



DATE: May 16, 2023

TO: Mayor and City Council

FROM: Acting Director of Development Services

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Dudek in an Amount Not-to-Exceed \$94,022 for the Tree Preservation Ordinance Update and Hayward Executive Airport Landscape Guidelines for the City of Hayward

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute an agreement with Dudek for the Tree Preservation Ordinance Update and Hayward Executive Airport Landscape Guidelines.

SUMMARY

Since 1986 for the past thirty-four consecutive years until 2019, Hayward has been recognized as “Tree City USA” by the Arbor Day Foundation until the temporary suspension due to COVID-19. Tree City USA is a nationwide movement established in collaboration with the U.S. Forest Service and the National Association of State Foresters in 1976. The program aims to recognize communities nationwide that are taking steps toward effectively managing and expanding public trees.

The proposed update to the Tree Preservation Ordinance and the Hayward Executive Airport Landscape Guidelines are a combined effort that focuses on a comprehensive review and update of the City’s existing Tree Preservation Ordinance¹, and any related Zoning Regulations, as well as an update to the landscape design guidelines to the areas near Hayward Executive Airport to determine what landscaping materials are appropriate to minimize wildlife and ensure public safety within the Airport safety zones. Coordinating these updates will result in a more comprehensive and holistic approach towards tree preservation and mitigation measures and will result in cost and time efficiencies tied to public outreach, environmental analysis, and implementation of the new regulations. In addition, the project will include an optional task to conduct a tree canopy study for all the trees within City limits, including trees located on public and private property, open space and natural resource areas,

¹ Tree Preservation Ordinance:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART15TRPR

creek and riparian areas and within golf courses. The Updated Climate Action Plan² lists the canopy study as a new action item and it will also support the development and adoption of an Urban Forest Management Plan, which has been identified as a program for implementation in the *Hayward 2040 General Plan*³. The total budget for the work is \$94,022, which includes a \$8,547 contingency (10%) to cover unanticipated costs.

Dudek has been selected as a consultant through the request for qualifications process to lead the effort to update the Tree Preservation Ordinance and prepare the Hayward Executive Airport landscape guidelines for the first time and anticipates having this project completed by June 30, 2024.

BACKGROUND

The City of Hayward adopted its first tree preservation ordinance in the late 1950s, establishing a need to preserve significant trees based on size and species. There have been two updates since then, in 1971 and 2002. These updates ranged from minor updates to more significant policy changes, with the most substantial update occurring in 2002.

Currently, the City protects all trees in undeveloped properties with a trunk diameter of at least eight inches for non-California native trees and four inches for California native trees. The measurement of the diameter is taken at fifty-four inches above natural grade, also known as Diameter at Standard Height or DSH. If existing trees need to be removed to allow reasonable use or redevelopment of a property, applicants are required to mitigate the removal by replacement of new trees of equal value or size. Prior to any tree removal, a certified arborist is required to determine the value of the tree by using the latest edition of *Guide for Plant Appraisal*, established by the International Society of Arboriculture. The valuation is then reviewed by the City's Landscape Architect and used to determine the number and size of replacement trees required, in addition to other landscaping required as part of the Zoning Ordinance. On developed properties, trees are protected and preserved until the time development occurs, regardless of trunk diameter, and any tree removals, replacements or required mitigations are evaluated as part of the development review process. In addition to trees located on vacant or developed properties, any trees that are planted in memorial are protected after dedication by an entity recognized by the City. These trees can be removed but replacement trees are required.

Since the last Update in 2002, the city's population has grown significantly leading to a higher demand for more housing and development. To address the housing crisis in California, the State has recently enacted new legislation intended to streamline development review processes and spur new housing construction. These new laws have required changes and updates to the City's General Plan, Zoning Ordinance, and related development standards to allow for these higher-density developments. However, many projects located on infill sites require the removal of existing mature trees and a reduction in the amount of landscape area in order to accommodate the new development. This

² Climate Action Plan Update:
<https://haywardhousingandclimateupdate.com/climate-action-plan/>

³ Hayward 2040 General Plan:
<https://www.hayward2040generalplan.com/>

limits an applicant's opportunity to mitigate tree removals within the proposed development. Currently, the City's Tree Preservation Ordinance establishes two options for mitigation: 1) provide replacement trees on-site when possible; or 2) provide replacement trees off-site at a location designated by City's Landscape Architect in mutual agreement with the developer. The proposed Update to the Tree Preservation Ordinance will allow the City to evaluate and refine the current processes for preserving the protected trees, while offering creative, realistic solutions for those applicants that need to mitigate the removal of existing trees throughout the City.

In addition to updates to the Tree Preservation Ordinance, the landscaping guidelines and a list of recommended trees will be updated for properties located in the airport land use district. This update is essential to ensure the regulations set by Federal Aviation Administration (FAA) to enable safe aviation operations are maintained. In the past, Hayward Executive Airport has removed protected trees from private properties in the airport land use district due to wildlife habitats or height limits. With new guidelines, development communities will have a better understanding of the varying regulatory limitations within the FAA-influenced areas, including height limitations, to ensure safe aviation operations. The tree list will support the landscape design guidelines by providing qualifying trees that will further enhance safe aviation operations.

DISCUSSION

Project Overview: The proposed project will allow Dudek to comprehensively review the City's existing Tree Preservation Ordinance and Zoning Ordinance and develop a set of recommended updates to ensure the new Ordinance meets the best-practice standards of sustainable urban forest management. Dudek will analyze nearby municipal urban forest programs and ordinances to evaluate how the City's ordinance compares and will include guidelines for removing tree assets on City managed land, private property, and other government-managed lands. Critical areas of the analysis include the following:

- Determining the parameters for when trees are considered protected based on factors such as tree species, diameter at standard height, and property type;
- Analyzing the processes and permit fees by which requests are considered for the removal of protected trees;
- Examining whether replacement/mitigation planting requirements support the greater urban forestry goals of the City; and
- Determining if the defined penalties for violation are sufficient to deter violation of the ordinance, plan, or regulation.

The proposed Hayward Executive Airport Landscape Guidelines will focus on a comprehensive review of applicable regulations and policies, including Federal Aviation Administration (FAA) Advisory Circular 150/5200-33C dated February 21, 2020 (and subsequent revisions) "Hazardous Wildlife Attractants on or near Airports" to ensure any landscaping in and around the Airport is consistent with these regulations. The review will focus on developing recommendations for tree and landscape plans for the area designated as Air Terminal Subdistricts to ensure safe aviation operations.

Consultant Selection. Staff found that Dudek has a solid and experienced team both in preparation for the City's Tree Preservation Ordinance and the Hayward Executive Airport landscape guidelines work, a strategy to address existing tree removal and protection processes, and the existing financial and human resources dedicated to tree removal review, developing recommendations for tree and landscape plans within the City, and a commitment to creating a flexible and far-reaching outreach program through public events, and that Dudek is equipped to prepare defensible environmental analysis for the project. Overall, staff felt that Dudek was experienced and had the staffing and expertise to lead this effort within the required budget and timeframe. Dudek has been selected as a consultant through the request for qualifications process to lead the effort to update the Tree Preservation Ordinance and prepare the Hayward Executive Airport landscape guidelines for the first time and anticipates having this project completed by June 30, 2024.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priorities to Combat Climate Change. Specifically, this item relates to implementation of the following project(s):

- Combat Climate Change – Project 10, Update Tree Preservation Ordinance

FISCAL IMPACT

All costs for this professional services agreement will be paid for through a combination of appropriated funds within the Development Services Department and the Hayward Executive Airport FY 2023 Operating Budget. There is no additional impact to the General Fund. The total budget for the work is \$94,022, which includes a \$8,547 contingency (10%) to cover unanticipated costs.

NEXT STEPS

If the Council approves the attached resolution, staff will prepare an agreement to be executed between the City of Hayward and Dudek in a form approved by the City Attorney and hold a kick-off meeting in early June 2023.

Prepared by: Michelle Koo, RLA, Landscape Architect
Tera Maroney, Management Analyst
Jeremy Lochirco, Planning Manager

Recommended by: Sara Buizer, AICP, Acting Director of Development Services

Approved by:



Kelly McAdoo, City Manager