



DATE: June 23, 2020

TO: Mayor and City Council

FROM: Deputy City Manager

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Project Sentinel for Fiscal Year 2021 in an Amount Not-to-Exceed \$150,000 to Provide Mediation Services Related to Rent Stabilization and Repayment Agreements at the Same Level as Fiscal Year 2020 and Adopt a Resolution Appropriating \$75,000 to the Rental Housing Program Fund from Additional Fee Revenue

RECOMMENDATION

That the City Council adopts:

1. A resolution (Attachment II) to authorize the City Manager to execute an agreement with Project Sentinel to provide administrative support, educational services, and mediation services related to rent stabilization and rent repayment agreements for tenants unable to pay rent due to COVID-19 economic impacts in an amount not-to exceed \$150,000 for Fiscal Year 2021.
2. A resolution (Attachment III) to authorize an amendment to the budget resolution for the City of Hayward operating budget for Fiscal Year 2021, appropriating \$75,000 to the Rental Housing Program Fund from additional rent stabilization fee revenue to cover the cost of administering the Residential Rent Stabilization and Tenant Protection Ordinance and the Mobilehome Space Rent Stabilization Ordinance.

SUMMARY

As part of the Residential Rent Stabilization and Tenant Protection Ordinance (RRSO), the City provides a mandatory mediation program with binding arbitration to resolve rent increase disputes for tenants of covered rental units upon rent increases greater than five percent. Project Sentinel currently provides administrative support, administers the mediation and arbitration program, develops and facilitates educational workshops to advise tenants and landlords of their rights and responsibilities under the City's RRSO, and recently expanded mediation services to help tenants and landlords enter into repayment agreements. Project Sentinel's contract with the City will expire on June 30, 2020.

As the economic impacts of the COVID-19 pandemic continue to negatively affect Hayward renters and landlords, staff recommends that the City Council authorize the City Manager to execute an agreement with Project Sentinel in an amount not to exceed \$150,000 for Fiscal Year 2021. This agreement will enable the City to continue providing mediation services for both the RRSO mediation and arbitration program, as well as the expanded services to support renters and landlords as they negotiate repayment plans to recover non-payment of rent due to COVID-19, and provide educational workshops to landlords and tenants. The new contract would replace the current contract and maintain funding at the same level approved by Council for the previous fiscal year, which included the expansion of services to mediate repayment agreements to address unpaid rent caused by the COVID-19 pandemic.

The Rental Housing Program Fund is funded by payment of the Residential Rent Stabilization Fee and goes to support the administration of the Residential Rent Stabilization and Tenant Protection Ordinance and the Mobilehome Space Rent Stabilization Ordinance. An additional \$100,000 in revenue collected since the preparation of the FY 2021 budget will be added to the current FY 2021 Rental Housing Program Fund operating budget to cover the additional \$75,000 cost of the agreement with Project Sentinel.

BACKGROUND

On June 19, 2019, City Council approved adding a Chapter to the Hayward Municipal Code to adopt a new Residential Rent Stabilization and Tenant Protection Ordinance (RRSO) to mitigate displacement of Hayward residents.¹ Included in this ordinance is a mediation and binding arbitration program in which tenants living in units covered by the residential rent threshold provision of the ordinance (Section 12-1.05) have access to free mediation services when they receive a rent increase greater than five percent. The City entered into an agreement for FY 2020 with Project Sentinel to administer this program.

During the months of March and April 2020, the City, County, and State issued several emergency declarations and orders in response to the COVID-19 pandemic, including:

- **March 4, 2020:** The Governor proclaimed a State of Emergency in California as a result of COVID-19.
- **March 11, 2020:** The City Manager proclaimed a local emergency in Hayward due to the spread of COVID-19, which was affirmed by City Council on March 17, 2020.²
- **March 16, 2020:** The Governor issued an executive order that authorized local governments to halt evictions, slow foreclosures, and protect against utility shut offs.

¹ June 19, 2019 City Council Meeting Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=3985848&GUID=52D1B678-D6BB-401A-AB3C-8990885C0CDD&Options=ID|Text|&Search=rent+stabilization>

² March 17, 2020 City Council Meeting Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4396030&GUID=8658BAEA-F832-491C-9353-59A60A847B93&Options=&Search=>

- **March 24, 2020**³: Hayward City Council passed an emergency ordinance that 1) Established a temporary moratorium on evictions for non-payment of rent caused by COVID-19 or for no-fault evictions, and 2) expanded mediation services to negotiate payment agreements. In doing so, Council authorized the City Manager to amend the existing FY 2020 agreement with Project Sentinel to expand mediation services up to \$150,000.
- **March 27, 2020**: The Governor built on the March 16 executive order, banning the enforcement of eviction orders for renters affected by COVID-19 through May 31, 2020, which was subsequently extended through July 28, 2020.
- **April 6, 2020**: The California Judicial Council adopted an emergency rule to suspend evictions and foreclosures, with exceptions to protect public health and safety, until 90 days after the Governor lifts the state of emergency.

As the current Fiscal Year ends, the increased economic burden and risk of displacement posed to Hayward residents during the COVID-19 pandemic persists. Therefore, staff recommends extending the expanded mediation services authorized by Council on March 24, 2020.

DISCUSSION

As part of the RRSO, the City provides a mandatory mediation program with binding arbitration to resolve rent increase disputes for tenants of covered rental units upon rent increases greater than five percent. Project Sentinel currently administers the mediation and arbitration program, educational workshops to advise tenants and landlords of their rights and responsibilities under the City's RRSO, and recently expanded mediation services to help tenants and landlords enter into COVID-related repayment agreements. Project Sentinel's contract with the City will expire on June 30, 2020. Based on the number of petitions filed since adoption of the new ordinance, the number of requests to negotiate repayment agreements resulting from COVID-19, and the current level of education seminars provided, staff recommends entering into a contract with Project Sentinel in an amount not to exceed \$150,000 for Fiscal Year 2021 as well. This amount is consistent with the amount authorized by Council for Fiscal Year 2020 to maintain the same level of service, including response to the COVID-19 pandemic by providing tenants and landlords a forum to resolve disputes about past due rents, while avoiding the court system.

Upon authorization from Council to expand mediation services, staff worked with Project Sentinel to confirm the structure of the mediation services, including the design of an online application process for individuals to request free mediation services. Individuals without access to a computer are connected to City staff, who can complete the application on their behalf. Once a request is submitted, Project Sentinel staff reach out to the applicant and begin the process of contacting all parties and scheduling remote sessions with mediators. The

³ March 24, 2020 City Council Meeting Staff Report and Attachments:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4399195&GUID=BFD696C9-8ED0-4F9F-8B99-98912C9C0679&Options=&Search=>

mediators then work with parties to negotiate repayment plans to recover any non-payment of rent.

Repayment Agreement Mediation

Since April 15, 2020, Project Sentinel received 24 requests for mediation. Table 1 on the following page summarizes the requests received between April 15 and June 5, 2020. As shown in the table, all but one of the requests were submitted by landlords or property managers. According to Project Sentinel, most requests for mediation were submitted by smaller landlords, such as those renting single-family homes. As of June 5, 2020, only four requests were still in mediation, pending an outcome.

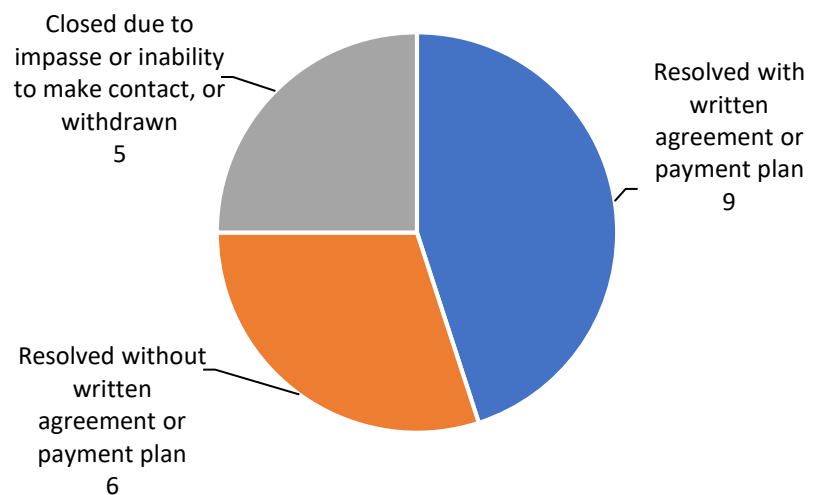
Table 1. Summary of Mediation Requests: April 15, 2020 – June 5, 2020

| | Landlord Initiated | Tenant Initiated | Total Requests |
|-------------------------------------|--------------------|------------------|----------------|
| In mediation and pending | 4 | 0 | 4 |
| Cases completed (See Figure 1) | 19 | 1 | 20 |
| Total requests for mediation | 23 | 1 | 24 |

As shown in Figure 1, most of the completed requests (n=15) were resolved either with a written agreement/payment plan, or without a written agreement, as some parties came to an agreement about repayment or without wanting a written plan. The remaining requests (n=5) were closed or withdrawn.

Project Sentinel reported that mediation attempts in April were challenging, as the length of the shelter-in-place order was unknown, and parties struggled to come up with a repayment plan given the lack of certainty. However, Project Sentinel highlighted the value of working with parties to both help them understand their rights and obligations and to provide a space for them to articulate their fears and concerns, creating open dialogue and establishing a foundation for future discussion. It also provides an opportunity for resource sharing, as mediators strive to provide the most up-to-date information available to both parties. In most cases, mediators are working with parties to establish an initial plan that provides for monitoring the financial status of parties, so that once shelter-in-place restrictions ease, parties commit to returning to mediation services and reassessing their options.

Figure 1. Outcomes of Completed Mediation Requests

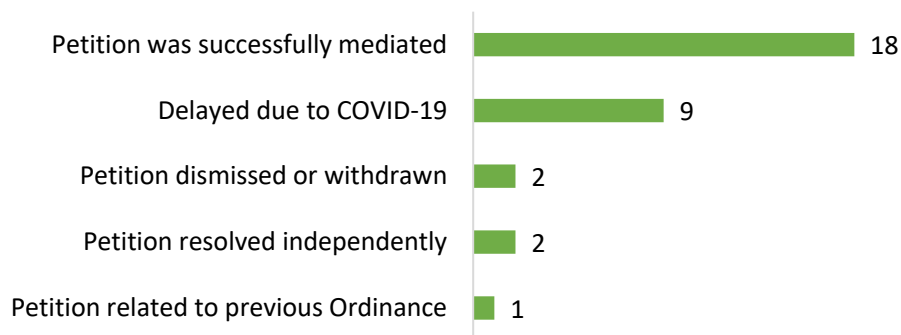


Staff recommend continuing to provide the expanded mediation services based not only on the current demand illustrated by the first six weeks of program implementation, but also due to anticipated increase in demand. Demand is likely to increase once the eviction moratoria are lifted, grace periods for repayment come close to terminating, and tenant income stabilizes. With what may be a clearer understanding of financial situations, both landlords and tenants will be able to come to the table with a more realistic idea of their financial status for repayment negotiations.

Rent Dispute Mediation and Arbitration

The new RRSO, revised in July 2019, expanded the mediation and arbitration process to include more Covered Rental Units. The process is initiated by a petition, either from a tenant or landlord/property owner. From July 25, 2019, through May 31, 2020, the Housing Division received 32 petitions, all from Tenants. While about a fourth of the petitions are delayed due to COVID-19 and social distancing restrictions, the majority have been successfully mediated, as shown in Figure 2 on the following page. While no Landlord petitions have been submitted, staff has talked with several Landlords to explain the process and address questions, and Project Sentinel has delivered two Landlord workshops focused on the petition process.

Figure 2. Tenant Petition Outcomes, as of January 2020



Education Services

In addition to conducting mediation and arbitration hearings for rent disputes and COVID-19 repayment plan negotiation, Project Sentinel also provides ongoing education services for Hayward residents. Prior to the COVID-19 pandemic, Project Sentinel held monthly workshops for tenants and landlords. The workshops were held at different times of day on different days of week at City Hall and Weekes Library. Topics of the workshops included: an overview of the RRSO and tenants’ and landlords’ rights and responsibilities under the revised ordinance; a “how-to” discussion of the petition process; review of the Just Cause provisions of the RRSO; and review of maintenance and habitability rights and responsibilities for tenants and landlords. While workshops are tailored for either landlords or tenants, they are open for all individuals in Hayward. Staff is in the process of working with Project Sentinel to develop online workshop alternatives while the County’s shelter-in-place order continues.

Therefore, to continue administering the mediation/arbitration program under the RRSO, the education programs to help tenants and landlords understand their rights, and to address the anticipated demand for mediation services to assist landlords and tenants negotiate rent repayment plans to reduce the risk of displacement for Hayward residents, staff recommends authorizing the City Manager to enter into an agreement with Project Sentinel not to exceed \$150,000 for FY 2021.

FISCAL IMPACT

During FY 2020, the City collected \$100,000 in revenue over the amount projected in the City's adopted operating budget. These funds will be used to cover the additional \$75,000 in costs associated with this professional services agreement. The Rental Housing Program Fund is funded by payment of the Residential Rent Stabilization Fee. There is no negative impact to the General Fund as a result of this action.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect, and Produce Housing. This item is not specifically related to a project identified in the Strategic Roadmap. Staff is bringing forth this item because economic impacts of COVID-19 continue to threaten to undermine housing security for Hayward residents.

PUBLIC CONTACT

There has been no public comment related to this item.

NEXT STEPS

If this item is approved, staff will enter into an agreement with Project Sentinel to provide free rent stabilization mediation services as well expanded free mediation services to support landlords and renters impacted by COVID-19.

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Approved by:



Kelly McAdoo, City Manager