



**DATE:** May 15, 2018

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT** Resolution of Intention to form the Downtown Hayward Community Benefit District

### **RECOMMENDATION**

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

1. Receive and file the Downtown Hayward CBD petition results;
2. Adopt a Resolution of Intention (Attachment II) to form the Downtown Hayward CBD, authorizing the City Manager to sign the petition and forthcoming ballot for the City-owned parcels, commence balloting, schedule a public hearing for July 10, 2018, approve the Management District Plan and Engineer's Report, and direct the City Clerk to mail ballots to the proposed CBD property owners.

### **SUMMARY**

Over the past three years, the City has been working to establish a Community Benefit District (CBD) in Downtown Hayward. Earlier this year, the City secured petitions to establish a CBD from over 50% of property owners in the proposed district. The attached Resolution of Intention triggers the issuance of ballots for proposed district property owners to vote to establish the Downtown Hayward CBD. The resolution also details the 10-year term of the CBD and other logistical and operational considerations.

### **BACKGROUND**

Community Benefit Districts, which are property assessment districts set up to fund special benefit services above and beyond those provided by the City, have been widely adopted by property owners to enhance neighborhood appearance, increase marketing activities, improve local amenities and ultimately to develop a more vibrant, positive experience for visitors to the downtown. Community benefit districts have been found to provide quantitative benefits, including reduced crime rates and increased property values.

Downtown Oakland and the Uptown/Lake Merritt districts have spurred a dramatic turnaround of those districts since 2010. In 2013, property owners in Downtown San Leandro approved their Downtown Community Benefit District and their special services have recently begun to roll out. New development is already occurring there.

### *The Path to Establishment*

In the wake of mounting fiscal pressures on the City's general fund and the loss of Redevelopment monies for downtown improvement projects, the City contracted with New City America (consultant) in May of 2014 to explore the possibility of creating a Downtown Community Benefit District (CBD).

An informational letter and survey questions were distributed to the owners of approximately 200 Downtown Parcels in 2014 and 2015. Feedback from the surveys indicated that property owners were generally supportive of moving forward to further investigate formation of the CBD. The survey replies confirm that many property owners wanted a new, bigger and better maintenance and promotional program above and beyond what is currently provided. The call for "special services" meets the test for a "special district." Under this condition, the City must continue to maintain its base line of services and not supplant or replace them with this new special assessment.

The highest ranked services from the respondents were as follows:

- In terms of security and public safety, the overwhelming majority believe that Downtown Hayward is safe, but suffers from an unsafe image;
- 85% of the respondents believe that safety ambassadors should be funded to supplement Hayward Police services;
- 80% of the respondents support regular sidewalk sweeping services and steam cleaning services over and above what the City currently provides;
- 69% of the respondents support supplemental planting, trimming and maintenance of trees, flowers and shrubs to beautify the area; and
- 58% support special events and marketing and promotional activities that will improve the image of Downtown Hayward.

Staff held numerous meetings with various downtown property owners and stakeholders. This group became known informally as the Downtown CBD Steering Committee.

On March 24, 2015, the City Council adopted Ordinance No. 15-12 adding Article 20, Chapter 8 of the Hayward Municipal Code setting up the framework to allow future establishment of Community Benefit Districts. The Ordinance incorporates the provisions of the State's Property and Business Improvement District Law of 1994 (Streets and Highway Code SS 36600 et seq. - the property-based improvement district or PBID Law). Rather than the five-year term prescribed by the State Law, the City's Ordinance allows the CBD to exist for a maximum of 15 years. It also provides for the establishment of a not-for-profit corporation to govern the CBD.

## **DISCUSSION**

Downtown Hayward area is the City's historic central business district. It includes an area of approximately twenty-four (24) whole or partial blocks. There are approximately 238 parcels with 150 property owners in the proposed Downtown CBD area.

Downtown Hayward possesses a number of valuable assets which present an opportunity to make it a stand-out destination in the East Bay. It is highly walkable due to its compact size, mix of land uses, and relatively small scale of its buildings and streets. Secondly, it is filled with numerous locally owned stores, restaurants and services. Third, it is near a regional BART station and City Hall which serve as anchors of the community. Finally, Downtown is known for several historic buildings and houses which have been restored and are in active use. The goal of the City, and the CBD, is to leverage these assets and shape the area into a destination and urban experience.

### *Petition Phase*

In October 2015, New City America mailed a cover letter, summary Management District Plan (MDP), petition, and return envelope to each property owner within the proposed CBD. The cover letter asked owners to return petitions, with no set date put in place. This was due to the pending sale of two very large properties (Lincoln Landing and Maple and Main) within the district whose final close of escrow could not be known at that time. City staff and the consultant held many meetings and phone conversations with property owners to share facts about the proposed CBD. As of the date of this writing, owners representing a total of 50.18% of the total assessments under the CBD have submitted signed petitions in support of the formation of the CBD (Attachment V).

Under Article 20, Chapter 8 of the Hayward Municipal Code, owners of 50% of the total assessments under the CBD must submit signed petitions for the City Council to move forward with approval of a Resolution of Intention and official balloting. The current total has met that threshold, exceeding the 50% threshold, thus permitting the City Council to move forward with the Resolution of Intention, balloting, and public hearing.

### *Management District Plan*

The proposed Resolution of Intention is attached as Attachment II and references the proposed Management District Plan and Engineer's Report (Attachment III and IV respectively). The resolution details a ten-year term for the CBD, and notes that the CBD can be dissolved in the same manner as it can be formed. It also establishes the metrics to calculate each parcel's special assessment. Consistent with State law, each parcel is assessed in three ways based upon: 1) linear frontage, 2) building square footage, and 3) lot square footage. A fourth factor is included to address residential condominiums which need special attention because future condominium owners will have partial title tied to one common area parcel as well as air space condominiums. There are no residential condominiums in the proposed district now; however, properties may convert to condominiums in the future. The District map attached to the Management District Plan also indicates with specificity the district boundaries and Benefit Zones. This assessment formula is used in local CBDs in

Oakland and San Leandro. According to the City's consultant, this assessment formula is the standard for most CBDs.

There are four general categories of services articulated in the Plan. Each category will receive a certain percentage of the total assessments as shown below:

1. Sidewalk Operations—This menu category of special benefits reserves 69% of expenditures for safety, cleanliness, beautification, and the maintenance of an attractive appearance of the District (described on page 16 of the Management Plan).
2. District Identify and Streetscape Improvements—This category reserves 15% of expenditures for branding and advertising, seasonal decorations and events, art, potential valet service, and public space design and development.
3. Program Management and Corporate Operations—This category reserves 13% of expenditures for staff and administration, insurance, rent, legal, and accounting.
4. Contingency/City and County Fees/Reserve—This category reserves 3% of expenditures for delinquencies, City and County fees, and reserves.

There is an effort in the Management District Plan to directly link the assessments to the services to be rendered and the Engineer's Report further elaborates on those facts as required by law. The proposed distribution of revenues by service level percentages will remain in place for the life of the District unless amended by another petition and balloting process. There is a cost of living increase provision that provides for up to a 5% annual increase in rates at the discretion of the Management Board.

### *Balloting Phase*

If approved by the City Council, the Resolution of Intention initiates the Proposition 218 balloting process. Ballots will be mailed to each property owner and votes cast are returned to the City Clerk. The ballots will be tabulated at a public hearing scheduled for the July 10, 2018 City Council meeting.

The tabulation is weighted based on the value of the total assessment. The owners of the largest properties, with bigger buildings, greater lot size more street frontage, and their location within a specific benefit zone, will be subject to paying more into the District, and will therefore have their votes count in proportion to what they will pay. A simple majority of the returned weighted ballot is required to form the CBD. The City ballots may be considered in the tabulation of the balloting.

### *Time Consideration*

The balloting process defined by State Proposition 218, establishes mandatory time frames between the date of the petition's submittal and the actual voting, to allow sufficient time for every property owner to return their ballots to the City Clerk. To be effective in fiscal year 2019, the process must be completed before the County Assessor's July 31st deadline. It is anticipated that the ballots will be finalized and mailed after the adoption of this Resolution of Intention, with at least 45 days between the mailing and the public hearing on July 10<sup>th</sup>, 2018 when the ballots will be counted.

### *Other Considerations*

#### Non-Profit and Ecumenical Properties

Under Proposition 218, no properties including public, non-profit, or tax-exempt entities may be exempted from CBD assessments since said properties will be receiving the special benefits the CBD provides.

However, in other CBDs, management corporations have adopted "hardship policies" that allow for churches or properties with a financial hardship to receive annual reductions of their assessments. Additionally, the management corporation may arrange to reduce assessments for these entities in return for access to storage space for equipment and supplies for the CBD's maintenance crew in their facilities.

According to the City's consultant, churches and non-profits have willingly paid their assessments in other districts; however, the City has received several comments from non-profit and ecumenical properties expressing a desire for a "hardship policy." Staff recommends action on this take place following the Public Hearing on July 10, 2018, in which staff will recommend the Council request the Management Corporation to establish a "hardship policy" for non-profit and ecumenical properties. The City will have a seat on the Management Corporation board and will be able to effectuate such action there.

#### Ordinance Constraints

Staff has been working on establishing this CBD for over the past three years. This is almost entirely due to the 50% support petition threshold to trigger the balloting phase or formal election to establish the CBD. Moving forward, it would be worthwhile for the Council to revisit this threshold and consider lowering it, especially if the Council wants to explore establishing other CBDs in the City, for instance in the Tennyson Corridor.

According to the City's consultant, CBDs usually have a threshold of 30% to enter the balloting phase of the process. While in the Downtown Hayward CBD, the City has nearly 30% of the weighted property assessments, in other neighborhoods this will not be the case. Lowering the threshold will shorten the time it takes for property owners to consider establishing a CBD.

## **ECONOMIC IMPACT**

Staff estimates the Downtown Hayward Community Benefit District will raise \$596,000 annually to be spent for special benefit services in Downtown for the purpose of increasing demand, commerce and creating a cleaner and more dynamic community. Similar districts have produced a return on investment in the form of higher sales, higher rents, and higher property values. The survey results and petitions received from property owners as described in this report indicate that there is solid support from owners willing to invest in these special benefits for their property, their surroundings and to improve the Downtown's image.

## **FISCAL IMPACT**

The City Council previously approved funds for the New City America contract and ancillary items related to the formation of the Downtown Hayward CBD. The City's payment for the startup costs would be reimbursed over time from the District revenues.

If the CBD is approved, the City's annual assessment cost would be \$163,844.62 and would be funded by the General Fund. This cost has not yet been included in the FY 2019 Operating Budget. If the balloting to form the District is successful, staff will recommend an appropriation at the time of district formation.

## **STRATEGIC INITIATIVES**

This agenda item supports the Complete Communities strategic initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. Specifically, this item supports the following goal and objectives:

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

Objective 1: Increase neighborhood safety and cohesion.

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

Objective 3: Increase collaboration with businesses.

## **NEXT STEPS**

Following Council adoption of the attached resolution, staff will commence the balloting phase as this staff report identifies. The ballots will be counted in a public hearing at the July 10, 2018 City Council meeting.

*Prepared & Recommended by:*

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Approved by:



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