

**CITY COUNCIL MEETING
TUESDAY, DECEMBER 17, 2019**

PRESENTATIONS

ITEM 11 – LB 19-045

**UPDATE ON COMMERCIAL CANNABIS PERMIT
PROCESS AND PROGRAM**

Commercial Cannabis Program

Update on Commercial Cannabis Permit Process and Program

Jeremy Lochirco, Principal Planner
Jubran Kanaan, ICF Consultant
December 17, 2019



Summary

Background:

- Since October 2017, the Council has approved permits for 23 businesses.
- Two of these businesses are fully operational

Proposed Program Review:

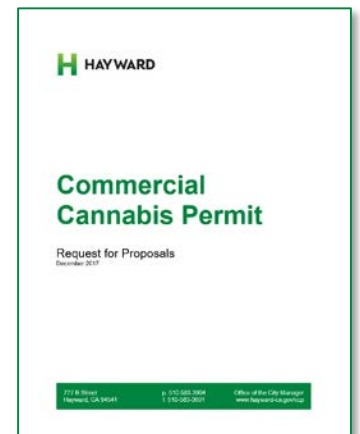
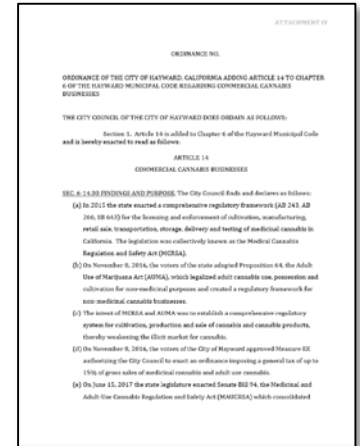
- **Opportunity:** Review and update key elements of the program
- **Context:** Updates to State regulations; implementation issues identified; organizational capacity issues and staffing transitions
- **Objectives:** Align ordinances; refine processes; and ensure organizational capacity and full cost recovery.

Work Session Goals:

- Obtain feedback from Council on opportunities to update ordinances, streamline processes, and strengthen systems to ensure effective program implementation.

Ordinances & Selection Process

- **Ordinances:** In October 2017, the City adopted two cannabis regulations:
 - Ordinance 17-13 outlined the Request for Proposal process by which the City would select businesses for commercial cannabis permits
 - Ordinance 17-15 established land use regulations for cannabis activities
- **Commercial Cannabis Selection & Licensing Process:**
 - Ordinance established a four-stage process for review and selection of cannabis operators: (1) Criminal Background Investigation; (2) Competitive Scoring and Ranking; (3) Applicant Interviews; and (4) City Council Approval.
 - Following Council approval, applicants are given 6 months (182 business days) to identify a project site and submit a planning application.
- **Application and Licensing Process to Date:**
 - **December 2017:** RFP released; 77 applications received
 - **Summer 2018:** City Council approved 15 cannabis businesses for licensing
 - **January 2019:** City Council approved 8 additional businesses for licensing



Current Status of Licensees

- Since October 2017, the Council has approved permits for 23 businesses.
- Currently, two of those businesses are fully operational, and several others are approved and/or awaiting building permit issuance.

Licensee Status	# Businesses (as of October 2019)
Approved and Operational	2
Planning Application Approved	3
Application Submitted but Incomplete	9
Awaiting Submittal of Planning Application	7
License Expired	1
License Revoked	1
Total	23

Program Evaluation

- **Opportunity:** Review and update key elements of the program
- **Context:**
 - Recent updates to State regulatory system
 - Implementation issues identified in City's current program
 - Organizational capacity issues and staff transitions
- **Program Goals:**
 - Contributing to a resilient, equitable economy;
 - Ensuring public safety;
 - Aligning City ordinances with State regulations;
 - Monitoring licensee compliance;
 - Ensuring organizational capacity for program implementation; and
 - Assuring full cost recovery.

Context for Program Review and Update

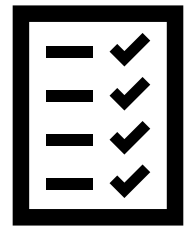
■ Updates to State Regulations

- New Cultivation Regulations from CDFA (January 16, 2019)
- Assembly Bill 97 (July 1, 2019)
- CEQA Compliance Ruling (August 19, 2019)
- Redundancies between State and Local Regulations



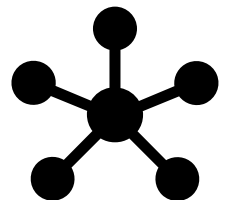
■ Program Implementation Issues:

- Only two cannabis businesses currently operational in Hayward
- Streamline application and licensing processes
- Increase focus on implementation, auditing, and compliance



■ Organizational Capacity Issues:

- No central point of contact; recent staff transitions
- Need to clarify and map workflow
- Improve coordination with County and State agencies



Objectives of Program Update



Increase the Number of Businesses in Hayward

Understand barriers that impede licensees from becoming operational



Refine Application and Licensing Processes

Derive lessons from first round RFP; streamline processes; clarify requirements; propose revisions



Strengthen Auditing and Compliance Processes

Ensure compliance with state/local regulations; implementation of commitments; annual renewals



Develop Mechanisms to Maximize Community Benefits

Explore options for formalizing licensee commitments and ensuring implementation



Ensure Organizational Capacity and Full Cost Recovery

Assess full range of City functions related to cannabis; propose enhancements; ensure cost recovery



Update Commercial Cannabis Ordinance and Land Use Ordinance

Update Ordinances to clarify language, align with State regs, and reflect updated program elements

Proposed Work Plan Elements



Collect feedback from City departments key to program implementation



Conduct stakeholder interviews with selected current Hayward licensees



Review successful practices employed by other comparable jurisdictions in California and across the country



Propose program options and specific revisions to cannabis ordinances, application and licensing materials, master fee schedule, etc.



Conduct additional work sessions with City Council and Planning Commission

Recommendation

That the City Council:

1. Provide feedback and guidance on the policy options for updating the Commercial Cannabis Regulatory and Land Use Ordinances; and
2. Adopt the Resolution (Attachment II) authorizing the City Manager to negotiate and execute an amendment to the existing Agreement with ICF to review and propose updates to the Commercial Cannabis Program.

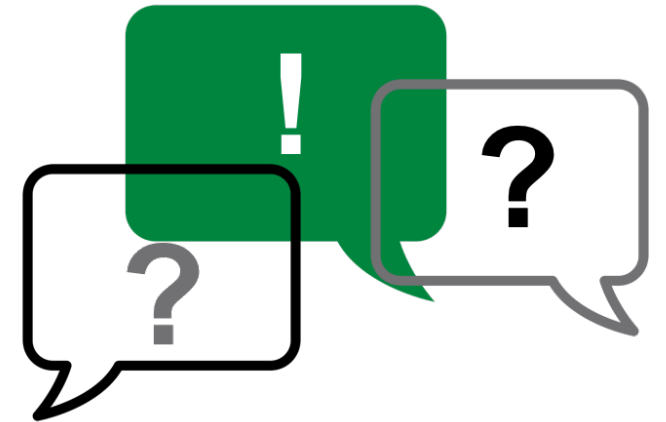
Next Steps

Following direction from the Council, staff will finalize the scope of work for the program review and begin the process of updating the regulatory and land use ordinances related to cannabis.



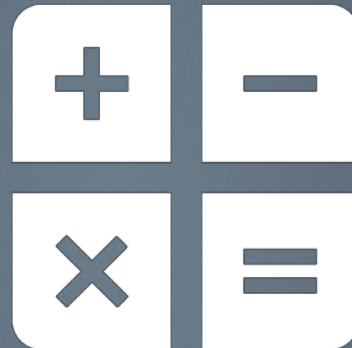
Questions for Council Feedback

- Do the overarching program goals accurately reflect the Council's current priorities?
- Are there other goals that should guide the updating of the cannabis program?
- Do the six Objectives for the proposed work plan align with Council priorities?
- Are there other priority areas Council would like to include?



ITEM 12 – LB 19-046

**INTRODUCTION OF AN ORDINANCE
INCREASING THE COMMERCIAL CANNABIS
TAX RATE TO 7% OF GROSS SALES**



Introduction of Ordinance Increasing the Commercial Cannabis Tax Rate

Background



- ▶ November 2016 - Voters Approve Measure EE with maximum 15% tax rate
- ▶ October 30, 2017 City Council Work Session on Tax Rate
- ▶ March 6, 2018 City Council Established Tax Rate of 6%
- ▶ March 19, 2019 City Council authorized establishment of affiliate fund with East Bay Community Foundation to establish Hayward Community Foundation

Hayward Community Foundation



- ▶ Partner with approved businesses
- ▶ Potentially provision of community services such as youth programs, educational programs etc.

Hayward Community Foundation (HCF) Contributions and Distributions



- ▶ Staff will make appropriation and allocation recommendations for Measure EE revenues during annual budget process.
- ▶ Separate from any Measure EE allocations to the Community Foundation, the Council will, in the future, need to develop a distribution mechanism for HCF funds.

Comparative Rates



Jurisdiction	Tax Rates
Oakland	For businesses <\$500k gross receipts .12% of gross receipts For businesses >\$500k gross receipts 10% of gross receipts for recreational cannabis 5% of gross receipts for medical use
San Leandro	6% currently, increases to 8% by 2022
Emeryville	Set by business type 1% of gross receipts for testing 1% of gross receipts for distribution 2% of gross receipts for manufacturing 3% of gross receipts for delivery 3% of gross receipts for storefront retail
Berkeley	5% of gross receipts for recreational cannabis 2.5% of gross receipts for medical use

Staff Recommendation: Proposed Rate



- ▶ That the Council increases the Commercial Cannabis Tax rate from 6% of gross sales to 7% of gross sales

Questions & Discussion



ITEM 13 – LB 19-055

**INTRODUCTION OF AN ORDINANCE REVISING
THE CITY'S PARK IMPACT FEES AND CHAPTER
10, ARTICLE 16 OF THE HAYWARD MUNICIPAL
CODE**

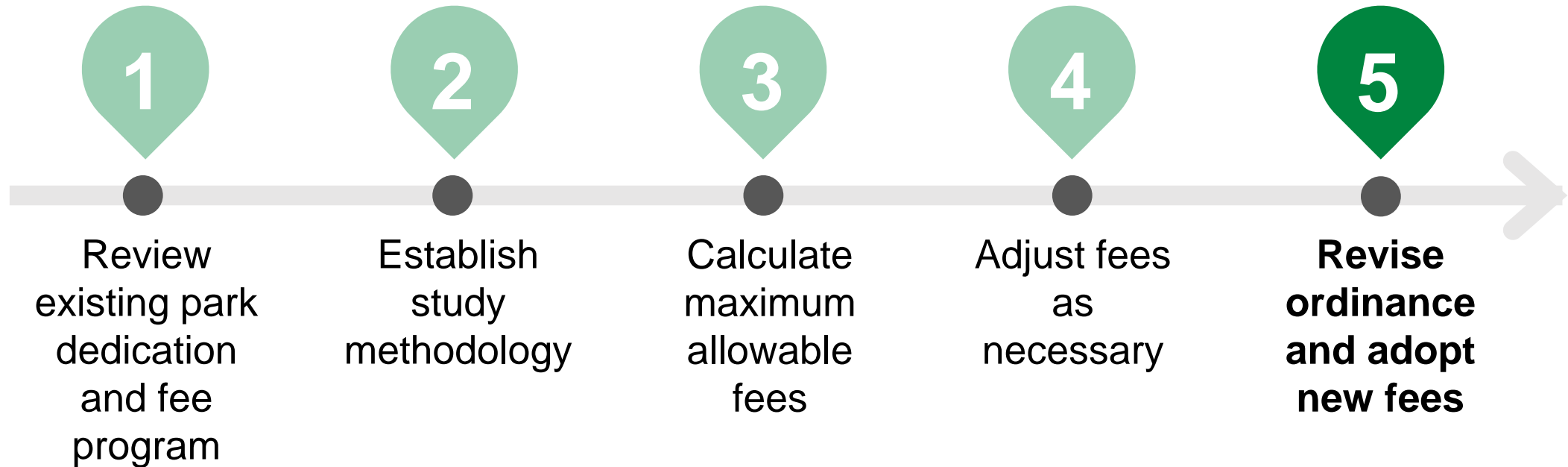
Park Nexus Study

Updated Park Impact Fees and Revised Ordinance

City Council Hearing
December 17, 2019
Elizabeth Blanton, AICP, Associate Planner



Park Nexus Study Project Status



Council Direction

- 1 Assess park impact fees on **residential and industrial** development.
- 2 Calculate fees by **bedroom count** rather than product type.
- 3 **Reduce** park fees below the maximum allowable, ranging from approx. \$3,100 for studios/ADUs up to \$21,500 for units with 4+ bedrooms.
- 4 Expand **exemptions** to include a wider range of affordable housing and units.
- 5 Allow **additional credits** that could be counted toward park fee requirements for private parkland that is publicly accessible.

Updated Fees

<i>Type of Development</i>	<i>Max. Allowable Fee</i>	<i>Recommended Fee</i>	<i>Percent Reduction from Max. Allowable</i>
Residential			
0 Bedrooms/ADUs	\$4,416	\$3,091	30%
1 Bedroom	\$6,915	\$4,841	30%
2 Bedrooms	\$12,474	\$8,732	30%
3 Bedrooms	\$21,784	\$15,249	30%
4+ Bedrooms	\$30,301	\$21,211	30%
Non-Residential			
Office/Other Commercial	\$7.88/sq. ft.	-	100%
Retail	\$9.72/sq. ft.	-	100%
Industrial	\$0.78/sq. ft.	\$0.55/sq. ft.	30%
Government	\$9.00/sq. ft.	-	100%
Education	\$2.87/sq. ft.	-	100%

Note: Fees will be adjusted annually based on the percentage change in the ENR Construction Cost Index, San Francisco Area

Options for Future Fee Increases

<i>Type of Development</i>	<i>Recommended Fee (30% Reduction)</i>	<i>Potential Future Fee Increases</i>		
		<i>Option #1 (20% reduction)</i>	<i>Option #2 (10% reduction)</i>	<i>Option #3 (Max. Allowable)</i>
Residential				
0 Bedrooms/ADUs	\$3,091	\$3,533	\$3,974	\$4,416
1 Bedroom	\$4,841	\$5,532	\$6,224	\$6,915
2 Bedrooms	\$8,732	\$9,979	\$11,227	\$12,474
3 Bedrooms	\$15,249	\$17,427	\$19,606	\$21,784
4+ Bedrooms	\$21,211	\$24,241	\$27,271	\$30,301
Non-Residential				
Office/Other Commercial	-	-	-	-
Retail	-	-	-	-
Industrial	\$0.55/sq. ft.	\$0.62/sq. ft.	\$0.70/sq. ft.	\$0.78/sq. ft.
Government	-	-	-	-
Education	-	-	-	-



Exemptions & Credits

- **Expanded Exemptions and Reductions**
 - Exempt all 100% affordable housing projects (120% AMI) by non-profit developers
 - 50% reduction in fees for 100% affordable projects by for-profit developers
 - 50% reduction in fees for on-site affordable units
- **Revisions to Credits Allowed**
 - Allow credits for a wider variety of publicly accessible parks, trails, and open space that exceed code requirements
 - Allow the Director of Development Services in consultation with HARD to waive minimum size standards for individual amenities in exchange for community benefit(s)

HARD BOARD OF DIRECTORS RECOMMENDATION

That the City Council:

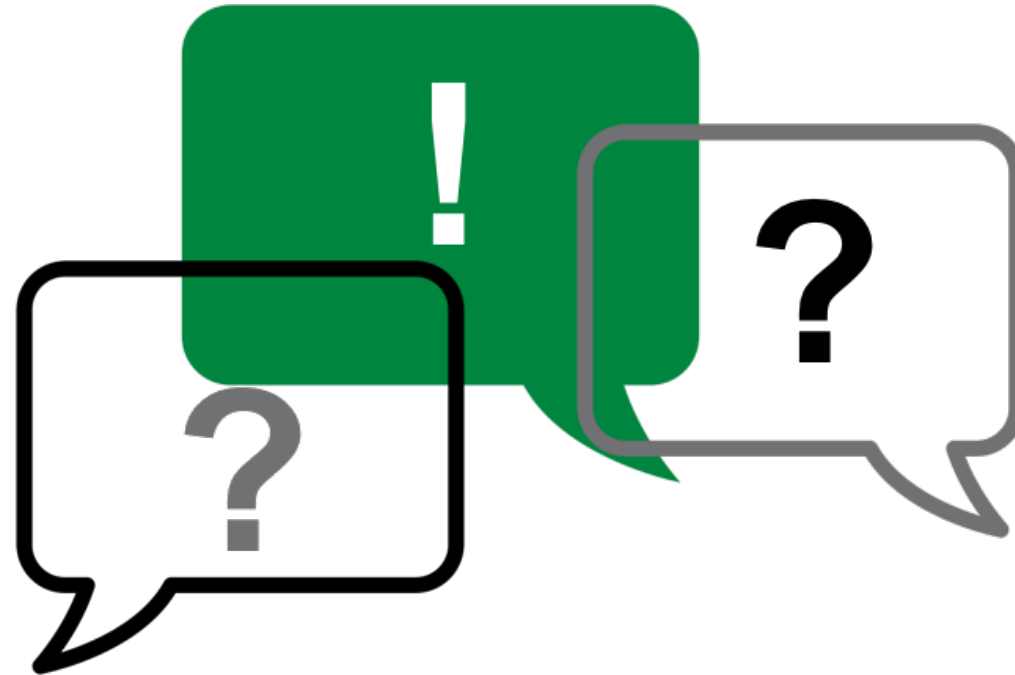
- ✓ Adopt the updated Park Impact Fees and related revisions to Chapter 10, Article 16 of the Hayward Municipal Code
- ✓ Adopt a specific phasing schedule that would specify when increases in Park Impact Fees would occur, preferably up to the maximum allowable over a three-year period

STAFF RECOMMENDATION

That the City Council:

- ✓ Holds a public hearing to obtain input on proposed amendments to Chapter 10, Article 16 of the Hayward Municipal Code and the adoption of updated park impact fees
- ✓ Introduces an ordinance amending Chapter 10, Article 16 of the Hayward Municipal Code regarding obligations for parks and recreation for developers
- ✓ Adopts a resolution adopting Park Impact Fees

Questions and Discussion



Changes to Ordinance Structure

- Order of Main Sections
 1. Exemptions
 2. Park Impact Fees
 3. Credit for Dedication of Land
 4. Credit for Private Recreation Improvements
- Ordinance refers to Master Fee Schedule for specific fees

SEC. 10-16.20 - PARK IMPACT FEES.

(a) Amount of Fee. Park impact fees may be established by resolution of the City Council. Any such fees shall be part of the City's Master Fee Schedule. The fees shall not exceed the cost of providing the impact of such development on park and recreational facilities in that amount that the fee applies to subdivisions, it shall not exceed the limits for population under Section 66477 of the Government Code. Developments subject to the impact fee schedule in effect at the time a building permit is issued for such project is developed in phases, each phase shall be subject to the fee schedule in effect at the time of building permit issuance for that phase.

For units built before February 19, 2020, no additional park fees will be applied to the unit. For all other residential units, additions that add one or more bedrooms shall be assessed a park impact fee equal to the number of bedrooms being added to the City's Master Fee Schedule in effect at the time of building permit issuance. For example, a one-bedroom addition would be subject to the 1-bedroom park impact fee, and a two-bedroom addition would be subject to the 2-bedroom fee.

SEC. 10-16.11 - EXEMPTION FROM REQUIREMENTS.

The following development(s) shall be exempt from the provisions of this article:

- (a) Housing for the elderly or disabled, when the development is either owned by a public agency or leased to a public agency for a period of at least twenty (20) years, and when the development complies with the definition of housing for the elderly or disabled as defined by the U. S. Department of Housing and Urban Development.
- (b) Rental housing owned by a person who is not a resident of the City and is affordable, for a period of not less than one hundred twenty (120) days per year as defined by the State Department of Housing and Community Development per HMC Sec. 10-17.515 and Section 10-17.516, and a regulatory agreement with the City of Hayward in the term of affordability.
- (c) Ownership housing developed in accordance with all units affordable in perpetuity in accordance with the State Department of Housing and Community Development per HMC Sec. 10-17.515 and Section 10-17.516 and a regulatory agreement with the City of Hayward in the term of affordability. Owners of such units shall be deemed to be in compliance with the City's affordability requirements.
- (d) Convalescent hospitals, nursing homes, and other long-term care facilities licensed by the State Department of Health Care Services, the Hayward Municipal Code, and the State Department of Health Care Services. The combination of independent living units and assisted living units in a development shall be subject to the impact fees; and
- (e) All non-residential developments.

ORDINANCE NO. 19--

AN ORDINANCE OF THE CITY OF HAYWARD AMENDING CHAPTER 10, ARTICLE 16 OF THE HAYWARD MUNICIPAL CODE REGARDING OBLIGATIONS FOR PARKS AND RECREATION FOR PROPERTY DEVELOPERS

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

Section 1. Chapter 10, Article 16 of the Hayward Municipal Code is amended to read in full as follows:

ARTICLE 16 - PROPERTY DEVELOPERS—OBLIGATIONS FOR PARKS AND RECREATION

SEC. 10-16.00 - AUTHORITY.

This article is enacted pursuant to the authority granted to municipal corporations by the Subdivision Map Act of the State of California, specifically section 66477 of the Government Code of the State of California, and pursuant to the authority in the field of municipal affairs granted to the City by its Charter and by the Constitution of the State of California.

SEC. 10-16.01 - PURPOSE.

In order to provide for the general health and welfare, the City Council has found and determined that it is in the public interest to require all residential subdivisions and all other development of land in the City for residential and industrial purposes to pay impact fees to provide for park and recreational facilities serving the City.

SEC. 10-16.10 - REQUIREMENTS.

As a condition of approval of a tentative subdivision map, parcel map, use permit, planned development, site plan review, or building permit, for residential or industrial purposes (which are hereinafter referred to as development plan), requirements shall be determined for the subdivider, developer, or owner of the land to pay an impact fee.

Development comprised of an industrial use(s), as defined by HMC Sec. 10-1.1603, within an industrial zoning district (HMC Sec. 10-1.1600) shall be subject to park impact fees. Non-industrial uses located within an industrial zoning district and industrial uses located within non-industrial zoning districts shall not be subject to park impact fees.

Provided that the number of bedrooms in each dwelling unit, the number of lots in a residential subdivision, or the gross floor area in an industrial development is not increased, required fees shall be levied only once on said individual dwelling unit, lot, or industrial development.

SEC. 10-16.15 - PLAN.

The park and recreational facilities required shall be in accordance with established in the General Plan of the City of Hayward and recreation policies and standards.

total gross floor area.

and dwelling units shall be subject to the Fee Schedule:

Units on the average remain less than \$100,000 with incomes of no more than 80 percent of the State Department of Housing and Community Development and against the property tax under Section 10-17.525 that is subject to the City to be approved by the City Council.

Units affordable in perpetuity for a period of not less than one hundred twenty (120) days per year as defined by the State Department of Housing and Community Development per HMC Sec. 10-17.515 and Section 10-17.516, and a regulatory agreement with the City of Hayward in the term of affordability. Owners of such units shall be deemed to be in compliance with the City's affordability requirements.

Affordable Housing Units

at the time of the final inspection, whichever occurs first.

ITEM 14 – LB 19-054

**ADOPTION A OF RESOLUTION APPROVING AN
AMENDMENT TO THE CITY OF HAYWARD
SALARY PLAN FOR FISCAL YEAR 2020**

Adopt a Resolution Approving an Amendment to the Salary Plan for Fiscal Year 2020

Maria Hurtado, Assistant City Manager
December 17, 2019

Summary of Adjustments

2% Cost-of-Living Adjustments:

- HAME
- Unrepresented Employees
- Council Appointed Officers

Summary of Adjustments

Equity Adjustments

- **SEIU Local 1021 (Clerical and Maintenance)**
 - 37 classifications – 6%
 - 3 classifications – Between 6.14% – 7.2%
- **City Manager – 7.0%**

Summary of Adjustments

Additional Adjustments:

- Administrative Supervisor (HAME) – 2.69%
- Management Fellow (Unrepresented) – 61.68%
- Mail Clerk (SEIU) – 0.38%

Salary Plan Correction

Associate Landscape Architect:

- 10/1/2019: 1% COLA Local 21 omitted Associate Landscape Architect – correcting salary range to reflect 10/1/19 action

Fiscal Impact

- Included in the Adopted FY 2020 Operating Budget
 - COLAs
 - Associate Landscape Architect
 - City Manager Equity Adjustment
- FY 2020 Mid-Year Process
 - SEIU Equity Adjustments
 - HAME Equity Adjustments
 - Management Fellow Equity Adjustment
 - Mail Clerk Salary Adjustment

Recommendation

Adopt Resolution Approving the Amendment to the Salary Plan for Fiscal Year 2020.

Questions

