerations
- Safety test

(3) PWS MK216-LE .308 precision rifle and Remington 700 .308 long rifle initial training (SRU members only):

- 48-hour POST certified basic sniper school (provided by POST certified instructors)
- SRU precision rifle training and qualification (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations
- Safety test

PWS MK216-LE .308 precision rifle and Remington 700 .308 long rifle ongoing training (SRU members only):

- HPD annual precision rifle training and qualification (provided by POST certified instructors)
- Bi-monthly precision rifle training (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations
- Safety test

NOTE: All ammunition listed in this category is utilized at the firearms trainings referenced above. The amount of ammunition varies depending on the training course and required qualifications.

7. Noise Flash Diversionary Device (Category 12)

a. Description, quantity, capability, and purchase cost:

NFDD 7290M – Unit Cost: \$82.27. Quantity: 24. A noise flash diversionary device (NFDD), often referred to as a “flashbang”, is a device designed to create a bright flash of light and a loud sound to temporarily divert the attention of a subject in the area where it is deployed. NFDDs are used to distract and temporarily disorient dangerous subjects by overwhelming their senses of sight and hearing. This allows members of the department to take control of high-risk situations and/or accomplish legitimate law enforcement objectives during critical incidents. NFDDs are not weapons as they do not fragment as a military grenade would and oversight of the department’s purchase/use of NFDDs is performed by the Federal Department of Alcohol, Tobacco, Firearms, & Explosives (commonly referred to as the ATF).

b. Purpose:

To be used during high-risk situations to obtain a tactical advantage or to establish control by creating a diversion.

c. Authorized Use:

NFDDs may only be used by specially trained members of the department’s Special Response Unit during high-risk situations or during training.

d. Expected Lifespan:

5 years (manufacturer shelf life)

e. Fiscal Impact:

Varies depending on usage and training (\$0 to \$1,000)

f. Training Requirements (initial and ongoing):

NFDD initial training (SRU members only):

- POST certified NFDD instructor training (provides POST certification for HPD instructors)
- POST certified basic SWAT school (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations

NFDD ongoing training (SRU members only):

- Annual NFDD training for members of the SRU (provided by POST certified instructors)
- Review of policy, procedure, and safety considerations

NOTE: NFDD programs are under federal oversight by the Bureau of Alcohol, Tobacco, Firearms, & Explosives.

8. Chemical Agents “Tear Gas” (Category 12)

a. Description, quantity, capability, and purchase cost:

(1) 2-chlorobenzylidene malononitrile (CS) – Unit Cost: Depends on the munition (see fiscal impact). CS is used by law enforcement agencies across the country. CS, commonly referred to as “tear gas”, is an irritating agent and a lachrymator (irritates the eyes, causing tears and mucous flow). It can be delivered in a variety of ways and can be used by the department as a less-lethal force option during high-risk incidents, including riots and barricaded subjects. The types of CS munitions in the department’s inventory are as follows (the contents are the same, but the delivery systems for each munition are different):

- (49) Model 1292 40 mm CS
- (6) Model 1092 CS Handballs
- (6) Model 1088 CS Stingerballs
- (9) Model 1090 Stingerballs
- (6) Model 1032 CS Flameless Tri-Chamber
- (3) Model 1072 CS Speed Heat

(2) Oleoresin Capsicum (OC) – Unit Cost: Depends on the munition (see fiscal impact). OC is used by law enforcement agencies across the country. OC, commonly referred to as “pepper spray”, is an irritating agent that causes involuntary closure of the eyes, mucous flow, and temporary respiratory inflammation. Its primary ingredient is capsaicin, which is found in chili peppers, and OC is available to the general public for purchase. It can be delivered in a variety of ways and can be used by the department as a less-lethal force option during high-risk incidents, including riots and barricaded subjects. The types of OC munitions in the department’s inventory are as follows (the contents are the same, but the delivery systems for each munition is different):

- (6) Model 2040 OC Expulsion
- (6) Model 1089 OC Stingerballs
- (6) Model 3090 OC Shotgun ferret rounds

- b. Purpose:
To be used as a less-lethal force option during high-risk situations, including but not limited to those involving dangerous or combative subjects, riots, or when a tactical advantage needs to be obtained.
- c. Authorized Use:
Only members of the department who are POST certified to use chemical agents are authorized to do so. The use of the above listed munitions is only authorized for specially trained members of the department's Special Response Unit.
Additionally, these munitions may only be used for crowd control purposes within the provisions outlined in AB 48 and Penal Code Section 13652.
- d. Expected Lifespan:
5 years (manufacturer shelf life)
- e. Fiscal Impact:
Varies depending on usage and training (\$0 to \$5,000)
- f. Training Requirements (initial and ongoing):
Chemical agents "tear gas" initial training (SRU members only):

- POST certified basic academy chemical agent training (provided by POST certified instructors – includes direct exposure for all students)
- POST certified basic SWAT school (provided by POST certified instructors)
- POST certified chemical agent instructor school (provided by POST certified instructors – for SRU instructors only)
- HPD SRU training on policy, procedure, and deployment considerations (including when not to use – provided by POST certified instructors) – includes direct exposure for all SRU members
- HPD SRU training on safety protocols

Chemical agents "tear gas" ongoing training (SRU members only):

- Annual SRU training on policy, procedure, and deployment considerations (including when not to use – provided by POST certified instructors) – includes direct exposure for all SRU members
- Annual review of safety protocols

9. Pepper Powder Less Lethal Launcher (Category 14)

- a. Description, quantity, capability, and purchase cost:
FN 303 Less Lethal Launcher – Unit Cost: \$850. Quantity: 2. The FN 303 Less Lethal Launcher is a system that uses compressed air to deliver OC powder, paint, and specialty impact munitions. It is similar to a paintball system as it fires frangible plastic ammunition, which contains liquid OC. This system offers members of the department a less-lethal force option during high-risk situations.

This system allows for liquid OC and kinetic energy impacts to be delivered to dangerous or combative subjects at various distances.

b. Purpose:

To be used as a less-lethal force option during high-risk situations, including but not limited to those involving dangerous or combative subjects, riots, or when a tactical advantage needs to be obtained.

c. Authorized Use:

The FN 303 Less Lethal Launcher may only be used by specially trained members of the department's Special Response Unit. **Additionally, the FN 303 Less Lethal Launcher may only be used for crowd control purposes within the provisions outlined in AB 48 and Penal Code Section 13652.**

d. Expected Lifespan:

10 years

e. Fiscal Impact:

Varies depending on ammunition usage and training (\$0-\$2,000)

f. Training Requirements (initial and ongoing):

Pepper Powder Less Lethal Launcher initial training (SRU members only):

- POST certified Specialty Impact Munition instructor school (provided by POST certified instructors – for SRU instructors only)
- HPD SRU training on policy, procedure, and deployment considerations (including when not to use – provided by POST certified instructors) – includes demonstrated proficiency in use
- HPD SRU training on safety protocols

Pepper Powder Less Lethal Launcher ongoing training (SRU members only):

- Annual SRU training on policy, procedure, and deployment considerations (including when not to use – provided by POST certified instructors) – includes demonstrated proficiency in use
- HPD SRU annual training on safety protocols

10. Specialty Impact Munition Systems and Ammunition (Category 14)

a. Description, quantity, capability, and purchase cost:

(1) Defense Technology LMT Tactical Single Shot 40 mm Launcher – Unit Cost: \$1,100. Quantity: 10. CTS 40 mm Launcher – Unit Cost: \$1,250. Quantity: 4. The 40 mm Less Lethal Launcher is a chemical agent and/or specialty impact munition delivery system that can be used by members of the department during high-risk situations. It is capable of delivering CS into a structure or direct fire specialty impact munitions (sponge rounds) to a dangerous or combative subject at various distances.

(2) 40 mm Sponge Rounds – Unit Cost: \$20. Quantity: 100. The 40 mm sponge round is a direct fire specialty impact munition that is similar in size and consistency to a racquet ball. It can be fired from a 40 mm and be used to neutralize a dangerous or combative subject during high-risk situations.

b. Purpose:

To be used as a less-lethal force option during high-risk situations, including but not limited to those involving dangerous or combative subjects, riots, or to deliver CS into a structure.

c. Authorized Use:

The 40 mm Less Lethal Launcher may only be used by members of the department specially trained in its use and who have shown proficiency during departmental training. **Additionally, the 40 mm Less Lethal Launcher may only be used for crowd control purposes within the provisions outlined in AB 48 and Penal Code Section 13652.**

d. Expected Lifespan:

All 40 mm launchers are inspected and serviced annually by certified department armorer. They are replaced according to date of purchase and as needed depending on usage.

(1) 40 mm launchers – 10 years

(2) 40 mm sponge rounds – 5 years (manufacturer shelf life)

e. Fiscal Impacts:

Replaced as needed (estimated \$0 to \$2,000 annually)

f. Training Requirements (initial and ongoing):

40mm Less Lethal Launcher initial training (all officers):

- POST certified Specialty Impact Munition instructor school (provided by POST certified instructors – for department instructors only)
- POST certified training for all new officers
- HPD department training on policy, procedure, and deployment considerations (including when not to use – provided by POST certified instructors) – includes demonstrated proficiency in use
- HPD training on safety protocols

40mm Less Lethal Launcher ongoing training (all officers):

- Annual HPD department training on policy, procedure, and deployment considerations (including when not to use – provided by POST certified instructors) – includes demonstrated proficiency in use
- HPD annual training on safety protocols



CITY OF HAYWARD

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

File #: LB 22-014

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Director of Human Resources

SUBJECT

Unrepresented Salary and Benefits: Adopt a Resolution Amending the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager, Human Resources, and City Attorney Employees

RECOMMENDATION

That the City Council adopts a Resolution (Attachment II) amending the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager, Human Resources, and City Attorney Employees.

SUMMARY

Following the completion of contract negotiations with its miscellaneous bargaining groups, the City has proposed modifications to the current Unrepresented Salary and Benefits Resolution which, if approved, would be substantially similar to the benefits recently negotiated in the miscellaneous groups' contracts. The proposed Resolution would extend through June 30, 2024.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Unrepresented Salary and Benefits Resolution



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Director of Human Resources

SUBJECT: Unrepresented Salary and Benefits: Adopt a Resolution Amending the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager, Human Resources, and City Attorney Employees

RECOMMENDATION

That the City Council adopts a Resolution (Attachment II) amending the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager, Human Resources, and City Attorney Employees.

SUMMARY

Following the completion of contract negotiations with its miscellaneous bargaining groups, the City has proposed modifications to the current Unrepresented Salary and Benefits Resolution which, if approved, would be substantially similar to the benefits recently negotiated in the miscellaneous groups' contracts. The proposed Resolution would extend through June 30, 2024.

BACKGROUND AND DISCUSSION

Under the current Resolution, the City worked hard to achieve and maintain fiscal sustainability. Though the City continues to face the challenges of growing pension and retiree health liabilities, the City also recognizes it will need to provide competitive salary increases to maintain its ability to recruit and retain employees. In doing so, however, the City also sought to maintain its cost-sharing structure for major employee benefits, including health and retirement, to help mitigate those growing costs.

The proposed amendment to the Unrepresented Salary and Benefits Resolution includes a three percent (3%) COLA effective the pay period including July 1, 2022 (FY 2023), and a five percent (5%) COLA effective the pay period including July 1, 2023 (FY 2024).

The City and labor groups also agreed to a handful of operational, administrative, and legal updates to the miscellaneous bargaining unit agreements, which have generally been

included in the proposed changes to the Unrepresented Resolution. Of note, the City will (a) modify the way in which employees may request vacation cash outs, (b) consistent with other non-exempt miscellaneous groups, count paid leave time towards the 40-hour threshold for the purpose of determining FLSA overtime eligibility, and (c) modify the health & wellness and professional development benefits. Key changes are summarized in Table 1 below.

Table 1: Key Proposed Changes

Resolution Term	Summary of Changes	Effective Date
Salaries	FY 2023 – 3% COLA	July 1, 2022
	FY 2024 – 5% COLA	July 1, 2023
Overtime Compensation	Count paid leave hours towards 40-hour threshold in determining overtime eligibility for non-exempt staff	Effective following Council adoption
Professional Development	Increase benefit for non-exempt employees from \$350 annually to \$500 consistent with exempt staff	Effective following Council adoption
Health and Wellness	Maintain annual cap but allow employees to seek reimbursement in lump sums as opposed to monthly and expand items covered under reimbursement to include equipment, consistent with the City’s policy during the pandemic	Effective following Council adoption

FISCAL IMPACT

If approved, the proposed Salary and Benefits Resolution as amended would result in an impact of approximately \$109,000 to the General Fund spread across FY 2023 & FY 2024.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to one of the Council’s Strategic Initiatives.

NEXT STEPS

If adopted, Human Resources staff will finalize the Resolution and implement the above changes in coordination with Finance.

Prepared by: Kakshi Master, Acting Deputy Director of Human Resources

Recommended by: Regina Youngblood, Assistant City Manager/Interim Director of Human Resources

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-____

RESOLUTION APPROVING AN AMENDMENT TO THE SALARY AND BENEFITS
RESOLUTION FOR UNREPRESENTED EXECUTIVES, MANAGEMENT, CITY
MANAGER, HUMAN RESOURCES AND CITY ATTORNEY EMPLOYEES

WHEREAS, the City of Hayward has reached agreement with its miscellaneous bargaining groups on successor Memoranda of Understanding covering salaries and benefits from Fiscal Years 2022 through 2024, including cost-of-living adjustments (COLAs) totaling ten percent (10%) over three (3) years and a handful of operational, administrative, and legal updates to the miscellaneous bargaining unit agreements, such as the way in which employees may request vacation cash-outs and the expansion of eligible expenses under the health and wellness reimbursement program; and

WHEREAS, proposed changes to the overtime provisions would align the administration of overtime pay for non-exempt Unrepresented employees with that of other non-exempt City employees; and

WHEREAS, proposed increases to the professional development reimbursement allowance for non-exempt Unrepresented employees would align the benefit amount with the amount available to Unrepresented exempt employees.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves the amendment to the Salary and Benefits Resolution for Unrepresented Executives, Management, City Manager, Human Resources and City Attorney Employees.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

Miriam Lens
City Clerk

APPROVED AS TO FORM:

Michael S. Lawson
City Attorney

Salary and Benefits Resolution

for

**UNREPRESENTED ~~EXECUTIVES, MANAGEMENT,~~
~~CITY MANAGER, HUMAN RESOURCES & CITY~~
~~ATTORNEY EMPLOYEES~~**

Effective July 1, 2015

Amended: *May 13, 2012 (Resolution No. 12-071)*
 June 13, 2012 (Resolution No.12-093)
 April 15, 2014 (Resolution No. 14-045)
 July 7, 2015
 May 17, 2016
 June 27, 2017
 June 26, 2018
 May 26, 2020
 June 22, 2021
 July 20, 2021
 June 21, 2022

TABLE OF CONTENTS

Salary and Benefits Resolution	1
1.00 Composition	1
2.00 Probationary period	1
2.01 Appointments Not Subject to Probationary Period	1
2.02 Appointments Subject to Probationary Period	1
2.03 Release of Probationer	1
2.04 Release Following Promotion	<u>12</u>
2.05 Effect of Leaves on Probationary Period	2
2.06 Effective Date of Regular Status	2
3.00 Layoffs, Resignations & Terminations	2
3.01 Layoffs.....	2
3.02 Rights of Return Following a Layoff.....	<u>45</u>
3.03 Resignations.....	<u>56</u>
3.04 Terminations.....	6
4.00 Work Schedules	6
4.01 Work Schedules	6
4.02 Overtime	7
4.03 Work Performed During Disaster	7
5.00 Benefit Plans	<u>88</u>
5.01 Medical Insurance	<u>88</u>
5.02 Flexible Benefits Allowance	8
5.03 Federal or State Health Plan	<u>109</u>
5.04 Alternate Benefits.....	10
5.05 Supplemental Retirement Benefit.....	12
5.06 Dental Insurance.....	12
5.07 Life Insurance.....	<u>1313</u>
5.08 Disability Insurance.....	13
5.09 Vision Care	13
5.10 Medical, Dental, Vision, Flexible and Alternate Benefits for Certain Part-Time Employees..	<u>1414</u>
5.11 Deferred Compensation Plan	<u>1515</u>
5.12 Defined Benefit Retirement Program.....	15

5.13	Car Allowances and Mileage Reimbursement.....	16
5.14	Additional Employee PERS Contributions.....	16
5.15	Health and Wellness Reimbursement	<u>1717</u>
5.16	Professional Development Reimbursement.....	<u>1818</u>
5.17	Personal Equipment Stipend	18
5.17	Cellular Phone Stipend	<u>1918</u>
6.00	Salary Administration	<u>1919</u>
6.01	Salary Administration Policy	<u>1919</u>
6.02	Salary at Time of Employment.....	<u>1919</u>
6.03	Eligibility for Advancement in Pay	<u>1919</u>
6.04	Attaining Advancement	<u>2020</u>
6.05	Use of Performance Ratings in Determining Whether Step Advancement is Merited	<u>2020</u>
6.06	Withholding Step Advancements	<u>2020</u>
6.07	Change in Pay Upon Promotion.....	<u>2020</u>
6.08	Change in Pay Upon Demotion.....	<u>2121</u>
6.09	Change in Pay Upon Reclassification	<u>2121</u>
6.10	Acting Pay	<u>2121</u>
6.11	Bilingual Pay.....	<u>2222</u>
6.12	Special Assignment Positions	<u>2222</u>
6.13	Salaries.....	<u>2222</u>
6.14	“Y-Rated” Salaries.....	<u>2222</u>
6.15	Salary Adjustments.....	<u>2223</u>
7.00	Holidays	<u>2523</u>
7.01	Holidays Observed by the City.....	<u>2523</u>
7.02	Holidays for Part-Time Employees	<u>2624</u>
8.00	Vacations	<u>2624</u>
8.01	Vacation Leave Policy	<u>2624</u>
8.02	Vacation Accruals for Full-Time Employees.....	<u>2725</u>
8.03	Vacation Accruals for Certain Part-Time Employees	<u>2926</u>
8.04	Payment for Unused Vacation Leave.....	<u>2927</u>
9.00	Sick Leave.....	<u>3027</u>
9.01	Sick Leave Policy	<u>3027</u>
9.02	Sick Leave Allowance for Full-Time Employees	<u>3028</u>

9.03	Sick Leave Allowance for Certain Part-Time Employees	<u>3128</u>
9.04	Sick Leave Notice and Certification	<u>3229</u>
9.05	Payment for Unused Sick Leave	<u>3230</u>
9.06	Catastrophic Injury/Illness Time Bank	<u>3431</u>
10.00	Miscellaneous Leaves.....	<u>3633</u>
10.01	Bereavement Leave	<u>3633</u>
10.02	Jury Leave	<u>3734</u>
10.03	Military Leave	<u>3734</u>
10.04	Industrial Disability	<u>3734</u>
10.05	Family and Medical Leave / California Family Rights Act	<u>3735</u>
10.06	Pregnancy Disability Leave	<u>3735</u>
10.07	Leave of Absence	<u>3735</u>
10.08	Parental Leave	<u>3836</u>
10.09	Management Leave	<u>3836</u>
11.00	Miscellaneous Provisions	<u>3937</u>
11.01	Notification of Address	<u>3937</u>
11.02	Restrictions on Outside Work.....	<u>3937</u>
11.03	Employee Health and Medical Examinations	<u>4037</u>
11.04	Conversion of Compensatory Time	<u>4038</u>
11.05	Americans with Disabilities Act (ADA)	<u>4038</u>
11.06	Potential Changes in Wages and Benefits	<u>4038</u>
11.07	Fire Chief Position.....	<u>4038</u>
11.08	Police Chief Position	<u>4139</u>
11.09	Duration.....	<u>4139</u>

1.00 COMPOSITION

The employee classifications subject to this Resolution are categorized into three groups: Unrepresented-Executive, Unrepresented Exempt, and Unrepresented Non-Exempt, which are comprised of the classifications of employment listed in Appendix A to this Resolution and any other classification of employment which may hereafter be assigned by the City Manager in accordance with the provisions of the City of Hayward Personnel Rules governing unit determination and modification.

2.00 PROBATIONARY PERIOD

2.01 Appointments Not Subject to Probationary Period

All employees in positions identified in Appendix B as being members of the unclassified service are not subject to this Section 2.00. Employees in the unclassified service are “at-will” employees who can be separated from employment at any time, with or without cause. Employees who move from positions in the classified service to positions in the unclassified service will be required to sign a notification and acknowledgment that the position is at-will.

2.02 Appointments Subject to Probationary Period

All employees in positions identified in Appendix B as being part of the classified service shall serve a probationary period as provided in this Section. The probationary period shall be regarded as a part of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to their position.

All appointments to the classified service (other than temporary and provisional appointments or appointments to part-time positions that are regularly scheduled to work less than twenty (20) hours per week) shall be subject to a probationary period. The regular period of probation shall be one (1) year, but longer periods may be specified in individual classification descriptions and shall apply to all positions in the classification. An extension of the probationary period up to a maximum of six (6) months may be approved by the City Manager or designee in individual cases.

2.03 Release of Probationer

During the probationary period, an employee in the classified service may be released at any time without right of appeal. Written notice of release designating the effective date of such action shall be furnished to the probationer. Persons employed in part-time positions scheduled for less than twenty (20) hours per week are excluded from the classified service and may be released at any time without right of appeal.

2.04 Release Following Promotion

Any employee in the classified service may be released during the probationary period following promotion to another position in the classified service. The employee released shall be reinstated to the employee's former position or to a position in the

class from which the employee was promoted unless the reason for the release is cause for dismissal. The employee will be reinstated to the salary step held before the promotion. If no vacancy exists in this former class, the employee with the least amount of time in this class shall be demoted to the most recent class in which that employee has satisfactorily served. If any employee is released by such action, such employee shall be placed on a reemployment register for the classification from which the employee was released.

Any employee who is released during a probationary period following promotion to another position in the classified service and whose release is cause for dismissal shall retain appeal rights to the dismissal from City employment, but not the right to appeal the employee's release from the position from which the employee was demoted.

2.05 Effect of Leaves on Probationary Period

Periods of time on paid or unpaid leave of one (1) week or more shall automatically extend the probationary period of any employee on probation. The length of the extension shall be equal to the length of the individual's placement on paid or unpaid leave.

2.06 Effective Date of Regular Status

Upon attaining regular status as a member of the classified service, the effective date shall revert to the date of initial probationary appointment.

3.00 LAYOFFS, RESIGNATIONS & TERMINATIONS

3.01 Layoffs

Whenever there is a lack of work or a lack of funds requiring reduction in personnel in a department or division of the City government, the required layoffs shall be made as the City Manager may designate in accordance with the following procedures:

- A. Employees shall be laid off in inverse order of their length of service within the affected job classification. A layoff out of the inverse order of seniority may be made if, in the City Manager's judgment, retention of special job skills is required.
 1. Length of service for the purpose of this Section shall mean an employee's continuous, uninterrupted service in the classification affected by the layoff. Length of service is determined based on the date of appointment in the affected classification and includes time spent as a probationary or part-time employee in that classification. Length of service includes all days of attendance at work and authorized leaves of absence. Length of service does not include unauthorized absences or periods of suspension or layoff. Length of service shall not include time spent in a provisional or acting appointment in the affected classification unless such provisional or

acting appointment was contiguous with appointment to such classification in a probationary or part-time status.

2. An interruption in length of service within a classification shall occur as a result of any one of the following:
 - a. Discharge for cause.
 - b. Voluntary resignation.
 - c. Retirement for service or disability.
 - d. Absence from work for twenty-four (24) consecutive months because of layoff.
 - e. Failure to return from layoff as provided in Section 3.02, Right of Return Following a Layoff.
 - f. Failure to return from an approved leave of absence upon the date specified for return at the time said approval was granted.
 3. Whenever the effective date of appointment to a classification is the same for two (2) or more employees, the original date of hire as a probationary or part-time employee with the City shall be used to determine which employee has greater length of service within the classification. The employee with the earlier original date of hire with the City shall be considered to have the greater length of service within the classification in this situation.
 4. Whenever the effective date of appointment to a classification and the original date of hire as a probationary or part-time employee with the City is the same for two (2) or more employees, actual hours worked shall be used to determine which employee has greater length of service within the classification. The employee with more hours worked in the classification shall be considered to have the greater length of service within the classification in this situation.
- B. Within each affected job classification, employees will be laid off in the following order, unless retention of special job skills is required: all provisional employees shall be laid off before probationary employees and all probationary employees shall be laid off before any regular employees provided, however, that part-time employees whose length of service is less than any probationary or regular employee shall be laid off before such probationary or regular employee. Thereafter, if additional reductions in personnel are required, those employees with the least length of service within the affected classification shall be laid off.
- C. Any regular, probationary, or part-time employee in the classified service who is designated to be laid off and who has held regular status in a lower or equal classification within the City may displace an employee in the lower or equal classification provided that the employee exercising the displacement privilege has greater classification length of service than the incumbent in the

class to which the employee is bumping. If the employee in the higher classification has not held status in a lower classification in the department, then no displacement rights accrue to that individual.

1. Bumping rights afforded to an employee in the classified service pursuant to this Section shall include bumping rights to those classifications in which the employee has previously served and which may since have been re-titled but where, as determined by the City Manager or designee, no substantive changes have been made in the duties or qualifications for the classification(s) in question.
 2. Prior to employees being laid off, the Human Resources Department shall furnish to affected employees, upon request, status registers for all affected classifications in this group. Said lists shall include the names of all present employees who have held these classifications, their appointment dates, and their length of service thereto.
 3. An employee eligible to bump into another classification pursuant to this paragraph (C) shall have five (5) calendar days after notice of assignment by the City Manager or designee to a position in that classification in which to accept such assignment. If the affected employee fails to accept such assignment within said five (5) calendar day period, the employee shall be laid off. An employee so assigned shall be placed at a salary step in the range for the classification to which the employee bumps which is closest to the employee's former rate of pay but which does not exceed the salary step held by the employee in the classification from which the employee was displaced.
 4. In the event an employee bumps to an occupied or vacant position that is "flexibly" staffed as reflected in the Positions and Salaries Resolution, assignment to said position shall be at the level the employee previously held.
- D. Employees scheduled for layoff will be given at least fourteen (14) calendar days advance notice, if possible. The City shall attempt, in so far as is possible, to accomplish any contemplated reduction in personnel by attrition rather than by layoff.
- E. In the event employees are scheduled to be laid off, other employees with greater length of service within the same classification may elect to be laid off in lieu of those employees scheduled for such layoff.

3.02 Rights of Return Following a Layoff

As position vacancies in the classified service occur, employees on layoff and those occupying positions to which they have bumped shall be afforded return rights in the order of their length of service in the classification(s) in which such vacancies occur.

- A. An employee shall have ten (10) calendar days from the mailing by certified mail of a notice of return to work to the employee's address of record on file in the Human Resources Department to indicate acceptance of such return and the employee's agreement to report for work as specified in the notice.
- B. Employees in layoff status shall retain all credited sick leave earned but unused at the time of layoff less any amounts paid out. An employee who is laid off shall not earn vacation leave credit while in layoff status.
- C. Employees who are displaced from positions in the classified service by virtue of layoff shall be placed on a reemployment register for the classification they held at the time the layoff occurred, hereinafter referred to as the "primary" register. They shall also be placed on reemployment registers for classifications in which they previously served, hereinafter referred to as "secondary" registers. If an employee fails to respond to a notice of return within the prescribed time period or declines to return from layoff to a secondary register classification, the employee's name shall be removed from said secondary register, and the employee shall no longer be eligible for recall to that classification. If an employee fails to respond to a notice of return within the prescribed time period or declines return to the primary register classification, the employee will be considered to have voluntarily resigned from employment with the City. Notices will be sent to the employee's last address on record with the City.
- D. Full-time employees who have bumped to a part-time position or who have been recalled from layoff to a part-time position shall be afforded an opportunity to return to full-time status as position openings become available. Such right of return shall be subject to the "length-of-service" and "service within classification" requirements provided in this Section and Section 3.01, Layoffs, of this Resolution.
- E. Employees who request and are granted a voluntary demotion to a vacant position in lieu of layoff shall be afforded the same rights of return as employees who have exercised bumping rights.
- F. An employee who, in lieu of layoff, was transferred to another position within the same classification shall be notified of an opening in the employee's previous position and shall be afforded an opportunity to apply for reinstatement to that position.
- G. Primary and secondary registers shall be valid for a period of two (2) years.

3.03 Resignations

Any employee wishing to leave the employ of the City in good standing shall file with the employee's Department Director or designee or, in the case of a Department Director, with the City Manager, a written resignation stating the effective date and reasons for leaving. The written resignation must be filed at least two (2) weeks before the planned separation date unless the City Manager or designee waives such time limit. A resignation becomes final when accepted by the person receiving the

resignation. Once the resignation is accepted, it cannot be withdrawn. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Human Resources Department. Failure to submit a written resignation as provided in this Section shall be entered on the service record of the employee and may be cause for denying future employment with the City.

3.04 Terminations

An employee in the unclassified service may be terminated or discharged from employment at any time by the City Manager. Whenever it is the intention of the City Manager to discharge an employee, the Director of Human Resources shall be notified.

Discipline of employees in the classified service, including termination or discharge, shall be subject to the City's Personnel Rules.

4.00 WORK SCHEDULES

4.01 Work Schedules

The normal schedule for all full-time employees shall consist of eighty (80) hours during each bi-weekly period. The City reserves the right to implement business closures, including the following, observed annually:

- ~~De~~uring the calendar week in which the Thanksgiving holiday is observed ~~and~~
- ~~O~~en those days between the City's observance of Christmas and New Year's Day, with the discretion to extend the closure through the calendar week in which New Year's Day is observed.
- Cesar Chavez Day, March 31st (observed the following Monday if holiday falls on a Monday; observed the preceding Friday if holiday falls on a Saturday)
- Juneteenth, June 19th (observed the following Monday if holiday falls on a Monday; observed the preceding Friday if holiday falls on a Saturday)

If the City exercises the right to implement business closures ~~during these times~~, employees will be permitted to use available accrued vacation or management leave balances. Employees who do not have sufficient leave balances for the entire period will be in an unpaid status. No leave balances will be advanced.

In lieu of using accrued leave balance, employees may elect to be in an unpaid status during any business closure. For purposes of business closures only, employees who elect to take time off unpaid during City designated business closures shall continue to accrue seniority, sick leave, and vacation leave, and will be eligible for holiday pay as if they were in a paid status. In exercising the right to implement business closures, the City Manager or designee has sole discretion in determining which departments and/or positions will be affected by the closure.

4.02 Overtime

It is the policy of the City that overtime work is to be kept to a minimum, consistent with the protection of lives and property of its citizens and the efficient operation of activities of the City, and it shall be authorized by the Department Directors or their designees. Overtime-eligible employees are not permitted to work overtime except as the Department Director or designee authorizes or directs. No employee may work overtime without receiving prior approval from the appropriate supervisor prior to performing the work. Working overtime without advance approval is grounds for discipline.

~~Employees eligible to receive overtime compensation, as determined under the provisions of the Fair Labor Standards Act (FLSA), shall receive overtime for work performed over forty (40) hours per workweek. Overtime is all hours an overtime-eligible employee actually works over forty (40) hours in the employee's workweek. Overtime is compensated at 1.5 times the Fair Labor Standards Act (FLSA) employee's regular rate of pay. Only actual hours worked. All hours paid shall be counted toward the forty (40) hour threshold for purposes of calculating overtime owed under the FLSA determining if an employee is entitled to receive overtime compensation.~~

For purposes of computing overtime, the regular workweek for an employee shall be a seven (7) day cycle as established by the Human Resources Director. All overtime entitlements shall be computed to the nearest tenth of an hour (6-minute increments).

Employees may request and, subject to approval of the Department Director or designee, receive compensatory time in lieu of overtime pay. The compensatory time accrual cap shall be one hundred twenty (120) hours. The compensatory time cap shall be maintained on a continuous, per pay period basis.

An employee's eligibility to receive overtime compensation for services performed shall be determined in accordance with the FLSA. Those employees who are classified as "exempt" under the FLSA shall not be eligible to receive overtime.

4.03 Work Performed During Disaster

Overtime exempt employees who are required to work during a declared civil emergency shall not receive additional compensation for hours worked in excess of their regular workday or workweek. All employees shall have the duty and obligation to perform emergency work upon request of proper authority declaring such emergency.

~~4.04 Fiscal Year 2021 Furlough Obligation~~

~~Between July 1, 2020 and June 30, 2021, all full-time employees (excluding the Director of Finance, Fire Chief, Deputy Director of Human Resources, and Human Resources Administrative Assistant) were required meet a furlough obligation of eighty (80) furlough hours. Part-time employees who regularly work twenty (20) or more hours per week were required to take a pro-rated number of furlough hours based on their regular scheduled hour. Furlough Impacts~~

~~Vacation accrual caps will not be enforced through calendar year 2021. Employees must reduce their vacation leave balances to the vacation leave cap prior to the end of the final pay period in calendar year 2021. Employees who are above their vacation accrual cap in the pay period including December 31, 2021 shall forfeit any hours in excess of the cap. If an employee separates from City service, any vacation leave hours in excess of their cap shall be forfeited.~~

~~Furlough Payback~~

~~On June 22, 2021, City Council approved an amendment to the Salary and Benefits Resolution to issue a one-time lump sum payment to Unrepresented employees who participated in the FY 2021 Furlough Program in an amount equal to the furlough hours each employee took. This amendment would make employees who participated in the Program whole.~~

5.00 BENEFIT PLANS

5.01 Medical Insurance

The City currently contracts with the Public Employees' Retirement System (PERS) for the purpose of providing medical insurance benefits for active employees and their eligible dependents, eligible retired employees, and eligible survivors of retired employees. Eligibility of a dependent to participate in this program shall be in accordance with the terms of the Public Employees' Medical and Hospital Care Act (PEMHCA). Eligibility of retired employees and survivors of retired employees to participate in this program shall be in accordance with those provisions of the PEMHCA providing for participation by "annuitants."

The City's employer contribution towards medical insurance benefits for each eligible employee shall be the minimum contribution amount required by Government Code Section 22892. Contributions provided under this Section are required only to the extent mandated by the PEMHCA.

Because PERS may change carriers and plans, the City shall not be required to provide a specific insurance coverage and shall only be required to provide those benefits as described in this Section so long as the City contracts for benefits with PERS for medical insurance benefits.

The City will provide each eligible annuitant, as defined by the PEMHCA, with an employer contribution towards medical insurance benefits that is equal to any contribution provided to an active employee under this Section.

5.02 Flexible Benefits Allowance

The City shall continue to provide a Flexible Benefit Allowance for each full-time employee in regular or probationary status who is enrolled in one of the PERS medical insurance plans offered by the City.

The allowance provided shall be equal to eighty percent (80%) for eligible Executives and Exempt employees and ninety percent (90%) for eligible Non-Exempt employees of the premium cost for health insurance coverage based on the employee's plan selection and participation level (e.g., Employee only coverage, Employee + 1 coverage, or Employee + 2 coverage), less the amount of any contribution provided under Section 5.01, Medical Insurance, of this Resolution.

Effective January 1, 2019, the allowance provided shall be equal to eighty percent (80%) for eligible Executives and ninety percent (90%) for eligible Exempt and Non-Exempt employees of the premium cost for health insurance coverage based on the employee's plan selection and participation level (e.g., Employee only coverage, Employee + 1 coverage, or Employee + 2 coverage), less the amount of any contribution provided under Section 5.01, Medical Insurance, of this Resolution.

For Executives, the City's maximum contribution shall not exceed the cost of eighty percent (80%) of the premium for the second most expensive benefit plan as determined by the employee's participation level, less the City's contribution towards medical benefits under PEMHCA. For Exempt and Non-Exempt employees, the City's maximum contribution shall not exceed the cost of ninety percent (90%) of the premium for the Kaiser benefit plan as determined by the employee's participation level, less the City's contribution towards medical benefits under PEMHCA. In no event shall the sum of the City's contributions pursuant to the provisions of this Section and Section 5.01, Medical Insurance of this Resolution exceed eighty percent (80%) for Executives and ninety percent (90%) for Exempt and Non-Exempt employees of the premium cost for the PERS medical insurance plan in which the employee is enrolled.

The City shall continue to provide Flexible Benefit Allowances as provided in this Section unless amended or repealed by the City Council.

Contributions to an employee's Flexible Benefit Account shall be used only for payment of those benefits that are available through the City's Flexible Benefits Plan. The City will not treat any contributions made to the Flexible Benefits Plan as compensation subject to income tax withholding unless the Internal Revenue Service and/or Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state, or local tax liability of the employee that may arise out of the implementation of this Section or any penalty that may be imposed therefore.

Each employee shall file an election in writing during the month of open enrollment for medical insurance each year as to how the monies in the employee's Flexible Benefits Account are to be expended during the ensuing year. Thereafter, no changes to designations so made shall be allowed until the enrollment of the following year, except for changes due to an eligible qualifying event.

Each employee shall be responsible for providing immediate written notice to the Director of Human Resources or designee of any change to the number of the employee's dependents, which affects the amount of the City's payment to the Flexible Benefits Account. An employee who, by reason of failing to report a change in dependents, receives a City payment greater than the amount to which the employee is entitled shall be liable for refunding the excess amounts received via a reduction in

the amount paid to the employee's Flexible Benefits Account in subsequent months. Changes to flexible benefit contributions associated with changes in an employee's number of dependents shall take effect at the start of the first pay period in the month following the month in which notice of the change is received by the Human Resources Department. No retroactive increases to the Flexible Benefit Allowance provided by the City shall be allowed.

5.03 Federal or State Health Plan

If, pursuant to any federal or state law which may become effective subsequent to the effective date of this Resolution, the City is required to pay contributions or taxes for hospital, medical, dental care, prescription drug, or other health benefits to be provided to employees under such federal or state act, the City's obligation to furnish the same benefits under the Hospital Medical-Surgical-Dental Care and Prescription Drug Plans shall be suspended, and the contributions agreed to be paid monthly hereunder by the City under Sections 5.01, Medical Insurance, 5.02, Flexible Benefits Allowance, and 5.05, Supplemental Retirement Benefit, of this Resolution shall be reduced each month by the amounts the City is required to expend during any such month in the form of contributions or taxes to support said federal or state health plan.

If, as a result of such a law, the level of benefits provided by such law for any group of employees or their dependents is lower in certain categories of services than that provided under Sections 5.01, 5.02, and 5.05, the City shall, to the extent practicable, provide a plan of benefits supplementary to the federal or state benefits so as to make benefits in each category of coverage as nearly comparable as possible to the benefits provided under said Sections 5.01, 5.02, and 5.05. The City need only expend for this purpose the actual amount required to achieve parity between the benefits provided under Sections 5.01, 5.02, and 5.05 and the benefits provided under any federal or state plan as supplemented in the manner hereinabove described.

If the benefits provided under the federal or state act exceed the benefits provided hereunder in each category of coverage, the City shall be under no further obligation to make any contribution in pursuance of this Section. In the event that the federal or state government enacts a health care program requiring contributions by employees, the City shall reimburse employees for such contributions in the amount by which said employee contribution reduces the City contribution required by the terms of this Resolution.

5.04 Alternate Benefits

- A. An alternate benefit in the form of a cash payment is available to those full-time employees in regular or probationary status who: (1) elect to opt-out of receiving City contributions under Section 5.01, Medical Insurance, and 5.02, Flexible Benefits Allowance, and (2) provide proof of medical insurance coverage from a plan other than a City-sponsored plan.

Any cash payments provided under this Section shall be reported to the Internal Revenue Service (IRS) and the California Franchise Tax Board as compensation subject to income tax withholding. Each employee shall be solely and personally responsible for any tax liability that may arise out of the implementation of the alternate benefits. The amount of alternate benefit

provided to an employee is based on the level of insurance coverage that the employee could have received if the employee had enrolled in a City-sponsored health insurance plan, as follows:

- Employee only\$210.00 per month
- Employee and one (1) dependent.....\$380.00 per month
- Employee and two plus (2+) dependents.....\$500.00 per month

B. A full-time employee who does not receive a City contribution under Section 5.01, Medical Insurance, and 5.02, Flexible Benefits Allowance, and who is enrolled in a City-sponsored health insurance plan as the dependent of another City employee may be eligible to receive an alternative benefit as provided in this Subsection. If the cost to the City of providing an employee with benefits as the dependent of another is less than the cost of enrolling the employee separately in a City-sponsored health insurance plan, then the individual enrolled as a dependent may receive an alternative benefit. The amount of any alternative benefit shall be equal to the amount of savings to the City for enrollment of the employee as a dependent, up to a maximum alternative benefit of \$150 per month.

The following examples illustrate how alternative benefits will be provided to employees who are enrolled as a dependent in a City-sponsored health insurance plan. For purpose of these examples, assume the following amounts as the City's total costs towards providing benefits under Section 5.01, Medical Insurance, and 5.02, Flexible Benefits Allowance:

- Employee only - total cost of \$500 per month
- Employee and one (1) dependent – total cost of \$1,000 per month
- Employee and two (2) or more dependents – total cost of \$1,400 per month

Example 1. Employee A and B are spouses who both work for the City of Hayward. Employee A participates in City-sponsored health insurance at the Employee plus 1 level (City cost of \$1,000 per month), with Employee B enrolled as Employee A's one dependent. If each employee was to participate in a City-sponsored plan as individual employees, then the City's cost would be \$500 per month for each employee (or a total of \$1,000 per month for two people, each enrolled individually at the employee only level). Since there is no cost savings to the City for enrolling Employee B as a dependent of Employee A, and vice-versa, then neither employee is eligible to receive an alternative benefit.

Example 2. Employee A and B are spouses who both work for the City of Hayward. They have one child. Employee A participates in City-sponsored health insurance at the Employee +2 or more level (City cost of \$1,400 per month), with Employee B and the child enrolled as Employee A's dependents. If Employee B was to enroll in a City sponsored plan individually (City cost of

\$500), and Employee A's participation was modified to the Employee +1 (City cost of \$1,000), the City's total cost for providing benefits to both employees would increase from \$1,400 to \$1,500 per month. Since the City realizes a \$100 savings per month due to Employee B's enrollment as a dependent of Employee A, Employee B is eligible to receive an alternative benefit. The amount of this alternative benefit will be \$100 per month.

Example 3. Employee A and B are spouses who both work for the City of Hayward. They have two children. Employee A participates in City-sponsored health insurance at the Employee + 2 or more level (City cost of \$1,400 per month), with Employee B and the two children enrolled as Employee A's dependents. If Employee B was to enroll in a City sponsored plan individually (City cost of \$500), and Employee A continued to participate in Employee +2 or more benefits with the two children as dependents (City cost of \$1,400), the City's costs for providing benefits to both employees would increase from \$1,400 to \$1,900 per month. Since the City realizes a \$500 savings per month due to Employee B's enrollment as a dependent of Employee A, Employee B is eligible to receive an alternative benefit. The amount of this alternative benefit will be \$150 per month (the maximum alternative benefit available to employees enrolled as dependents of another employee).

- C. Enrollment in alternative benefits must be elected each year during open enrollment. Benefit eligibility and alternative benefit amounts may vary from year to year depending on plan premiums.
- D. The provisions of this Section shall be administered in accordance with regulations issued by the City Manager or designee which shall include, but not be limited to, the method and frequency of reimbursement to employees for the alternate benefits program(s) selected, the frequency with which employees may exercise the option to change alternate benefits programs, and appropriate procedures for the verification of payments made in pursuance of this Section.

5.05 Supplemental Retirement Benefit

Employees who retire from the City are eligible to receive a supplement retirement benefit. This benefit shall be equal to \$237.31, less the amount provided for under Section 5.01, Medical Insurance, above. This Supplemental benefit is provided in the form of a monthly cash payment to the retiree on a monthly basis. In order to To receive this benefit, the employee must begin receiving pension benefits within one-hundred twenty (120) days of leaving City employment. Retirees are solely responsible for any tax consequences associated with the receipt of benefits under this Section.

5.06 Dental Insurance

The City shall contribute towards dental insurance coverage for full-time employees, other than temporary and provisional employees, and their eligible dependents as provided in this Section.

The City's contribution on behalf of an eligible employee participating in a City-sponsored dental plan shall be equal to eighty percent (80%) of the monthly premium for dental insurance, as determined by the employee's enrolled participation level in the City sponsored dental plan. Employees enrolled in dental insurance are required to contribute the remaining twenty percent (20%) of the premium costs for dental insurance coverage.

Monthly premium rates are established on a calendar year basis by the insurance provider, or in the case of a self-funded plan, by a third-party examining plan utilization review, market trends, overall plan costs, and any other industry standard metrics deemed necessary by the third party.

Currently, the City provides insurance coverage through a Delta Dental plan or United Concordia plan. Details regarding benefits and covered services for each plan may be found in the current Delta Dental or United Concordia benefits summaries for the City of Hayward respectively.

The City reserves the right to provide dental care benefits under a plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing dental care benefits for employees or through a program of self-insurance. In the event the City exercises this option, the alternate coverage shall be substantially equivalent to the coverage in effect when a change in carriers takes effect.

5.07 Life Insurance

The City shall pay the cost of providing each employee with a group term life insurance policy equivalent to the employee's annual gross salary. The policy shall include accidental death and dismemberment coverage and the right to conversion at the time of termination of employment to a form of permanent coverage without medical restrictions and without the requirement to demonstrate evidence of insurability.

5.08 Disability Insurance

The City shall continue in effect, at no cost to the employee, the Short Term/Long Term Disability Insurance policy with CIGNA or any other such successor program which provides benefits comparable to those available under the CIGNA policy. This program shall provide short-term disability benefits based upon two-thirds (2/3) of an employee's current gross salary, up to \$1,390/week, after a fourteen (14) day waiting period. Beginning in the fourth month, the long-term disability plan shall provide benefits based upon two-thirds (2/3) of an employee's current gross salary, up to \$7,000/month.

5.09 Vision Care

The City shall contribute towards vision care insurance for full-time employees and their eligible dependents. Currently, the City provides vision insurance coverage through VSP under a plan that provides for a \$15.00 deductible, an eye examination, and lenses and frames once per year.

For eligible employees who enroll in a City sponsored vision plan, the cost of the monthly premium shall be shared equally (50/50) between the employee and the City.

Monthly premium rates are established on a calendar year basis by the insurance provider, or in the case of a self-funded plan, by a third-party examining plan utilization review, market trends, overall plan costs, and any other industry standard metrics deemed necessary by the third party.

The City reserves the right to provide vision care benefits under a self-funded plan or through a carrier of its choice. Alternate coverage may be provided through a consortium of public agencies or private employers which may be formed for the purpose of providing vision care benefits for employees, or through a program of self-insurance. In the event the City exercises its option to move to a self-funded plan or to change insurance carriers, any new benefit plan shall provide coverage that is substantially equivalent to the coverage available at the time this option is exercised.

5.10 Medical, Dental, Vision, Flexible and Alternate Benefits for Certain Part-Time Employees

Employees who are hired in a part-time status and full-time employees who voluntarily assume part-time status shall be entitled to participate in group medical, dental, and vision insurance programs, and to receive a payment from the City to be applied to such plans subject to the following conditions:

1. Except as provided in paragraph 2 below, only those employees hired into positions budgeted for twenty (20) or more hours per week and who consistently work twenty (20) or more hours per week shall be entitled to coverage under group medical and dental plans.
2. The City's contributions towards medical insurance for part-time employees who are eligible to participate in a CalPERS health insurance plan as an "employee" shall be equal to the contribution provided to full-time employees in Section 5.01, Medical Insurance.
3. The City will provide those part-time employees who regularly work more than twenty (20) hours per week (at least a 0.5 FTE) with a Flexible Benefit Allowance. The amount of any allowance provided shall be determined in accordance with the formulas contained in Section 5.02, Flexible Benefits Allowance, except that the sum of the contribution provided to a part-time employee who works more than 20 hours per week under Section 5.01, Medical Insurance, plus the amount provided as a Flexible Benefit Allowance shall be based on the total number of hours worked each month by the part-time employee.

For new employees, the City contribution for medical insurance shall be based upon the employee's estimated work schedule during the first month of coverage. Thereafter, the actual number of hours worked by the employee each month shall be used to determine the amount of City contribution toward medical insurance premiums in the following month. However, the amount

provided shall never be less than the amount required by applicable government codes.

4. The City's payment for dental insurance shall be proportionate to the amounts paid on behalf of full-time employees as specified in Section 5.06, Dental Insurance, of this Resolution. The calculation of proportionate payments shall be in accordance with the provisions of paragraph 3 of this Section.
5. The City's payment for vision insurance shall be proportionate to the amounts paid on behalf of full-time employees as specified in Section 5.09, Vision Care, of this Resolution. The calculation of proportionate payments shall be in accordance with the provisions of paragraph 3 of this Section.
6. The City's payment for alternate benefits shall be based upon scheduled hours of work and shall be proportionate to the amounts paid on behalf of full-time employees as specified in Section 5.04, Alternate Benefits, of this Resolution. The calculation of proportionate payments shall be based upon the hours budgeted for the position.

As an exception to the foregoing, those employees who assume part-time status as a result of a City imposed reduction in hours will continue to receive City payment of medical, dental, and vision insurance premiums and will continue to participate in the Flexible Benefits Plan on the same basis as for full-time employees.

5.11 Deferred Compensation Plan

A Deferred Compensation Plan has been established for the benefit of City employees. Employees may contribute to the Plan as provided by the Plan terms.

Except for those changes which are necessary or desirable to obtain or maintain the favorable tax status of the plan, any changes in the written plan document governing the implementation and administration of the Deferred Compensation Plan adopted by the Hayward City Council on May 12, 1981, with respect to termination or modification of the plan will be jointly decided upon by the Administrative Committee as defined in Section 13.00 of the plan document.

5.12 Defined Benefit Retirement Program

The City will continue to contract with the Public Employees' Retirement System (PERS) to provide a retirement program for employees. Benefits shall include:

1. CalPERS Retirement Benefit Formula:
 - a. Classic Members: 2.5% at 55
 - b. New Members: 2.0% at 62
2. Fourth Level of 1959 Survivor's Benefits
3. One (1) Year Final Compensation
4. Military Service Credit as Public Service

5. Continuation of Pre-Retirement Death Benefit after Remarriage of Survivor.
6. \$500 Retired Death Benefit
7. 2% Annual Cost-of-Living Allowance Increase

These benefit plans require an employee contribution of eight percent (8%). Employees shall pay the full employee contribution of eight percent (8%), which shall be paid by the employee on a pre-tax basis in accordance with the IRS Section 414(h)(2) method of reporting retirement payments.

For Unrepresented public safety employees, benefits shall include 3% @ 50 for Classic public safety employees and 2.7% @ 57 for new members, as well as those PERS contract options applicable to the respective public safety-represented bargaining units. These benefit plans require an employee contribution of nine and three-fourths percent (9.75%) by unrepresented fire safety and twelve percent (12%) by unrepresented police safety employees. Unrepresented police safety employee shall pay the full employee contribution of twelve percent (12%) and fire safety employees shall pay the full employee contribution of nine and three-fourths percent (9.75%), which shall be paid by the employee on a pre-tax basis in accordance with the IRS Section 414(h)(2) method of reporting retirement payments. In addition, unrepresented public safety employees shall pay the same percentage of the employer contribution paid by other employees in the same CalPERS membership classification in accordance with any CalPERS contract amendments entered into by the City under the provisions of Government Code Section 20516, subsection (a).

An employee, who is not eligible for enrollment in the Public Employees' Retirement System and who, in accordance with the federal Omnibus Budget Reconciliation Act of 1990, is required to be covered by Social Security or an alternate system, shall be enrolled in the Public Agency Retirement System (PARS). The City shall contribute three and three-fourths percent (3.75%) of covered earnings into the employee's PARS account.

5.13 Car Allowances and Mileage Reimbursement

Except as specifically provided under the terms of an employment agreement, employees are not eligible to receive a vehicle allowance. Employees who are required to drive their personal vehicles for City business will be reimbursed for actual miles driven at the rate established by the Internal Revenue Service (IRS).

5.14 Additional Employee PERS Contributions

In addition to each member's responsibility for payment of the employee retirement contribution, effective the pay period including July 1, 2015, employees shall contribute an additional one percent (1%) of their salaries to the California Public Employees' Retirement System (CalPERS) as payment of the City's employer contributions that the City would otherwise be required to pay to CalPERS for these employees.

Effective the pay period including July 1, 2016, employees shall contribute an additional one percent (1%) for a total of two percent (2%) of their salaries to the

California Public Employees' Retirement System (CalPERS) as payment of the City's employer contributions that the City would otherwise be required to pay to CalPERS for these employees.

Effective the pay period including July 1, 2017, Exempt and Non-Exempt employees shall contribute an additional one percent (1%) for a total of three percent (3%) of their salaries to the California Public Employees' Retirement System (CalPERS) as payment of the City's employer contributions that the City would otherwise be required to pay to CalPERS for these employees.

Effective the pay period including July 1, 2017, Executive employees shall contribute an additional three percent (3%) for a total of five percent (5%) of their salaries to the California Public Employees' Retirement System (CalPERS) as payment of the City's employer contributions that the City would otherwise be required to pay to CalPERS for these employees.

5.15 Health and Wellness Reimbursement

The City will reimburse full-time Exempt and Non-Exempt employees a maximum of ~~fifty dollars (\$50) per month~~ up to \$600 annually and Executive employees a maximum of ~~one hundred dollars (\$100) per month~~ up to \$1,200 annually for expenses associated with health and wellness ~~equipment or programs to support the employee's health and wellness. This reimbursement may be made in lump sums of up to \$600 for Exempt/Non-Exempt employees and up to \$1,200 for Executive employees for the purchase of health and wellness equipment or may be made monthly, up to \$50 per month for Exempt/Non-Exempt employees and \$100 per month for Executive employees, for all other health and wellness related expenses, including~~ ~~This reimbursement may be used for~~ recurring monthly fees associated with gym or health club memberships, fitness classes (such as yoga, Zumba, or similar), personal trainers, weight loss programs (such as Weight Watchers, Jenny Craig, or similar), or other health and wellness related expenses.

Requests for reimbursement of monthly fees for health and wellness related expenses must be submitted in writing and accompanied by receipts and proof of monthly membership within forty-five (45) days of the most recent monthly payment made by the employee.

~~For recurring health and wellness expenses,~~ Following receipt and approval of the employee's request, the employee shall receive the health and wellness reimbursement ~~on a monthly basis~~ monthly until the employee indicates they have cancelled the monthly health and wellness related payments. The employee will be expected to inform the City in a timely manner that they have ceased making recurring monthly payments for health and wellness related expenses. Timely notice under this Section shall mean no more than thirty (30) days from when the employee cancels their recurring monthly health and wellness related fees.

Although participants may not be required to produce monthly receipts for health and wellness payments made on a recurring monthly basis, the City, at the discretion of the Human Resources Director or designee, may at any time request receipts to verify monthly payments have been continuous and the participating employee remains

eligible to receive the health and wellness benefit in accordance with this Section of the Resolution.

Alternatively, this reimbursement may be used for health and wellness equipment (such as treadmills, stationary cycles, bike stands (to convert road bike to stationary cycle), non-motorized bicycles (excluding any road bicycles or scooters that have motors or batteries), stair climbing machines, elliptical machines, rowing machines, cross-country ski machines, air walkers, weights, or wearable fitness trackers (such as Fitbit etc.) or similar and associated parts for equipment previously reimbursed by the City under this provision). Employees may not seek reimbursement for apparel, sneakers, or recreational equipment under this program. Requests for reimbursement of equipment must be submitted in writing, accompanied by receipts and proof of purchase, and may only be requested twice per year, and within forty-five (45) days of the most recent expenditure made by the employee.

~~For one-time health and wellness expenses, requests must be made in writing within forty five (45) days of payment by the employee and submitted with receipts.~~

Expenses reimbursed under this program are subject to the approval of the Director of Human Resources and the City Manager.

The City's decision to reimburse is final and not subject to dispute.

5.16 Professional Development Reimbursement

The City agrees to reimburse employees for professional development. This reimbursement may be for career development resources such as attendance at conferences, training courses, software, the purchase of books, subscriptions to professional journals or magazines, computers and electronic devices, dues to professional organizations, applications or examination fees associated with registration or certification, and other expenses related to professional development including research and training.

Prior to incurring any expense from the professional development fund, employees shall submit a request in writing to the Human Resources Department for preliminary review. Expenses reimbursed under this program are subject to the approval of the Director of Human Resources and final approval of the City Manager or designee.

The City will reimburse Unrepresented Exempt and Non-Exempt employees up to five-hundred dollars (\$500.00) ~~and Unrepresented Non-Exempt employees up to three-hundred fifty dollars (\$350.00)~~ for approved purchases made during that fiscal year. All receipts for reimbursement, regardless of aggregate value, must be submitted no later than June 1 of each fiscal year.

5.17 Personal Equipment Stipend

The City agrees to provide a stipend to Executive employees for the use of their personal equipment in the performance of their work. This stipend may be used at the discretion of the Executive employee to offset costs associated with the use of personal

equipment which includes but is not limited to cell phones, computers and electronic devices, and other expenses related to connectivity.

Effective July 10, 2017, Executive employees shall receive three-hundred and fifty dollars (\$350) per month paid in equal installments over twenty-six (26) pay periods ~~or in lump sum on the first pay period of the fiscal year.~~

5.178 Cellular Phone Stipend

Effective July 1, 2018, Unrepresented Exempt and Non-Exempt employees shall receive a cellular phone stipend of one-hundred dollars (\$100) per month in equal installments over twenty-six (26) pay periods.

6.00 SALARY ADMINISTRATION

6.01 Salary Administration Policy

The policy governing preparation of a compensation plan shall be that of salary standardization.

6.02 Salary at Time of Employment

The plan may provide a flat salary rate or a salary range for each classification with a minimum, maximum, and one or more intermediate steps. The beginning or normal hiring rate shall usually be at the first step of the range. Every new employee shall be paid the first step upon employment, except that the City Manager or designee may authorize employment at a higher step if the labor supply is restricted or the person to be hired is unusually well qualified.

6.03 Eligibility for Advancement in Pay

Non-executive employees may be advanced to higher steps as merited by progressive improvement in job skills and work performance. The following time-in-step requirements shall normally apply for an employee to be eligible for advancement in pay.

Step	Time-in-Step
A.....	6 months
B.....	6 months
C.....	1 year
D.....	1½years
E.....	---

If warranted for the good of the service or when an employee demonstrates outstanding capacity in performing job duties, advancement may be made prior to completion of the above time-in-step requirements. If the first day of the time-in-step period begins in the first five (5) days of the payroll period, then begin time in step with the start of the payroll period. If not, then time shall begin on the first day of the next payroll period. Advancement in pay, when approved, shall be effective at the beginning of the first pay period immediately following completion of the time-in-step

requirements outlined above. If an employee is on leave without pay for more than one (1) month, the period shall be deducted from the employee's accumulated time-in-step.

The City Manager or designee shall review the performance of Executive level employees annually, and advancement in pay is based solely on satisfactory performance. If warranted for the good of the service or when an employee demonstrates outstanding capacity in performing job duties, advancement may be made at the sole discretion of the City Manager or designee. Moreover, beginning in April 2018 and every two years thereafter, a total compensation salary survey of all Executive positions shall be conducted. If a position is below market average, the City Manager may recommend a salary adjustment up to a maximum of the market average. This provision does not prevent a salary survey or subsequent adjustment in circumstances where there is difficulty recruiting or to maintain internal equity.

6.04 Attaining Advancement

An employee must demonstrate that advancement is merited ~~on the basis of~~based on job performance. Advancement shall not be made solely because an employee is eligible according to time-in-step requirements. Good attitude and personal conduct, work accomplished, conscientious attendance, safety alertness, efforts at self-improvement, and other factors of individual achievement must be evident as appropriate to the position.

6.05 Use of Performance Ratings in Determining Whether Step Advancement is Merited

Performance ratings shall guide supervisors and Department Directors in determining whether step advancements have been earned and should be recommended to the City Manager or designee.

6.06 Withholding Step Advancements

The Department Director or designee has the authority and responsibility to recommend withholding step advancements by the City Manager if they are not merited. The Department Director or designee shall keep their employees informed about their job performance, giving good work its proper recognition and any deficient work all possible guidance and assistance toward improvement. Department Directors or their designee shall notify the employee as to the reasons for withholding step advancements prior to submitting such recommendation to the City Manager.

6.07 Change in Pay Upon Promotion

When employees are promoted, they shall normally receive the first step in the salary range for their new position. However, if such step is equal to or less than their present salary or they would be eligible for step advancement shortly in their previous position, they may be placed into the next step in the salary range of the new position which is close to five percent (5%) above their present salary. When no advancement in salary is granted on promotion, employees may be allowed to carry forward time-in-step accumulation. As an exception, if the employee has acted in the job class or received special assignment pay for the performance of duties related to the classification to

which he or she is being promoted, the City Manager or designee may approve appointment at a higher step.

6.08 Change in Pay Upon Demotion

When an employee is demoted, whether voluntarily or otherwise, the employee's compensation shall be adjusted to the salary prescribed for the class to which the employee is demoted. The employee will be placed in a salary step in the demoted classification that is the same as or above the step held prior to demotion provided said demotion is not the result of disciplinary action. If the demotion is a result of disciplinary action, the specific salary step shall be determined by the City Manager or designee, whose decision shall be final. However, if the employee had prior service in the demoted position, the employee's step on the salary schedule for the demoted position shall not be set at a step that is lower than the step previously held by the employee in that position before the employee's promotion.

6.09 Change in Pay Upon Reclassification

When a position is reallocated to a classification with a higher pay range and the incumbent employee retains the position, the employee shall normally be placed at the first step in the new range. If no increase in pay results, advancement may be made to the next step immediately above the present salary. When recommended by the Department Director or designee and approved by the City Manager, additional advancement may be granted. If no change in salary is granted, the employee may be allowed to carry forward time-in-step accumulation.

When a position is reallocated to a classification with a lower salary range, the incumbent employee's pay shall not be reduced while the employee continues to occupy the position. If the employee's current rate is below the maximum step of the new range, the employee shall continue at the present salary and carry forward time-in-step accumulation. If the employee's current rate exceeds the maximum step of the new range, the employee's salary shall be frozen at its current level. When the incumbent leaves the position, a replacement shall normally be hired at the beginning rate.

6.10 Acting Pay

Employees may be assigned to perform the duties of a higher classification on an "acting" basis when, in the judgment of the Department Director or designee, a need exists for work to be performed in such higher classification.

"Acting" assignments shall only be made by the Department Director or designee, and the employee shall be provided with a written notice assigning the employee to the higher classification on an "acting" basis.

Employees assigned in accordance with the foregoing to perform the duties of a higher classification on an "acting" basis for a period of five (5) consecutive days or more shall receive "acting" pay retroactive to the first day of such assignment.

Employees qualifying for "acting" pay shall receive the salary step of the higher classification which represents an increase over the employees' present salary step.

If the closest step in the “acting” classification is not equal to at least a five percent (5%) increase over the employee's present salary step, the employee shall receive “acting” pay equal to five percent (5%) above the employee’s current pay step, except that the total rate paid (base salary plus any percentage increase) for work performed in “acting” assignment shall not exceed the top step of the salary range for the higher class.

6.11 Bilingual Pay

Employees who are required, in the performance of their duties, to converse with the public in a language other than English and who have demonstrated their competency through a language fluency test administered through the Human Resources Department shall receive bilingual pay in the amount of thirty dollars (\$30) per pay period.

Employees who are required in the performance of their duties to communicate in writing and/or translate official written documents in a language other than English and who have demonstrated their competency in a second language through a written fluency test administered by the Human Resources Department shall receive an additional seventy dollars (\$70) of bilingual pay, for a total of one-hundred dollars (\$100) per pay period.

No more than once every twenty-four (24) months, the City Manager or designee may require an employee receiving bilingual pay to demonstrate continued competency in a second language as a condition of continuing to receive pay under this Section. Employees who do not demonstrate continued competency will cease receiving bilingual pay until such time as competency is again demonstrated.

6.12 Special Assignment Positions

Special assignment positions within a classification may be established where duties and responsibilities are of a specialized nature by comparison to other positions in the class. Selection of employees to said positions and removal therefrom shall be made by the City Manager or designee. An employee so assigned shall receive a salary increment not to exceed ten percent (10%) of the employee's present salary.

6.13 Salaries

The Positions and Salaries Resolution shall provide for the salary ranges for the classifications of employment listed in Appendix A.

6.14 “Y-Rated” Salaries

Employees whose classifications are affected by the recalibration of the salary schedule shall be y-rated at their current step until they are advanced to the next step in the range in accordance with applicable provisions of this Resolution. Upon advancement, employees will advance into the adjusted salary schedule listed in Appendix A.

6.15 Salary Adjustments

Salary-Cost-of-Living adjustments shall be made as follows:

~~UNREPRESENTED EXECUTIVE, MANAGEMENT, CITY MANAGER,
HUMAN RESOURCES & CITY ATTORNEY EMPLOYEES~~

Executives	Exempt	Non-Exempt
<p>Effective July 1, 2018: 5% one-time cash payment</p> <p>COLA as follows:</p> <p>2% effective the pay period that includes January 1, 2020</p> <p>3% effective the pay period that includes July 1, 2020*</p> <p>2% effective the pay period that includes July 1, 2021**</p> <p><u>3% effective the pay period including July 1, 2022.</u></p> <p><u>5% effective the pay period including July 1, 2023.</u></p>	<p>Effective July 1, 2018: 4.25% one-time cash payment</p> <p>COLA as follows:</p> <p>2% effective the pay period that includes January 1, 2020</p> <p>2% effective the pay period that includes July 1, 2020*</p> <p>2% effective the pay period that includes January 1, 2021</p> <p><u>2% for FY 2022 following Council approval effective the pay period including August 2, 2021.</u></p> <p><u>3% effective the pay period including July 1, 2022.</u></p> <p><u>5% effective the pay period including July 1, 2023.</u></p>	<p>Effective July 1, 2018: 4.25% one-time cash payment</p> <p>COLA as follows:</p> <p>2% effective the pay period that includes January 1, 2020</p> <p>2% effective the pay period that includes July 1, 2020*</p> <p>2% effective the pay period that includes July 1, 2020*</p> <p>2% effective the pay period that includes January 1, 2021</p> <p>2% for FY 2022 following Council approval</p>

~~* Cost of living adjustments shall not be provided to the Director of Finance, Fire Chief, Deputy Director of Human Resources, and Human Resources Administrative Assistant.~~

~~** COLAs for the Director of Finance and Fire Chief shall be 4%, as both classifications forewent a two percent (2%) COLA effective the pay period including July 1, 2020.~~

~~The Director of Finance and the Fire Chief shall receive a one-time, lump sum payment equal to two percent (2%) of Employee's base salary effective the pay period including July 1, 2021 to restore the COLA originally due to employee the pay period including July 1, 2020.~~

~~The Deputy Director of Human Resources and the Human Resources Administrative Assistant shall defer the 2% cost of living adjustment scheduled for July 1, 2020 until the following financial indicators are met:~~

~~1. Revenue recovery occurs and is the same or greater than revenue levels in FY 2018 reported in the City's CAFR for the following:~~

- ~~a. Sales tax~~
- ~~b. Property tax~~
- ~~c. Real Property Transfer Tax~~
- ~~d. Transient Occupancy Tax~~

~~2. No economically forced layoffs are required to balance the budget or meet the structural deficit in the fiscal year where the other three financial indicators are met.~~

~~3. The City's General Fund reserves are restored to 17% of the budgeted annual operating expense budget.~~

~~4. Adoption of a Balanced Budget without the use of General Fund reserves.~~

6.16 One-Time Lump-Sum Payment

~~In recognition of Unrepresented Exempt and Non-Exempt employees either deferring the July 1, 2020 COLA or taking an 80-hour unpaid furlough in fiscal year 2021 to mitigate projected revenue shortfalls, said employees may receive a one-time lump-sum payment under either of the two criteria presented below.~~

~~Meeting one set of criteria and making the associated payment cancels the City's obligation to the other; employees may be entitled to a lump-sum payment pursuant to either Criteria 1 or Criteria 2, but in no event shall employees receive payment under both Criteria 1 and Criteria 2.~~

Criteria 1

~~Should certain financial indicators be met on or before June 30, 2022, the City will provide Unrepresented Exempt and Non-Exempt employees with a one-time lump-sum payment (the "Payment") equal to 3% of the employee's base wages as of January 2, 2021.~~

Criteria 1 Financial Indicators

~~1. Revenue recovery: (1) the sum total of the following revenue sources (as reported in the City's CAFR) for FY 2021 is the same or greater than FY 2018; or (2) the sum total of the following revenue sources (as reported in the City's CAFR) for FY 2022 is the same or greater than FY 2018:~~

- ~~a. Sales Tax,~~
- ~~b. Property Tax,~~
- ~~c. Utility Users Tax, and~~
- ~~d. Transient Occupancy Tax.~~

~~2. The City's General Fund reserves are restored to 17% of the budgeted annual operating expense budget.~~

Criteria 1 Payout Schedule

~~In the event that the financial indicators are met, employees will receive the Payment in the first pay period after the City has distributed the annual report affirming that the financial indicators have been met.~~

Criteria 2

~~Should the City receive financial aid through a federal stimulus package that meets the criteria provided below, and should a certain financial indicator be met on or before June 30, 2022, the City will provide Unrepresented Exempt and Non-Exempt employees with a one-time lump-sum payment (the "Payment") equal to 3% of the employee's base wages as of January 2, 2021.~~

~~The stimulus funding must be:~~

- ~~• More than \$3.5M in FY 2021,~~
- ~~• Specifically related to COVID-19 relief, and~~
- ~~• Discretionary or able to be used to offset revenue loss in the General Fund and/or for currently funded General Fund positions.~~

~~**Criteria 2 Financial Indicator**~~

~~The City's General Fund reserves are restored to 17% of the budgeted annual operating expense budget.~~

~~**Criteria 2 Payout Schedule**~~

~~In the event that the City receives funding through a federal stimulus package and the financial indicator is met, employees will receive the Payment in the first pay period after the City has distributed the annual report affirming that the financial indicators have been met.~~

6.16 Salary Survey

A total compensation equity study for all Unrepresented classifications shall be completed no later than December 1, 2023.

The following jurisdictions will be included in the survey: City of Alameda, City of Berkeley, City of Daly City, City of Fremont, City of Palo Alto, City of Redwood City, City of Sunnyvale, City of San Leandro, City of Santa Clara, and City of San Mateo.

The salary survey shall include the monthly base salary and all employee costs paid by the respective agencies. Employee costs include, but are not limited to, employer contributions to medical, dental, vision, and life insurance, as well as long-term disability, short-term disability, deferred compensation, retirement contributions, and phone, car, and uniform allowances.

The bidding and selection process for a survey provider will begin in approximately February 2023.

7.00 HOLIDAYS

7.01 Holidays Observed by the City

The following days shall be holidays for all employees:

- New Year's Day (January 1)

- Martin Luther King Day (third Monday in January)
- Lincoln's Birthday (February 12)
- President's Day (third Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (first Monday in September)
- Admission Day (September 9)
- Indigenous Peoples' Day (second Monday in October)
- Veteran's Day (November 11)
- Thanksgiving Day (fourth Thursday in November)
- Friday after Thanksgiving Day (Friday following fourth Thursday in November)
- Christmas Eve Day (December 24)
- Christmas Day (December 25)
- New Year's Eve (December 31, second half of workday / 4 hours)

If any of said holidays fall on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday. If a holiday falls on an employee's regular day off, or if an employee is scheduled or assigned to work on a holiday, the employee shall be entitled to equivalent time off at a later date, and such time shall be credited to the employee's vacation leave. Scheduling or assignment of holiday work must be approved in advance by the City Manager or designee. The hours for which an employee receives holiday pay shall be based on the employee's regularly scheduled work hours for the day on which the holiday is observed.

7.02 Holidays for Part-Time Employees

Part-time employees who are regularly scheduled to work twenty (20) or more hours per week shall be entitled to four (4) hours' pay for each holiday observed for full-time employees. Eligible part-time employees shall receive one-half (1/2) hour of holiday leave with pay for each full hour of leave granted to full-time employees for the New Year's Eve holiday described in Section 7.01, Holidays Observed by the City, of this Resolution.

8.00 VACATIONS

8.01 Vacation Leave Policy

Vacation leave is a benefit and the use of same shall be approved by the City Manager or designee ~~taking into account~~ considering the desires and seniority of employees and, more particularly, the workload requirements of the department. Employees shall

take vacation leave regularly each year and shall be encouraged to take vacation at least a full week at a time. ~~In order to~~To give effect to this policy and to realize the greatest benefit from vacation leave for both employee and the City, limitations shall be placed upon the amount of unused vacation leave an employee is allowed to accumulate.

If an employee exhausts ~~his or her~~their vacation leave, the employee may apply for another eligible paid or unpaid leave (excluding sick leave) as provided for in this Resolution. If vacation leave is approved and then it is determined that the employee does not have enough vacation leave available to cover the request and no other leave is requested, Payroll will deduct the excess time from another eligible paid leave balance. No vacation leave accruals will be credited in advance. No vacation leave will be earned while on an unpaid leave.

If vacation leave is used to remain in a paid status while on approved leave under the Family Medical Leave Act/California Family Rights Act or Pregnancy Disability Leave, the vacation hours used will run concurrently with the state and/or federal leave entitlement.

8.02 Vacation Accruals for Full-Time Employees

All full-time employees, other than temporary and provisional employees, shall accrue vacation leave benefits each payroll period based upon the number of regularly scheduled hours.

The vacation accrual schedule for employees who are budgeted at and work full-time is as follows:

Years of Service	Per 80 Hr. Period	Hourly Equivalent	Annual
Up to 5 yrs.....	3.08 hrs.....	0.0385 hrs.....	80 hrs.
From 5 to 9 yrs.....	4.62 hrs.....	0.0578 hrs.....	120 hrs.
From 10 to 19 yrs.....	6.16 hrs.....	0.0770 hrs.....	160 hrs.
From 20 yrs.....	7.70 hrs.....	0.0963 hrs.....	200 hrs.

An employee will accrue at the next highest benefit level on the employee's corresponding anniversary date. For purposes of crediting service time for vacation accruals, a former regular employee who is reinstated within one (1) year from the date of the employee's date of separation shall receive credit for their prior service on a probationary and regular appointment. No service time on a temporary, provisional, or contracted appointment will be credited.

The increases in the vacation leave allowance shall be granted ~~on the basis of~~based on full-time, continuous service. An approved leave of absence shall not constitute a break in service for the purpose of this Section, but vacation leave shall not be earned during any period of unpaid absence.

As an exception to the foregoing, the City Manager or designee is authorized to place a new management employee at a position in the vacation schedule which recognizes that said employee has left a similar position with another employer where the employee had substantial vacation benefits.

Vacation leave shall continue to be earned during other authorized leaves with pay. When a holiday falls during an employee's absence on vacation leave, it shall not be deducted from the employee's accrued leave.

The maximum vacation accrual cap shall be twice the annual allowance plus forty (40) hours. The vacation accrual cap shall be maintained on a continuous per pay period basis. Exceptions may be permitted upon approval of the City Manager or designee. In granting such exceptions, the City Manager or designee may specify a time within which such excess vacation leave must be used. It shall be the responsibility of each employee to ensure the full use of vacation leave credits received by scheduling the necessary time off each year.

During the term of this Resolution, employees may cash out up to (120) hours of accrued vacation and/or management leave each ~~fiscal~~ year in no more than two (2) payments, at the employee's discretion, contingent on the employee using a minimum of eighty (80) hours paid vacation and/or management leave in the twelve (12) months preceding the submission of the request and having at least forty (40) hours of vacation and/or management leave remaining after the cash out. This leave cash out must be consistent with Section 10.09, Management Leave, of this Resolution.

Under no circumstances will an employee be permitted to cash out more than one-hundred twenty (120) hours of a combination of vacation and management leave each fiscal year.

Cash Out Requests Through Calendar Year 2022

Employees may cash out up to 120 hours of accrued vacation and/or management leave in calendar year 2022. All requests for cash-out shall be submitted through ESS by completing the Request for Management Leave/Vacation Leave Cash Out Form; requests must be processed and paid out on a paycheck date in the respective calendar year.

Cash Out Requests Beginning January 1, 2023

Employees may cash out up to 120 hours of accrued vacation and/or management leave each calendar year.

All requests for cash-out shall be submitted through ESS by completing the Request for Management Leave/Vacation Leave Cash Out Form. ~~;~~ Employees who intend to cash out leave shall submit an irrevocable request to do so in the calendar year preceding the year in which the cash-out is to be processed. Employees may specify the month(s) in which they wish to receive their cash out in the payment year but cannot split the payout into more than two (2) payments per calendar year. For example, if an employee wishes to cash out 80 hours of leave in calendar year 2023, they must submit their irrevocable request to do so no later than December 31, 2022 and can specify that they wish to cash out 40 hours in March 2023 and 40 hours in September 2023 at the time of the request. Employees who fail to provide such notice will be paid out for the requested cash out as part of their final payment issued in the applicable calendar year.

~~requests must be processed and paid out on a paycheck date in the respective calendar year. For example, if a request is received for a pay period that ends in December of the respective year but results in a paycheck the following calendar year, this request will not be processed as the payout must occur on a paycheck in the respective calendar year. Payout will be applied to a single bi-weekly payroll, and employees will be responsible for all taxes associated with such payout.~~

~~This provision will not extend beyond the term of this Resolution; requests and/or payouts will not be accepted or processed beyond the pay period that includes June 1, 2021.~~

8.03 Vacation Accruals for Certain Part-Time Employees

Only those employees hired into positions budgeted for twenty (20) or more hours per week and who consistently work twenty (20) or more hours per week shall be eligible for vacation leave. Eligible part-time employees, other than temporary and provisional employees, shall accrue vacation leave benefits each payroll period based upon the number of hours the employee actually works. The hourly equivalent rates are as follows:

Years of Service	Hourly Equivalent
Up to 5 yrs.....	0.0385 hrs.....
From 5 to 9 yrs.....	0.0578 hrs.....
From 10 to 19 yrs.....	0.0770 hrs.....
From 20 yrs.....	0.0963 hrs.....

Notwithstanding the foregoing, employees who are hired in a part-time status and full-time employees who assume part-time status shall accrue vacation benefits each payroll period based upon the total number of hours for which the employee was compensated in the payroll period. In order to be eligible for this benefit, employees must consistently work a half-time schedule or more. The amount of vacation so accrued shall be proportionate to that earned by full time employees in the same payroll period. The vacation accrual schedule specified in Section 8.02, Vacation Accruals for Full-Time Employees, of this Resolution and listed above will be used for purposes of prorating vacation leave.

The use of vacation shall be subject to the provisions and all Subsections of this Resolution. The maximum vacation accrual cap shall be twice the annual allowance plus twenty (20) hours. The vacation accrual cap shall be maintained on a continuous per pay period basis. Exceptions to the foregoing may be permitted pursuant to the provisions of Section 8.02 of this Resolution.

8.04 Payment for Unused Vacation Leave

Leave time earned but unused at the date of termination shall be added to final pay. If the employee owes the City for unearned leave taken, the actual time shall be deducted from final pay.

9.00 SICK LEAVE

9.01 Sick Leave Policy

Sick leave is a paid leave. Sick leave shall be allowed in case of an employee's bona fide illness or injury, or for an employee's doctor/health appointments. Use of sick leave shall be approved by the employee's supervisor.

Employees shall, whenever possible, make appointments for medical, dental, and other similar purposes on Saturday or other non- work time.

In addition to the foregoing, sick leave may be used as family sick leave to care for an ill or injured family member or to take a family member to a doctor appointment. A "family member" is defined as a child, parent, spouse, registered domestic partner, child of a registered domestic partner, grandparent, grandchild, or sibling. Up to half (1/2) of an employee's annual sick leave accruals per calendar year may be used as family sick leave.

A certificate from an attending physician stating the expected duration of the family member's illness may be required. Authorization to use additional sick leave for family illness beyond the maximum identified above may be granted by the City Manager or designee when, in the City Manager or designee's judgment, circumstances warrant the same. Employees may use not more than four (4) hours of sick leave for the purpose of consulting with a physician concerning a serious illness or injury of a member of the employee's immediate family.

Sick leave may also be taken for specified purposes by employees who are the victim of domestic violence, sexual assault, or stalking.

If an employee exhausts all accrued sick leave, the employee may apply for another eligible paid or unpaid leave as provided for in this Resolution. If sick leave is approved and then it is determined that the employee does not have enough sick leave available to cover the request and no other leave is requested, Payroll will deduct the excess time from another eligible paid leave balance.

No sick leave accruals will be credited in advance. No sick leave will be earned while on an unpaid leave.

If sick leave is used for purposes that qualify under a state or federal leave law, such as the Family Medical Leave Act/California Family Rights Act or Pregnancy Disability Leave, then any sick leave used will count towards the state or federal leave entitlement.

9.02 Sick Leave Allowance for Full-Time Employees

All full-time employees, other than temporary and provisional employees, shall accrue sick leave benefits each payroll period based upon the number of hours the employee is entitled. The full-time sick leave accrual rate is 3.704 hours per payroll period (up to ninety-six (96) hours annually). Employees shall accrue sick leave credits in accordance with the foregoing schedule from their initial date of employment.

The use of accrued sick leave shall be subject to the provisions of Section 9.00, Sick Leave, of this Resolution. An absence approved as sick leave shall be deducted from an employee's leave balance at the end of the pay period in which the leave is taken. There shall be no limit upon the number of hours of unused sick leave which may be accumulated by an employee. Upon separation of an employee, any sick leave balance for which payment has not been made shall be canceled and shall not be restored if a former employee is reinstated.

9.03 Sick Leave Allowance for Certain Part-Time Employees

1. Healthy Workplaces, Healthy Families Act of 2014

Part-time employees who work thirty (30) or more days within a year shall receive sick leave in accordance with the Healthy Workplaces, Healthy Families Act of 2014 and City Administrative Rule (AR) 2.56, Paid Sick Leave. The annual period shall be based on the part-time employee's first day of employment and anniversary date thereafter.

Employees eligible for sick leave under the Healthy Workplaces, Healthy Families Act of 2014 shall receive twenty-four (24) hours of sick leave on their first day of employment and may begin using their accrued sick leave after the ninetieth (90th) day of employment. Employees shall receive twenty-four (24) hours of sick leave at beginning of each fiscal year thereafter and can accrue up to a maximum of six (6) days or forty-eight (48) hours of paid sick leave, whichever is greater. Any unused paid sick leave balance will carry over year to year while continuously employed, up to the six (6) day or forty-eight (48) hour cap.

The use of sick leave so earned by part-time employees shall be subject to the provisions of this Resolution.

2. Part-Time Employees Regularly Scheduled Twenty (20) or More Hours per Week

Part-time employees who are regularly scheduled to work twenty (20) or more hours per week shall be entitled to accrue sick leave benefits each payroll period based upon the total number of hours for which the employee was compensated in the payroll period.

The amount of sick leave so accrued shall be proportionate to that earned by full-time employees based on the number of hours worked by the part-time employee. The full-time sick leave accrual rate is 3.704 hours per payroll period. The use of accrued sick leave shall be subject to the provisions of this Resolution.

3. Sick Leave Usage

Sick leave is accrued for all regular hours worked and shall continue to be earned during other authorized leaves with pay. There shall be no limit upon the number of hours of unused sick leave that may be accumulated by an employee. Upon

separation of an employee, any sick leave balance for which payment has not been made shall be canceled and shall not be restored if a former employee is reinstated.

Sick leave may be taken for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Employees may take up to a maximum of twenty-four (24) hours of sick leave per year to care for an eligible family member (the employees' child, parent, spouse, registered domestic partner, grandparent, grandchild, sibling). A certificate from an attending physician stating nature and extent of the family member's illness may be required in cases of suspected abuse of this provision.

Sick leave may also be taken for specified purposes by employees who are the victim of domestic violence, sexual assault, or stalking.

9.04 Sick Leave Notice and Certification

In order to receive compensation while absent on sick leave, employees or someone on their behalf shall notify the immediate supervisor prior to or within thirty (30) minutes before the time set for reporting to work. The City Manager or designee may waive this requirement upon presentation of a reasonable excuse by the employee. Employees shall file a personal affidavit or physician's certificate with their supervisor if required by the City Manager or designee for any use of sick leave.

After three (3) consecutive working days' absence, the supervising authority may require an appointment and/or physician's certificate. If employees become ill while on vacation, periods of illness may be charged to sick leave upon presentation of a physician's certificate certifying duration of illness. In cases of frequent use of sick leave, employees may be requested to file physician's statements for each illness, regardless of duration, to the extent allowed by law.

A physician's certificate must include the name and signature of the attending physician, the date and time the employee was seen by the physician, and the physician's certification that the illness or injury was of such nature to prevent the employee from performing their job. Employees may also be required to take an examination by a physician designated by the City and to authorize consultation with their own physician concerning their illness.

Sick leave shall not be granted for absences caused by intoxication or excessive use of alcoholic beverages. As an exception to the foregoing, sick leave may be authorized for the treatment of alcoholism or substance abuse when such condition is diagnosed by a competent medical authority.

These same requirements may also be applied for family sick leave requests.

9.05 Payment for Unused Sick Leave

Any employee leaving employment of the City in good standing after having completed twenty (20) years of continuous public service, or upon retirement from the City for service or disability with at least (10) years of service, or upon termination of employment by reason of death, shall receive payment for a portion of that sick leave earned but unused at the time of separation.

The amount of payment for unused sick leave shall be based on the employee's accumulated unused sick leave balance at the time of separation (up to a maximum of 2400 hours), times the employee's hourly rate of pay at time of separation plus seven percent (7%), times the number of whole years of continuous service, times the percentage factor from the following table:

- 0% to 65% of maximum eligible sick leave accrual = 1%
- 65.01% or more of maximum eligible sick leave accrual = 1.15%, provided the employee has twenty-five (25) years of service. If the employee has less than twenty-five (25) years of service the payout percent will equal 1%.

For the purposes of this Section, the maximum eligible sick leave accrual will be calculated as the number of whole years of service times 96.2 sick leave hours. The following examples illustrate how sick leave payouts will be provided to employees under this Section:

Example 1. Employee A is retiring after 20.7 years of service. She has 1335.4 hours of unused sick leave at time of retirement. The maximum number of sick leave hours she could have accrued over the course of her employment with the City was 96.2 hours x 20 years = 1924.0 hours. Her total sick leave hours (1335.4) are equal to 69.4% of the total maximum eligible sick leave accrual ($1335.4 \div 1924.0 \times 100 = 69.4\%$). She did retain greater than 65% of her maximum eligible sick leave accrual, however, she does not have 25 years of service. Therefore, she is only eligible to receive 1% of her unused sick leave balances for every whole year of service. Her hourly rate is \$42.35. Her sick leave payout hourly rate is $\$42.35 \times 1.07 = \45.31 . Her sick leave payout calculation is as follows:

$$\underline{1335.4 \text{ hours}} \times \$45.31 \times 20 \text{ years} \times .01 = \$12,101.40$$

Example 2. Employee B is retiring after 30.2 years of service. He has 2457.8 hours of unused sick leave at time of retirement. The maximum number of sick leave hours he could have accrued over the course of his employment with the City was 96.2 hours x 30 years = 2886.0 hours. His total sick leave hours (2457.8) are equal to 85.2% of the total maximum eligible sick leave accrual ($2457.8 \div 2886.0 \times 100 = 85.2\%$). He retained greater than 65% of his maximum eligible sick leave accrual, and he has more than 25 years of experience. Therefore, he would be eligible for 1.15% of his unused sick leave balances for every year of service. His hourly rate is \$41.18. His sick leave payout hourly rate is $\$41.18 \times 1.07 = \44.06 . His sick leave payout calculation is as follows:

$$\underline{2400 \text{ hours (max allowed)}} \times \$44.06 \times 30 \text{ years} \times .0115 = \$36,481.68$$

Payment of unused sick leave for part-time employees shall be determined using a pro-rated maximum accrual of sick leave hours and a pro-rated cap on the maximum number of hours that are subject to cash-out. The percentage applied for pro-rating shall be determined based on the average number of hours worked during the one (1) year period immediately preceding separation. For example, if the employee worked 1,040 hours during the year before separation, or the equivalent of 0.5 FTE, then the

pro-rated maximum accrual will be 0.5 x 96.2 hours, or an annual accrual rate of 43.1 hours. The pro-rated cap for this same employee will be 0.5 x 2,400 hours or 1,200 hours.

That portion of an employee's sick leave balance for which payment is not provided shall be canceled and shall not be restored if said employee is reinstated.

Employees hired on or after April 1, 2012 shall not be eligible to receive any sick leave cash-out benefits under this Section.

9.06 Catastrophic Injury/Illness Time Bank

Upon approval of the City Manager or designee, a time bank may be established for the benefit of an employee who is incapacitated by a catastrophic illness or injury. The intent of this program is to assist catastrophically ill or injured employees who have exhausted all available paid accruals to maintain a paid status for a maximum of one (1) year. Catastrophic injury or illness is defined as a medically certified, severe and disabling, non-industrial condition resulting in an employee's inability to work. Employees may submit requests to donate earned vacation and/or compensatory time on a voluntary basis subject to the conditions listed below.

- A. Employees initially eligible to receive leave contributions must have exhausted all other leave balances available including earned vacation, management leave, and earned sick leave.
- B. State and federal income tax on the value of leave donated shall be deducted from the recipient employee's pay at the time of crediting.
- C. Leave hours that are credited as sick leave to the recipient shall not be reversible.
- D. Hours requested to be donated shall be kept in a pledge status until used, shall be credited ~~on a monthly basis~~ monthly as sick leave, and shall be subject to the provisions of this Resolution regarding the use and payment of same. Donations shall be credited in the following order:
 1. From donors whose vacation accruals are at or within sixteen (16) hours of the maximum allowed for their classification; then
 2. From other donors in random order, to be determined on a draw basis by the Human Resources Department.
 3. Donation requests shall be credited in the order specified above in subsequent month(s).
- E. Donated leave time shall be changed to its cash value and then credited to the recipient in equivalent hours at the recipient's straight time hourly rate of pay. Recipient employees shall not be credited with more than one hundred percent (100%) of their normally scheduled hours for any given pay period.

- F. Donating employees may not reduce their balance of earned vacation below eighty (80) hours by reason of such donations.
- G. Recipient employees shall be credited with up to forty (40) hours of donated time upon return to work, provided that sufficient hours remain in pledge status during the pay period immediately preceding the return-to-work date. All undonated, pledged hours exceeding forty (40) shall be returned to the respective donor(s).
- H. In the event of the death of the recipient, the recipient's designated beneficiary shall receive payment for hours credited as donated. Hours remaining in pledge status are not subject to payout to the beneficiary and shall be returned to the donor(s).

This provision shall also allow the use and donation of catastrophic leave to employees who need paid time off to care of a catastrophically injured or ill dependent. The use of this leave is limited to a one (1) year period for establishment of any Catastrophic Injury/Illness Time Bank. Upon approval of the City Manager or designee, a time bank may be established for the benefit of an employee who has a dependent who is incapacitated by a catastrophic illness or injury. A dependent is defined as a legal spouse, registered domestic partner, legal child under the age of 26, or legal child of a registered domestic partner under the age of 26.

An employee must provide a signed medical certification from the treating physician of the employee's dependent stating that the employee's dependent has a severe and disabling injury or illness and indicating the amount of time the employee would need to be off to care for the dependent.

An employee shall not be credited with more than one hundred percent (100%) of the employee's normally budgeted hours for any given pay period. In no event shall an employee receive donated paid leave in addition to any paid benefit provided to the employee for time off to care for the employee's dependent that will result in the employee receiving more than one hundred percent (100%) of the employee's base salary for the pay period. Records of any paid benefit provided to the employee for time off to care for a dependent must be provided by the employee to Payroll for integration with catastrophic leave.

Employees can donate paid leave to an employee who has a dependent with a catastrophic injury/illness under the same terms and conditions as for an employee who has a catastrophic injury/illness.

Employees can utilize catastrophic leave for up to a one (1) year period. The period starts for the first day of use of catastrophic leave. For example, if catastrophic leave starts on July 1, 2010, it can only be used up until June 30, 2011. Leave can be taken on an intermittent basis if approved by the City Manager or designee but will not exceed catastrophic leave usage past the one (1) year leave period.

Any leave used for purposes that qualify under a state or federal leave law, such as the Family Medical Leave Act/California Family Rights Act/Pregnancy Disability Leave will count toward any state or federal leave entitlements. If an employee is unable to

return to work and has exhausted all accrued leave entitlements, the employee may be retired for disability and/or separated.

10.00 MISCELLANEOUS LEAVES

10.01 Bereavement Leave

All full-time employees, other than temporary and provisional employees, shall be granted bereavement leave with pay for not more than three (3) workdays upon the occasion of the death of a close relative. When additional time is desired, employees may be allowed to take accumulated vacation leave or management leave as approved by the City Manager or designee. For the purpose of this Section, a close relative is defined as any relation of the employee, by blood or marriage, including registered domestic partners in accordance with Section 297.5 of the Family Code where one or more of the following conditions are present:

- A. The employee will be attending the funeral of the deceased.
- B. The employee is responsible for or involved with funeral arrangements and/or estate settlement for the deceased.
- C. The employee's relationship with the deceased was of a close and personal nature such that time is required by the employee to deal with their bereavement or to participate in memorial services, either religious or non-sectarian.

When requesting such leave, employees will be required to certify to the City Manager or designee the conditions for granting bereavement leave have been satisfied. Upon presentation of such a request, the City Manager or designee shall determine whether leave shall be granted and in what amount. Additional bereavement leave for two (2) workdays for travel purposes not to exceed a total of five (5) working days may be granted by the City Manager or designee when circumstances warrant the same.

Part-time employees who work a continuous schedule of twenty (20) or more hours per week shall be granted bereavement leave with pay as necessary on the same basis as full-time employees, except that they shall be compensated at the rate of one-half (1/2) of the bereavement leave allowance provided full-time employees.

All regular, full-time employees may take up to one (1) day off with pay to attend the funeral of a non-family member. Part-time employees who work a continuous schedule of twenty (20) or more hours per week may be granted this leave as necessary on the same basis as full-time employees, except that they shall be compensated at the rate of one-half (1/2) day.

The City's determination regarding whether ~~or not~~ to approve a request for one (1) day of leave to attend the funeral of a non-family member shall be final and shall not be subject to further dispute.

10.02 Jury Leave

An employee summoned to jury duty shall inform their supervisor and, if required to serve, may be absent from duty with full pay. Any jury fees received by an employee shall be remitted to the City, excluding mileage reimbursement.

10.03 Military Leave

Military Leave shall be granted in accordance with the provisions of state and/or federal law. All employees entitled to military leave shall give the City Manager an opportunity, within the limits of military requirements, to determine when such leave shall be taken.

10.04 Industrial Disability

For an employee injury or disability falling within the provisions of the state Workers' Compensation Disability Act, disability compensation at the rate allowed under said act shall be the basic remuneration during the employee's period of disability. Compensation under this Act will be provided through payroll or the City's third-party administrator. Employees may elect to use their own personal paid leave to supplement any workers' compensation benefits received. If any paid leave is used, the employee must contact Human Resources Department and integrate the leave with any temporary disability benefits paid under this Act so that compensation does not exceed 100% of an employee's regular pay.

10.05 Family and Medical Leave / California Family Rights Act

Employees may be eligible for leave under the Family Medical Leave Act (FMLA) and/or the California Family Rights Act (CFRA). The administration of any FMLA or CFRA leave provided for under this provision shall be in accordance with the provisions of the FMLA and the CFRA. Leave provided under this provision may run concurrently with other leaves provided under this Resolution as designated by the Human Resources Department. Additional information regarding available leave benefits is set forth in City Administrative Rule 2.45, as that Rule may be revised.

10.06 Pregnancy Disability Leave

Employees may be eligible for leave under the California Pregnancy Disability Leave Law (PDLL). The administration of any leave given under the PDLL shall be in accordance with the provisions of the PDLL. Leave provided under this provision may run concurrently with other leaves provided under this Resolution. Additional information regarding available leave benefits is set forth in City Administrative Rule 2.45, as that Rule may be revised.

10.07 Leave of Absence

The City Manager or designee, upon written request of a full-time employee, other than a temporary or provisional employee, may grant for the good of the service a leave of absence without pay for a maximum period of one (1) year. Consideration for granting leave will ~~take into account~~consider the employee's previous time off, reason for request, business needs, etc.

Leaves hereby authorized shall include medical leaves, educational leaves, parental leaves, and leave for any other purpose promoting the good of the service. Part-time employees are eligible for leaves of absence on a pro-rata basis (e.g., half-time employees are eligible for one-half the leave of absence duration of a full-time employee, i.e., a maximum of six (6) months duration). Whenever granted, such leave shall be in writing and signed by the City Manager or designee. Upon expiration of such a leave, the employee shall be reinstated to the position held at the time the leave was granted. Failure of the employee to report promptly at the expiration or within a reasonable time after notice to return to duty shall terminate the employee's right to be reinstated.

All eligible paid leaves must be exhausted during any leave granted under this provision. Should employees exhaust their leave balance while on a leave of absence, all remaining time will be without pay. If a Leave of Absence is used for purposes that qualify under a state or federal leave law, such as the Family Medical Leave Act/California Family Rights Act or Pregnancy Disability Leave, the leave taken will count towards the state or federal leave entitlement. If an employee is unable to return to work and has exhausted all available leave entitlements, the employee may be retired for disability or separated. No benefits will be provided during this period except as provided below. Health coverage may be continued, but at the employee's own cost.

10.08 Parental Leave

Employees shall be granted forty (40) hours leave with pay at their current straight time hourly rate upon the birth of a child, or when a child begins residence with an employee who has commenced adoption proceedings with full intent to adopt. Part-time employees hired into positions budgeted for twenty (20) or more hours per week and who consistently work twenty (20) or more hours per week shall be granted proportionate leave based upon their work schedules. Leave must be taken within one (1) year from the date of birth or placement of the child.

In addition, a new parent may use up to one-hundred and twenty (120) hours of earned sick leave upon the birth of a child or when a child begins residence with an employee who has commenced adoption proceedings. Any leave granted under this provision shall run concurrently with FMLA/CFRA leave.

10.09 Management Leave

The City Council wishes to acknowledge the special public service rendered by the City's Executive and Exempt employees. In maintaining the City's efficiency and reputation, Executive and Exempt employees in this group work additional hours as required for appearances before the City Council, City Boards and Commissions, residents' groups, and intergovernmental bodies; for maintenance of essential services during emergencies; and for accomplishment of work assignments which often impose irregular hours and time expenditures far in excess of the conventional forty (40) hour workweek. Under such circumstances, these employees neither expect nor receive overtime pay. However, upon being regularly required to work throughout the year beyond the normal workweek, an employee shall be provided up to two (2) weeks' annual management leave. Upon request of an employee, the City Manager or designee may authorize additional management leave.

Employees may cash out up to eighty (80) hours of management leave each ~~fiscal~~ calendar year.

Employees may cash out up to an additional forty (40) hours of management leave and/or vacation leave, for a total of one-hundred twenty (120) hours of leave, each ~~fiscal~~ calendar year in no more than two (2) payments, at the employee's discretion, contingent on the employee using a minimum of eighty (80) hours' paid vacation and/or management leave in the twelve (12) months preceding submission of the request and must have at least forty (40) hours of vacation and/or management leave remaining after the cash out.

Under no circumstances will an employee be permitted to cash out more than one-hundred twenty (120) hours of management leave or a combination of vacation and management leave each ~~fiscal~~ calendar year.

All requests for cash out must be submitted through ESS by completing the Request for Management Leave/Vacation Leave Cash Out Form; requests must be processed and paid out on a paycheck date in the respective calendar year. For example, if a request is received for a pay period that ends in December of the respective year but results in a paycheck the following calendar year, this request will not be processed as the payout must occur on a paycheck in the respective calendar year. Payout will be applied to a single bi-weekly payroll and employees will be responsible for all taxes associated with such payout.

11.00 MISCELLANEOUS PROVISIONS

11.01 Notification of Address

All employees, including those on a leave of absence, shall keep the Human Resources Director or designee ~~informed as to their current home address at all times~~ always informed as to their current home address, no later than ten (10) days after such change of address.

11.02 Restrictions on Outside Work

Gainful employment outside an employee's regular City position shall be considered a privilege subject to regulation and not a right. No employee shall engage in a gainful occupation outside of the employee's City position which is incompatible with the employee's City employment or which is of such a nature as to interfere with satisfactory discharge of the employee's regular duties. Any employee who wishes to engage in or accept such employment may do so after having first obtained written approval of the City Manager or designee. Approval of outside employment will be granted for a period not to exceed one (1) year. Employees wishing to continue outside employment will need to re-apply for approval of outside work upon the expiration of the current approval. Violation of this Section shall be cause for disciplinary action.

11.03 Employee Health and Medical Examinations

When in the judgment of the City Manager or designee, an employee's health or physical condition may have an adverse effect on the performance of duties or affect the safety or health of fellow employees, the employee may be required to undergo a medical examination at City expense.

~~On the basis of~~Based on authoritative medical advice, the City Manager shall determine whether an employee is physically incapacitated for the duties of the position and may take whatever action the City Manager deems appropriate. The determination and resultant action may be the subject of appeal to the Personnel Commission for its review and recommendation.

Those employees designated by the City Manager shall also undergo, at City expense, routine medical examinations. The frequency of these examinations and the examining physician shall also be designated by the City Manager.

11.04 Conversion of Compensatory Time

An employee promoted from another representation unit to a classification in the Unrepresented Executives, Management, City Manager, Human Resources, & City Attorney Employees Unit will be required at the time of promotion to redeem all accrued compensatory time at the straight time hourly rate immediately prior to promotion. As an exception to the foregoing, an employee may elect to have the compensatory time transferred to the Deferred Compensation Plan pursuant to Plan rules.

11.05 Americans with Disabilities Act (ADA)

The City recognizes its obligation under the law to meet with individual employees who allege a need for reasonable accommodation in the workplace because of a disability. The City will engage in the interactive process with qualified employees to determine if a reasonable accommodation is available. In the case of an employee with a disability, managers and supervisors may be informed of necessary restrictions on the work or duties of the employee and any agreed upon reasonable accommodations.

11.06 Potential Changes in Wages and Benefits

The City agrees that leave, holidays, fringe benefits, and annual across-the-board salary increases granted to Unrepresented Exempt and Non-Exempt employees will be equal to those granted to members of the Hayward Association of Management Employees.

11.07 Fire Chief Position

Section 5.00, Benefit Plans, Section 6.00, Salary Administration, and Section 11.06, Potential Changes in Wages and Benefits, of this Resolution detailing employee benefit plans and across-the-board salary increases shall not apply to the Fire Chief. Instead, the employee benefits (including health and retirement benefits) for the Fire Chief will be the same as those set forth in any collective bargaining agreement between the City and the Hayward Fire Chiefs Association. In addition, the Fire Chief will be eligible to receive certification pay for possessing and maintaining a valid emergency medical technician certification and/or paramedic certification under the

same terms and conditions as such pay is provided to employees represented by the Hayward Fire Chiefs Association. Except as specifically provided in this Section, all other provisions of this Resolution shall apply to the Fire Chief.

This Section shall remain in effect until thereafter amended or rescinded by the City Council.

11.08 Police Chief Position

Section 5.00, Benefit Plans, Section 6.00, Salary Administration, and Section 11.06, Potential Changes in Wages and Benefits, of this Resolution shall not apply to the Police of Chief. Instead, employee benefits (including health and retirement benefits) for the Police Chief will be the same as those set forth in any collective bargaining agreement between the City and the Hayward Police Officers Association. Moreover, based on satisfactory performance as determined by the City Manager, salary adjustments will be equivalent to those set forth in the collective bargaining agreement between the City of Hayward and the Hayward Police Officers Association. In addition, the Police Chief is eligible to participate in the Police Educational Incentive Program on the same terms as members of the Hayward Police Management Unit. Except as specifically provided in this Section, all other provisions of this Resolution shall apply to the Police Chief.

This Section shall remain in effect until thereafter amended or rescinded by the City Council.

11.09 Duration

This Resolution is intended to provide authorization for salaries, benefits, and other terms and conditions of employment beginning July 1, 2015 and until this Resolution is thereafter amended or rescinded by the City Council.



CITY OF HAYWARD

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

File #: LB 22-015

DATE: June 21, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Director of Human Resources

SUBJECT

Council-Appointed Officers' Employment Agreements: Adopt Resolutions Approving Amendments to the Employment Agreements Between the City of Hayward and the City Attorney, City Clerk, and City Manager and Authorizing the Mayor to Execute the Agreements

RECOMMENDATION

That Council adopts resolutions (Attachments II, III, and IV) approving amendments to the employment agreements between the City of Hayward and the City Attorney, City Clerk, and City Manager and authorizes the Mayor to execute the agreements.

SUMMARY

Pursuant to the employment agreements between the City of Hayward and its Council-Appointed Officers ("CAOs"), subject to evaluation and performance, City Council may increase the salaries of the CAOs by resolution. The current employment agreements between the City of Hayward and both the City Attorney and City Clerk expire June 30, 2025, while the City Manager's current employment agreement expires June 30, 2023.

In March 2022, a total compensation market study was completed for the CAOs. If approved, the CAOs' amended employment agreements will contain equity increases effective the pay period including January 1, 2023. To implement the equity increases, the City used the methodology included in the Memorandum of Understanding (MOU) for the Hayward Association of Management Employees (HAME), approved by Council on January 18, 2022 as a framework. The amended agreements also include a one-time, lump-sum payment effective the pay period including July 1, 2022, in recognition of the CAOs' ongoing satisfactory performance.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution - City Attorney

File #: LB 22-015

Attachment III	Resolution - City Clerk
Attachment IV	Resolution - City Manager
Attachment V	Amended Employment Agreement - City Attorney
Attachment VI	Amended Employment Agreement - City Clerk
Attachment VII	Amended Employment Agreement - City Manager



DATE: June 21, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Director of Human Resources

SUBJECT: Council-Appointed Officers' Employment Agreements: Adopt Resolutions Approving Amendments to the Employment Agreements Between the City of Hayward and the City Attorney, City Clerk, and City Manager and Authorizing the Mayor to Execute the Agreements

RECOMMENDATION

That Council adopts resolutions (Attachments II, III, and IV) approving amendments to the employment agreements between the City of Hayward and the City Attorney, City Clerk, and City Manager and authorizes the Mayor to execute the agreements.

SUMMARY

Pursuant to the employment agreements between the City of Hayward and its Council-Appointed Officers ("CAOs"), subject to evaluation and performance, City Council may increase the salaries of the CAOs by resolution. The current employment agreements between the City of Hayward and both the City Attorney and City Clerk expire June 30, 2025, while the City Manager's current employment agreement expires June 30, 2023.

In March 2022, a total compensation market study was completed for the CAOs. If approved, the CAOs' amended employment agreements will contain equity increases effective the pay period including January 1, 2023. To implement the equity increases, the City used the methodology included in the Memorandum of Understanding (MOU) for the Hayward Association of Management Employees (HAME), approved by Council on January 18, 2022 as a framework. The amended agreements also include a one-time, lump-sum payment effective the pay period including July 1, 2022, in recognition of the CAOs' ongoing satisfactory performance.

BACKGROUND AND DISCUSSION

On January 18, 2022, City Council approved a successor MOU between the City and HAME, which provided for an equity increase during the term of the agreement based on the results of a total compensation market study performed under the previous contract. Equity increases

under the HAME MOU adhere to the following methodology, to which the parties agreed as a way to improve the City's position in the labor market:

- Positions that are more than 15% behind the market median would receive a 10% equity adjustment;
- Positions that are more than 10% behind the market median but less than 15% behind would receive a 5% equity adjustment; and
- Positions that are more than 5% behind the market median but less than 10% behind would receive a 3% equity adjustment.

The results of a total compensation market study completed in March 2022 indicated the City Attorney's salary is currently approximately 18% below the market median for the position, The City Clerk's salary is approximately 9% below the market median, and the City Manager's salary is approximately 11% below the market median. Similar to the City's position with HAME, the City appreciates the value of keeping salaries for the CAOs competitive to retain current talent. Therefore, the proposed amendments would provide for equity increases for the CAOs following the same methodology included in the HAME MOU. Therefore, the proposed amended agreements include a 10% salary adjustment for the City Attorney, a 3% salary adjustment for the City Clerk, and a 5% salary adjustment for the City Manager effective the pay period including January 1, 2023.

The City also offered each of the CAOs the option of either receiving (a) a 2% cost-of-living adjustment (COLA) effective the pay period including July 1, 2022, which would result in an ongoing increase of 2% to the base salary of each, or (b) a one-time, lump-sum payment equal to 4% of the employee's base annual salary effective the pay period including July 1, 2022, paid out on the July 8, 2022, paycheck.

FISCAL IMPACT

If approved, the amendment to the City Attorney Employment Agreement would result in an estimated fiscal impact of \$25,869 to the General Fund. The amendment to the City Clerk Employment agreement would result in an estimated fiscal impact of \$9,259 to the General Fund. Finally, the City Manager Employment Agreement would result in an estimated fiscal impact of \$22,307.

STRATEGIC ROADMAP

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

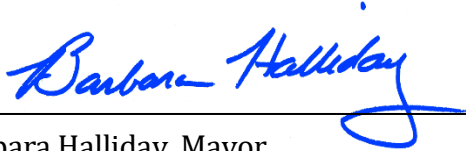
NEXT STEPS

If approved, staff will finalize the amended employment agreements and coordinate payment of the lump sum and implementation of the salary changes with Payroll.

Prepared by: Kakshi Master, Acting Deputy Director of Human Resources

Recommended by: Regina Youngblood, Assistant City Manager/Interim Director of Human Resources

Approved by:



Barbara Halliday, Mayor

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-__

RESOLUTION APPROVING THE AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF HAYWARD AND CITY ATTORNEY AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Employer recognizes Employee's satisfactory performance; and

WHEREAS, a total compensation market study conducted in March 2022 indicated Employee's salary was more than fifteen percent (15%) below the market median for City Attorney; and

WHEREAS, Employee and Employer have agreed to a ten percent (10%) equity salary adjustment effective the pay period including January 1, 2023 and a one-time, lump sum cash payment equal to four percent (4%) of Employee's annual base salary effective the pay period including July 1, 2022.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves the amendment to the City Attorney's employment agreement through June 30, 2025 and authorizes the Mayor to execute the agreement.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 Miriam Lens
 City Clerk

APPROVED AS TO FORM:

Michael Vigilia
Senior Assistant City Attorney

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-___

RESOLUTION APPROVING THE AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF HAYWARD AND CITY CLERK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Employer recognizes Employee's satisfactory performance; and

WHEREAS, a total compensation market study conducted in March 2022 indicated Employee's salary was more than five percent (5%) below the market median for City Clerk; and

WHEREAS, Employee and Employer have agreed to a three percent (3%) equity salary adjustment effective the pay period including January 1, 2023 and a one-time, lump sum cash payment equal to four percent (4%) of Employee's annual base salary effective the pay period including July 1, 2022.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves the amendment to the City Clerk's employment agreement through June 30, 2025 and authorizes the Mayor to execute the agreement.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 Avinta Madhukansh-Singh
 Deputy City Clerk

APPROVED AS TO FORM:

Michael S. Lawson
City Attorney

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-___

RESOLUTION APPROVING THE AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF HAYWARD AND CITY MANAGER AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Employer recognizes Employee's satisfactory performance; and

WHEREAS, a total compensation market study conducted in March 2022 indicated Employee's salary was more than ten percent (10%) below the market median for City Manager; and

WHEREAS, Employee and Employer have agreed to a five percent (5%) equity salary adjustment effective the pay period including January 1, 2023 and a one-time, lump sum cash payment equal to four percent (4%) of Employee's annual base salary effective the pay period including July 1, 2022.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves the amendment to the City Manager's employment agreement through June 30, 2023 and authorizes the Mayor to execute the agreement.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 Miriam Lens
 City Clerk

APPROVED AS TO FORM:

Michael Lawson
City Attorney

AMENDMENT TO HAYWARD CITY ATTORNEY EMPLOYMENT AGREEMENT

THIS AMENDMENT, dated for convenience the **21st day of June 2022**, is by and between **MICHAEL LAWSON**, an individual (“Employee”) and the **CITY OF HAYWARD**, a public body of the State of California (“Employer”) and amends and replaces the Agreement between Employee and Employer as amended on June 22, 2021 (“Agreement”).

RECITALS:

WHEREAS, Employer recognizes Employee’s satisfactory performance; and

WHEREAS, a total compensation market study conducted in March 2022 indicated Employee’s salary was more than fifteen percent (15%) below the market median for City Attorney; and

WHEREAS, Employee and Employer have agreed to a ten percent (10%) equity salary adjustment effective the pay period including January 1, 2023 and a one-time, lump sum cash payment equal to four percent (4%) of Employee’s annual base salary effective the pay period including July 1, 2022.

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter recognized, Employee and Employer agree to the following:

Section 1 Term

The term of this Agreement is November 1, 2020, through June 30, 2025. This Agreement shall be renewed subject to annual performance reviews as outlined in Section 124.

Section 2 Duties and Authority

Employer agrees to employ Employee as City Attorney to perform the functions and duties specified in Article VIII section 808 et seq. of the Hayward City Charter and such other lawful and appropriate duties and functions as directed by the City Council. Employee shall be licensed to practice law in the State of California for the duration of employment. Employer agrees to pay Employee’s cost of annual bar association membership.

Section 3 Compensation

The Employee’s salary for FY 2021 (July 1, 2020 through June 30, 2021) is \$229,070.40. Effective the pay period that includes January 1, 2021, Employee shall receive a 3.5% market equity adjustment. Effective the pay period that includes July 1, 2021, Employee shall be eligible to receive a 2% COLA ~~originally due to Employee effective the pay period including July 1, 2020, but which Employee forewent to offer cost savings due to the COVID-19 pandemic.~~

Effective the pay period that includes January 1, 2022, Employee shall receive a 3.5% market equity adjustment.

Effective the pay period including January 1, 2023, Employee shall receive a 10% equity adjustment based on the results of a March 2022 market total compensation survey, which indicated the position of City Attorney was more than 15% behind the market median. The equity increase is based on the following methodology:

- 10% adjustment if position is more than 15% behind the market median
- 5% adjustment if position is more than 10% but 15% or less behind the market median
- 3% adjustment if position is more than 5% but 10% or less behind the market median.

Thereafter and subject to an evaluation of performance, Employer may increase Employee's salary by resolution.

During the term of this Agreement, Employer agrees to pay Employee on the same schedule as other City of Hayward employees, which is currently bi-weekly.

Section 4 One-Time Lump Sum Payment

Employee shall receive a one-time, lump sum payment equal to ~~two-four~~ percent (~~24~~%) of Employee's annual base salary effective the pay period including July 1, 202~~1~~4 ~~to restore the COLA originally to due to Employee the pay period including July 1, 2020.~~

Section 5 Health, Disability, Life Insurance and Other Benefits

Upon commencing employment, Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for Employee and his dependents equal to that which is provided to all Unrepresented Management Employees of Employer.

Similarly, Employer agrees to obtain short-term and long-term disability insurance coverage for Employee while this Agreement is in effect. Employer shall obtain term life insurance for Employee in an amount equal to Employee's gross annual salary (including all salary increases during the life of this Agreement) or Employer's maximum allowable amount of term life insurance coverage under Employer's contract with its insurer, if said amount is less than Employee's gross annual salary. Employee shall have the right to choose the beneficiary on such policies.

In addition to the benefits set forth herein, all actions taken by the City Council relating to benefits for Unrepresented Management Employees shall be considered actions granting the same level of benefits to Employee, unless Employer and Employee mutually agree otherwise.

Employer agrees to pay the equivalent cost of the above stated benefits at the same benefit plan level as provided for Unrepresented Management Employees.

Employer provides employees with access to a deferred compensation plan. Employer will not provide an employer contribution to the deferred compensation plan.

Section 6 Vacation and Sick Leave

Employee shall continue to accrue sick and vacation leave on an annual basis at the rate specified in Employee's current agreement or at the rate afforded Unrepresented Management Employees, whichever is higher, unless and until this Agreement is amended.

Employee shall be entitled to eighty (80) hours of management leave annually as provided in the Salary and Benefits Resolution for Unrepresented Executive Employees.

Employee shall be entitled to accrue a total of thirty-five (35) days combined leave (i.e., vacation and management leave) annually, and shall take no more than fifteen (15) workdays of vacation or management leave at any one time, exclusive of holidays recognized by Employer, to which Employee shall also be entitled. Upon approval of the Council, leave may be extended beyond the fifteen (15) workday limit established above.

During the term of this Agreement, Employee may cash out up to (120) hours of accrued vacation and/or management leave each fiscal year.

In the event of termination, either voluntarily or involuntarily, employee shall be compensated for accrued sick and vacation time as of the date of termination as provided in the Salary and Benefits Resolution for Unrepresented Management Employees.

Section 7 Retirement

Employee shall be required to pay the full CalPERS Employee contribution rate of eight percent (8%). In addition to the 8% employee rate, Employee shall continue contributing five percent (5%) toward the Employer contribution rate.

Section 8 Personal Equipment and Automobile Allowance /Health and Wellness Reimbursement

Employee shall receive a \$450 per month stipend for the use of personal equipment and automobile, payable bi-weekly at the rate of \$207.69 per pay period. Personal equipment includes, but is not limited to cell phone, iPad, laptop, printers, etc. Employee may be reimbursed for mileage expenses incurred for non-routine meetings and conferences if vehicle travel exceeds fifty (50) miles one-way. Non-routine meetings are those that do not occur at a regular interval, i.e.: weekly, monthly, annually, and/or where participation in the meeting is not a requirement of the position. Employer agrees to provide Employee mileage reimbursement for qualified expenses at the same level as provided for Unrepresented Management Employees.

Employer will reimburse Employee the equivalent of a maximum of one hundred dollars (\$100.00) per month for expenses associated with health and wellness programs. This reimbursement may be used for the payment of recurring monthly fees associated with gym or

health club memberships, fitness classes, personal trainers, weight loss programs, or other health and wellness related expenses. Requests must be made in writing and submitted with proof of enrollment and receipt(s).

Section 9 Termination

Termination of this Agreement may occur under any of the following circumstances:

- A. If a majority of the governing body votes to terminate Employee at a duly authorized public meeting;
- B. If Employer, the public, or Legislature acts to amend any provisions of the Charter, Ordinances, or appropriate enabling legislation pertaining to the role, powers, duties, authority, and responsibilities of Employee's position, and such amendment substantially changes the form of government, Employee shall have the right to declare that such amendment constitutes termination;
- C. If Employee resigns following an offer by Employer to accept resignation, whether such offer is formal or informal, then Employee may declare a termination as of the date of Employee's acceptance of such formal or informal offer;
- D. If either party fails to cure a breach of contract as declared by either Employer or Employee within a 30-day period after the declaration of such breach of contract, provided written notice of such breach of contract is provided in accordance with provisions of Section 18;
- E. If Employee is convicted of a felony or misdemeanor involving moral turpitude, or if it is established that Employee's performance constitutes malfeasance or gross dereliction of duty;
- F. If Employee fails or refuses to follow a direct, lawful order by Employer.

Section 10 Severance

- A. Except as expressly provided herein, severance shall be paid to Employee when employment is terminated pursuant to Section 8. If Employee is terminated, Employer shall provide a minimum severance payment equal to six (6) months' salary and benefits at the then-current rate of pay. This severance shall be paid in a lump sum unless otherwise agreed to by Employer and Employee. Severance does not include life insurance. Employee shall also be compensated for all accrued sick leave, vacation time, all paid holidays and management leave as provided in the Salary and Benefit Resolution for the Unrepresented Management Employees.
- B. If Employee is terminated under any of the circumstances set forth in items E, or F of the preceding Section 8, Employer is not obligated to pay severance.

Section 11 Resignation

In the event that Employee voluntarily resigns his position with Employer, Employee shall provide a minimum of ninety (90) days' notice unless the parties agree otherwise.

Section 12 Performance Evaluation

Employer will review the performance of Employee at least annually. Performance reviews will include at least the identification of mutually agreed upon goals to be achieved by Employee in the ensuing year, as well as a review of compensation for the coming year.

Section 13 Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours on business for Employer, and to that end, Employee shall be allowed to establish an appropriate work schedule.

Section 14 Outside Activities

The employment provided for by this Agreement shall be Employee's sole employment, unless otherwise agreed to by Employer prior to Employee engaging in any such other employment.

Section 15 Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Attorney or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities unless the act or omission involved willful or wanton conduct. Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other reasonable other costs and expenses of legal proceedings including attorneys' fees, and any liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual, or threatened, arising out of or in connection with the performance of his duties. Any settlement of any claim must be made with prior approval of Employer in order for indemnification, as provided in this Section, to be available.

Section 16 Abuse of Office or Position

If Employee is convicted of a crime involving an abuse of his office or position, all of the following shall apply: (1) if Employee is provided with paid administrative leave pending an investigation, Employee shall be required to fully reimburse Employer such amounts paid; (2) if Employer pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Employee shall be required to fully reimburse Employer such amounts paid; and (3) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Employee may receive from

Employer shall be fully reimbursed to Employer or shall be void if not yet paid to Employee. For purposes of this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, or violation of the law under color of authority; or (2) a crime against public justice.

Section 17 Bonding

Employer shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

Section 18 Other Terms and Conditions of Employment

Employer may set such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Hayward City Charter, or any other law.

Section 19 Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service postage prepaid addressed as follows:

(1) EMPLOYER: Mayor of the City of Hayward
Hayward City Hall
777 B Street
Hayward California 94541

(2) EMPLOYEE: Michael Lawson
Address on File

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 20 General Provisions; Integration; Severability

This Agreement sets forth and establishes the entire understanding between Employer and Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated into and made a part of this Agreement.

The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the

remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, Employee has executed this Amendment, and Employer, by and through its Mayor, duly authorized to act, has executed this Amendment.

Dated: June ____, 2022

Executed by:

Barbara Halliday
Mayor, City of Hayward

Michael S. Lawson
Employee (City Attorney)

ATTEST:

Miriam Lens
City Clerk

APPROVED AS TO FORM:

Michael Vigilia
Senior Assistant City Attorney

AMENDMENT TO HAYWARD CITY CLERK EMPLOYMENT AGREEMENT

THIS AMENDMENT, dated for convenience the **21st day of June 2022**, is by and between **MIRIAM LENS**, an individual (“Employee”) and the **CITY OF HAYWARD**, a public body of the State of California (“Employer”) and amends and replaces the Agreement between Employee and Employer, as amended on June 22, 2021 (“Agreement”).

RECITALS:

WHEREAS, Employer recognizes Employee’s satisfactory performance; and

WHEREAS, a total compensation market study conducted in March 2022 indicated Employee’s salary was more than five percent (5%) below the market median for City Clerk; and

WHEREAS, Employee and Employer have agreed to a three percent (3%) equity salary adjustment effective the pay period including January 1, 2023 and a one-time, lump sum cash payment equal to four percent (4%) of Employee’s annual base salary effective the pay period including July 1, 2022.

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter recognized, Employee and Employer agree to the following:

Section 1 Term

The Term of this Agreement is October 1, 2020, through June 30, 2025. This Agreement shall be renewed subject to annual performance reviews as outlined in Section 12.

Section 2 Duties and Authority

Employer agrees to employ Employee as City Clerk to perform the functions and duties specified in Article VIII section 800 et seq. of the Hayward City Charter and such other lawful and appropriate duties and functions as directed by the City Council. Employee shall be a Certified Municipal Clerk by the International Institute of Municipal Clerks (IICM) and Employee shall maintain current standing for the term of employment. Employee shall adhere to the IICM Code of Ethics. The Employer agrees to pay Employee’s cost for certification.

Section 3 Compensation

The Employee’s salary for FY 2021 (July 1, 2020 through June 30, 2021) is \$141,169.60. Effective the pay period that includes January 1, 2021, Employee shall receive a 6% market equity adjustment. Effective the pay period that includes July 1, 2021, Employee shall be eligible to receive a 2% COLA ~~originally due to Employee effective the pay period including July 1, 2020, but which Employee forewent to offer cost savings due to the COVID-19 pandemic.~~

Effective the pay period that includes January 1, 2022, Employee shall receive a 6% market equity adjustment.

Effective the pay period including January 1, 2023, Employee shall receive a 3% equity adjustment based on the results of a March 2022 market total compensation survey, which indicated the position of City Clerk was more than 5% behind the market median. The equity increase is based on the following methodology:

- 10% adjustment if position is more than 15% behind the market median
- 5% adjustment if position is more than 10% but 15% or less behind the market median
- 3% adjustment if position is more than 5% but 10% or less behind the market median.

Thereafter and subject to an evaluation of performance, Employer may increase Employee's salary by resolution.

During the Term of this Agreement, Employer agrees to pay Employee on the same schedule as other City of Hayward employees, which is currently bi-weekly.

Section 4 One-Time Lump Sum Payment

Employee shall receive a one-time, lump sum payment equal to ~~two-four~~ percent (24%) of Employee's base salary effective the pay period including July 1, 2022 ~~to restore the COLA originally to due to Employee the pay period including July 1, 2020.~~

Section 5 Health Disability Life Insurance and Other Benefits

Upon commencing employment, Employer agrees to provide and pay the premiums for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for Employee and her dependents equal to that which is provided to all Unrepresented Management Employees of Employer.

Similarly, Employer agrees to obtain short-term and long-term disability insurance coverage for Employee while this Agreement is in effect. Employer shall obtain term life insurance for Employee in an amount equal to Employee's gross annual salary (including all salary increases during the life of this Agreement) or Employer's maximum allowable amount of term life insurance coverage under Employer's contract with its insurer, if said amount is less than Employee's gross annual salary. Employee shall have the right to choose the beneficiary on such policies.

In addition to the benefits set forth herein, all actions taken by the City Council relating to benefits for Unrepresented Management Employees shall be considered actions granting the same level of benefits to Employee, unless Employer and Employee mutually agree otherwise.

Employee is not eligible for a vehicle allowance. Employer agrees to provide Employee mileage reimbursement at the same level as provided for Unrepresented Management employees.

Employer provides employees with access to a deferred compensation plan. Employer will not provide an employer contribution to the deferred compensation plan.

Section 6 Vacation and Sick Leave

Employee shall continue to accrue sick and vacation leave on an annual basis at the rate afforded Unrepresented Management Employees, unless and until this Agreement is amended.

Employee shall be entitled to eighty (80) hours of management leave annually as provided in the Salary and Benefits Resolution for Unrepresented Executive Employees.

Employee shall take no more than fifteen (15) workdays of vacation or management leave at any one time, exclusive of holidays recognized by Employer, to which Employee shall also be entitled. Upon approval of the Council, leave may be extended beyond the fifteen (15) workday limit established above.

During the term of this Agreement, Employee may cash out up to (120) hours of accrued vacation and/or management leave each fiscal year.

In the event of termination, either voluntarily or involuntarily, Employee shall be compensated for accrued sick and vacation time as of the date of termination as provided in the Salary and Benefits Resolution for Unrepresented Management Employees.

Section 7 Retirement

Employee shall be required to pay the full CalPERS Employee contribution rate of eight percent (8%). In addition to the 8% employee rate, the Employee shall continue contributing five percent (5%) toward the Employer contribution rate.

Section 8 Personal Equipment and Automobile Stipend / Health and Wellness Reimbursement

Employee shall receive a \$450 per month stipend for the use of personal equipment and automobile, payable bi-weekly at the rate of \$207.69 per pay period. Personal equipment includes, but is not limited to cell phone, iPad, laptop, printers, etc. Employee may be reimbursed for mileage expenses incurred for non-routine meetings and conferences if vehicle travel exceeds fifty (50) miles one-way. Non-routine meetings are those that do not occur at a regular intervals, i.e.: weekly, monthly, annually, and/or where participation in the meeting is not a requirement of the position. Employer agrees to provide Employee mileage reimbursement for qualified expenses at the same level as provided for Unrepresented Management Employees.

Employer will reimburse Employee the equivalent of a maximum of one hundred dollars (\$100.00) per month for expenses associated with health and wellness programs. This reimbursement may be used for the payment of recurring monthly fees associated with gym or health club memberships, fitness classes, personal trainers, weight loss programs, or other health and wellness related expenses. Requests must be made in writing and submitted with proof of enrollment and receipt(s).

Section 9 Termination

Termination of this Agreement may occur under any of the following circumstances:

- A. If a majority of the governing body votes to terminate Employee at a duly authorized public meeting;
- B. If Employer, the public, or Legislature acts to amend any provisions of the Charter, Ordinances, or appropriate enabling legislation pertaining to the role, powers, duties, authority, and responsibilities of Employee's position, and such amendment substantially changes the form of government, Employee shall have the right to declare that such amendment constitutes termination;
- C. If Employee resigns following an offer by Employer to accept resignation, whether such offer is formal or informal, then Employee may declare a termination as of the date of Employer's acceptance of such formal or informal offer;
- D. If either party fails to cure a breach of contract as declared by either Employer or Employee within a 30-day period after the declaration of such breach of contract, provided written notice of such breach of contract is provided in accordance with provisions of Section 17;
- E. If Employee is convicted of a felony or misdemeanor involving moral turpitude, or if it is established that Employee's performance constitutes malfeasance or gross dereliction of duty;
- F. If Employee fails or refuses to follow a direct, lawful order by Employer.

Section 10 Severance

- A. Except as expressly provided herein, severance shall be paid to Employee when employment is terminated pursuant to Section 9. If Employee is terminated, Employer shall provide a minimum severance payment equal to ninety (90) days' salary and benefits at the then-current rate of pay. This severance shall be paid in a lump sum unless otherwise agreed to by Employer and Employee. Severance does not include life insurance. Employee shall also be compensated for all accrued sick leave, vacation time, all paid holidays and management leave as provided in the Salary and Benefit Resolution for the Unrepresented Management Employees.
- B. If Employee is terminated under any of the circumstances set forth in items E or F of the preceding Section 8, Employer is not obligated to pay severance.

Section 11 Resignation

In the event that Employee voluntarily resigns her position with Employer, Employee shall provide a minimum of ninety (90) days' notice unless the parties agree otherwise.

Section 12 Performance Evaluation

Employer will review the performance at least annually. Performance reviews will include at least the identification of mutually agreed upon goals to be achieved by Employee in the ensuing year, as well as a review of compensation for the coming year.

Section 13 Hours of Work

It is recognized that Employee must devote a great deal of time outside the normal office hours on business for Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14 Outside Activities

The employment provided for by this Agreement shall be Employee's sole employment, unless otherwise agreed to by Employer prior to Employee engaging in any such other employment.

Section 15 Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Clerk or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities unless the act or omission involved willful or wanton conduct. Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other reasonable other costs and expenses of legal proceedings including attorneys' fees, and any liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual, or threatened, arising out of or in connection with the performance of her duties. Any settlement of any claim must be made with prior approval of Employer in order for indemnification, as provided in this Section, to be available.

Section 16 Abuse of Office or Position

If Employee is convicted of a crime involving an abuse of her office or position, all of the following shall apply: (1) if Employee is provided with paid administrative leave pending an investigation, Employee shall be required to fully reimburse Employer such amounts paid; (2) if Employer pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Employee shall be required to fully reimburse Employer such amounts paid; and (3) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Employee may receive from Employer shall be fully reimbursed to Employer or shall be void if not yet paid to Employee. For purposes of this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, or violation of the law under color of authority; or (2) a crime against public justice.

Section 17 Bonding

Employer shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

Section 18 Other Terms and Conditions of Employment

Employer may set such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Hayward City Charter, or any other law.

Section 19 Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service postage prepaid addressed as follows:

- (1) EMPLOYER: Mayor of the City of Hayward
Hayward City Hall
777 B Street
Hayward California 94541

- (2) EMPLOYEE: Miriam Lens
Address on File

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 20 General Provisions; Integration; Severability

This Agreement sets forth and establishes the entire understanding between Employer and Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated into and made a part of this Agreement.

The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, Employee has executed this Amendment, and Employer, by and through its Mayor, duly authorized to act, has executed this Amendment.

Dated: June ____, 2022

Executed by:

Barbara Halliday
Mayor, City of Hayward

Miriam Lens
Employee (City Clerk)

ATTEST:

Avinta Madhukansh-Singh
Deputy City Clerk

APPROVED AS TO FORM:

Michael S. Lawson
City Attorney

AMENDMENT TO HAYWARD CITY MANAGER EMPLOYMENT AGREEMENT

THIS AMENDMENT, dated for convenience the **21st day of June 2022**, is by and between **KELLY RUTH McADOO**, an individual (“Employee”) and the **CITY OF HAYWARD**, a public body of the State of California (“Employer”) and amends and replaces the Agreement between Employee and Employer as amended on June 22, 2021 (“Agreement”).

RECITALS:

WHEREAS, Employer recognizes Employee’s satisfactory performance; and

WHEREAS, a total compensation market study conducted in March 2022 indicated Employee’s salary was more than ten percent (10%) below the market median for City Manager; and

WHEREAS, Employee and Employer have agreed to a five percent (5%) equity salary adjustment effective the pay period including January 1, 2023 and a one-time, lump sum cash payment equal to four percent (4%) of Employee’s annual base salary effective the pay period including July 1, 2022.

NOW, THEREFORE, in consideration of the covenants and conditions hereinafter recognized, Employee and Employer agree to the following:

Section 1 Term

The Term of this Agreement is December 1, 2018, through June 30, 2023. This Agreement shall be renewed subject to annual performance reviews as outlined in Section 13.

Section 2 Duties and Authority

Employer agrees to employ Employee as City Manager to perform the functions and duties specified in Article VII sections 700 et seq. of the Hayward City Charter and such other lawful and appropriate duties and functions as directed by the City Council. Employee shall be a member in good standing of the International City/County Management Association (ICMA) and shall adhere to ICMA principles and tenets and Employer shall not give the Employee any order or direction that would require the Employee to violate the ICMA Code of Ethics. Employee shall maintain current her ICMA Credentialed Manager standing for the Term of employment.

Section 3 Compensation

As of December 1, 2018, Employee's Base Salary was \$254,072.00. Effective the pay period that included January 1, 2019, Employee received a 7% market equity adjustment. Effective the pay period that included January 1, 2020, Employee received a 7% market equity adjustment and a

2% COLA. Effective the pay period that included~~s~~ July 1, 2021, Employee ~~shall be eligible to receive~~ a 2% COLA ~~originally due to Employee effective the pay period including July 1, 2020, but which Employee forewent to offer cost savings due to the COVID-19 pandemic. Thereafter and subject to an evaluation of performance, Employer may increase Employee's salary by resolution.~~

Effective the pay period including January 1, 2023, Employee shall receive a 5% equity adjustment based on the results of a~~n~~ March of 2022~~1~~, the Parties agree to complete a market total compensation survey, which indicated the position of City Manager was more than 10% behind the market median to be used to inform the Council and considered along with performance evaluations and other factors to set salary should the Council desire to offer additional salary adjustments. The equity increase is based on the following methodology:

- 10% adjustment if position is more than 15% behind the market median
- 5% adjustment if position is more than 10% but 15% or less behind the market median
- 3% adjustment if position is more than 5% but 10% or less behind the market median

Thereafter and subject to an evaluation of performance, Employer may increase Employee's salary by resolution.

During the Term of this Agreement, Employer agrees to pay Employee on the same schedule as other City of Hayward employees, which is currently bi-weekly.

Section 4 One-Time Lump Sum Payments

Employee shall receive a one-time, lump sum payment equal to ~~two-four~~ percent (~~42~~%) of Employee's base salary effective the pay period including July 1, 2022~~1~~ ~~to restore the COLA originally due to employee the pay period including July 1, 2020.~~

~~Employee shall receive additional one-time, lump sum payments equal to two percent (2%) of Employee's base salary, the first of which shall be issued the pay period including July 1, 2021, and the second of which shall be issued the pay period including January 1, 2022.~~

Section 5 Health, Disability, Life Insurance, and Other Benefits

Upon commencing employment, Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for Employee and her dependents equal to that which is provided to all unrepresented management employees of Employer.

Similarly, Employer agrees to obtain and to make required premium payments for short term and long-term disability insurance coverage for Employee while this Agreement is in effect.

Employer shall also pay for term life insurance for Employee in an amount equal to Employee's gross annual Base Salary (including all salary increases during the life of this Agreement) or Employer's maximum allowable amount of term life insurance coverage under Employer's contract with its insurer, if said amount is less than Employee's gross annual Base Salary.

Employee shall have the right to choose the beneficiary on such policies.

In addition to the benefits set forth herein, all actions taken by the City Council relating to benefits for Unrepresented Management Employees shall be considered actions granting the same level of benefits to Employee, unless mutually agreed otherwise between Employer and Employee.

Employer provides employees with access to a deferred compensation plan. Employer will not provide an employer contribution to the deferred compensation plan.

Section 6 Vacation and Sick Leave

Upon commencing employment, Employee shall be credited with the existing sick and vacation leave hours of accrued leave as reflected in the existing City of Hayward account for Employee from her previous position as Assistant City Manager. Employee shall continue to accrue sick and vacation leave on an annual basis at her current rate and in accordance with the Salary and Benefits Resolution for Unrepresented Management Employees, unless and until this Agreement is amended.

Employee shall be entitled to eighty (80) hours of management leave annually as provided in the Salary and Benefits Resolution for Unrepresented Executive Employees. Employee may cash out up to one-hundred twenty (120) hours Management Leave and/or Vacation Leave each fiscal year.

Employee shall not take more than fifteen (15) workdays of said leave at any one time, exclusive of holidays recognized by Employer, to which Employee shall also be entitled. Upon approval of the Council, leave may be extended beyond the fifteen (15) workday limit established above.

In the event of termination, either voluntarily or involuntarily, Employee, or if the case of her death, Employee's heirs, shall be compensated for all accrued sick and vacation time as of the date of termination as provided in the Salary and Benefits Resolution for Unrepresented Management Employees and consistent with City policies.

Section 7 Personal Equipment and Automobile Allowance /Health and Wellness Reimbursement

Employee shall receive a \$450 per month stipend for the use of personal equipment and automobile, payable bi-weekly at the rate of \$207.69 per pay period. Personal equipment includes, but is not limited to cell phone, iPad, laptop, printers, etc. Employee may be reimbursed for mileage expenses incurred for non-routine meetings and conferences if vehicle travel exceeds fifty (50) miles one-way. Non-routine meetings are those that do not occur at a

regular interval i.e.: weekly, monthly, annually, and/or where participation in the meeting is not a required part of the position. Employer agrees to provide Employee mileage reimbursement for qualified expenses at the same level as provided for Unrepresented Management employees. The City will reimburse the employee the equivalent of a maximum of one hundred dollars (\$100.00) per month for expenses associated with health and wellness programs. This reimbursement may be used for the purchase of or recurring monthly fees associated with gym or health club memberships, fitness class (such as yoga, Zumba, or similar), personal trainers, weight loss programs (such as Weight Watchers, Jenny Craig, or similar), or other health and wellness related expenses. Requests must be made in writing and submitted with proof of enrollment and receipt(s).

Section 8 Professional Development and Business Expenses

Employer acknowledges its mutual interest in the continuing professional development of Employee. Employee agrees to devote all professional time and attention to the City's business during the Term of this Agreement.

Employer agrees to allow and pay for professional dues and subscriptions of Employee for continuation and full participation in national, regional, state, and local associations, including but not limited to ICMA, the League of California Cities, and such other organizations necessary and desirable for Employee's continued professional participation, growth, and advancement and for the good of the Employer.

Employer agrees to pay travel and subsistence expenses of Employee for conferences in a manner consistent with the treatment of other Executive employees and consistent with the City's policies and procedures for travel and training reimbursement. Employer agrees to reimburse Employee for reasonable business expenses to conduct non-conference related City business including meals, travel, and lodging.

Employee will present a proposed budget for professional development and business expenses to the Council Appointed Officers Committee for review and approval at the beginning of each fiscal year.

Section 9 Retirement

Employee shall be required to pay the full Cal PERS Employee contribution rate of eight percent (8%). In addition to the 8% employee rate, the Employee shall continue contributing five percent (5%) toward the Employer contribution rate.

Section 10 Termination

Termination of this Agreement may occur under any of the following circumstances:

- A. If after proper meeting notice, a majority of the governing body votes to terminate Employee at a duly authorized public meeting;
- B. If Employer, citizens, or Legislature acts to amend any provisions of the Charter, Ordinances, or appropriate enabling legislation pertaining to the role, powers, duties, authority, and responsibilities of Employee's position, and such amendment substantially changes the form of government, Employee shall have the right to declare that such amendment constitutes termination;
- C. If Employee resigns following an offer by Employer to accept resignation, whether such offer is formal or informal, then Employee may declare a termination as of the date of Employee's acceptance of such formal or informal offer;
- D. If either party fails to cure a breach of contract as declared by either Employer or Employee within a 30-day period after the declaration of such breach of contract, provided written notice of such breach of contract is provided in accordance with provisions of Section 21;
- E. If Employee is convicted of a felony or misdemeanor involving moral turpitude, or if it is established that Employee's performance constitutes malfeasance or gross dereliction of duty;
- F. If Employee fails or refuses to follow a direct, lawful, and material order by Employer, representing the direction of a majority of the Council; and
- G. If Employee violates one or more tenets or ethical principles of ICMA.

Employee shall not be removed during the 90-day period preceding or following any City election for membership on the City Council, or during the 90-day period following any change in membership of the City Council, except upon an affirmative vote of at least six of the seven members of the City Council. Employee will be eligible for Severance Pay as outlined in Section 11 if this Agreement is terminated for this reason.

Section 11 Severance

- A. Except as expressly provided herein, Severance shall be paid to Employee when employment is terminated in Section 10. If Employee is terminated, Employer shall provide a minimum Severance payment equal to one-hundred eighty (180) days salary and benefits at the then-current rate of pay. This Severance shall be paid in a lump sum unless otherwise agreed to by Employer and Employee. Severance does not include life insurance. Employee shall also be compensated for all accrued sick leave, vacation time, all paid holidays and administrative leave as provided in the Salary and Benefit Resolution for the Unrepresented Management Employees.

- B. If Employee is terminated under any of the circumstances set forth in items E, F, or G of the preceding Section 10, Employer is not obligated to pay Severance.

Section 12 Resignation

In the event that Employee voluntarily resigns her position with Employer, Employee shall provide a minimum of ninety (90) days' notice, unless the parties agree otherwise, and shall receive no Severance.

Section 13 Performance Review

Employer will review the performance of the Employee under this Agreement in April of 2019, and annually thereafter. Performance reviews will include at least the identification of mutually agreed upon goals to be achieved by Employee in the ensuing year, as well as a review of compensation for the coming year.

Section 14 Hours of Work

Employee shall be an exempt employee under FLSA. Employee does not have set hours of work but is expected to engage in those hours of work necessary to fulfill the obligations of the City Manager's position. Employer recognizes that the Employee must devote a great deal of time to business of the City outside of the City's customary office hours and Employee's schedule of work each day and week may vary in response to the requirements of the work to be performed. Employee is required to maintain a regular on-site presence during normal business hours that is sufficient to properly administer and oversee the activities of the City and its employees, to provide accessibility to City Council members, Department Heads, citizens, and other persons or firms who have business with the City and to generally ensure that the City functions appropriately on a day-to-day basis. Employee is expected to be available at all times, except for time taken on personal matters, such as vacations; Employer expects Employee to make prudent and reasonable arrangements for such personal time off, such as reasonable notice and arrangements, for example, for acting City Managers.

Section 15 Outside Activities

The employment provided for by this Agreement shall be Employee's sole employment, unless otherwise agreed to by Employer prior to Employee engaging in any such other employment.

Section 16 Residency and Housing Assistance

Employer and Employee both agree that it is desirable for Employee to live in Hayward. Employer has provided Employee with a housing assistance loan in accordance with the terms set forth in Employee's previous Employment Agreement. A Home Loan Agreement has been fully executed by the Parties.

Section 17 Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities unless the act or omission involved willful or wanton conduct. Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other costs and expenses of legal proceedings including attorneys' fees, and any liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual, or threatened, arising out of or in connection with the performance of her duties. Any settlement of any claim must be made with prior approval of Employer in order for indemnification, as provided in this Section, to be available.

Section 18 Abuse of Office or Position

If Employee is convicted of a crime involving an abuse of her office or position, all of the following shall apply: (1) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse City such amounts paid; (2) if City pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Employee shall be required to fully reimburse City such amounts paid; and (3) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Employee may receive from City shall be fully reimbursed to City or shall be void if not yet paid to Employee. For purposes of this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (2) a crime against public justice.

Section 19 Bonding

Employer shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

Section 20 Other Terms and Conditions of Employment

Employer may set such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Hayward City Charter, or any other law.

Section 21 Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service postage prepaid addressed as follows:

(1) EMPLOYER: Mayor of the City of Hayward
City Hall
777 B Street
Hayward, CA 94541

(2) EMPLOYEE: Kelly Ruth McAdoo
Address on File

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil service of process. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 22 General Provisions; Integration; Severability

This Agreement sets forth and establishes the entire understanding between Employer and Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated into and made a part of this Agreement.

The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, Employee has executed this Amendment, and Employer, by and through its Mayor, duly authorized to act, has executed this Amendment.

Dated: June ____, 2022

Executed by:

Barbara Halliday
Mayor, City of Hayward

Kelly Ruth McAdoo
Employee (City Manager)

ATTEST:

Miriam Lens
City Clerk

APPROVED AS TO FORM:

Michael S. Lawson
City Attorney