

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, March 20, 2018

7:00 PM

Council Chambers

City Council

Mayor Barbara Halliday
Mayor Pro Tempore Elisa Márquez
Council Member Francisco Zermeño
Council Member Marvin Peixoto
Council Member Al Mendall
Council Member Sara Lamnin
Council Member Mark Salinas

CITY COUNCIL MEETING**CALL TO ORDER Pledge of Allegiance: Council Member Salinas****ROLL CALL****CLOSED SESSION ANNOUNCEMENT**

March 13, 2018

March 20, 2018

PRESENTATION

American Red Cross Month

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.

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

1. [MIN 18-039](#) Minutes of the City Council Meeting on February 27, 2018

Attachments: [Attachment I Draft Minutes of 02/27/2018](#)

2. [MIN 18-040](#) Minutes of the City Council Meeting on March 6, 2018

Attachments: [Attachment I Draft Minutes of 03/06/2018](#)

3. [CONS 18-155](#) Adoption of Ordinance Adding Article 21 to Chapter 8 of the Hayward Municipal Code Relating to a Commercial Cannabis Tax
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Summary of Ordinance Published 03/09/2018](#)
 [Attachment III Revised Ordinance 03/20/2018](#)
4. [CONS 18-169](#) New Sidewalks FY17 - Walpert Street (Fletcher Lane to Second Street), Project No. 05258 & 05259: Approval of Plans and Specifications, and Call for Bids and Appropriation of Additional Funds
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resolution](#)
 [Attachment IV Location Map](#)
5. [CONS 18-175](#) Recycled Water Storage and Distribution System Project, Project No. 07507: Approval of Addendum Nos. 1 through 3 and Award of Pump Station and Storage Tank Construction Contract; Approval of Addendums Nos. 1 through 4 and Award of Distribution Pipelines System Construction Contract; Adoption of Resolutions to apply for Increased Funding through the State Revolving Fund Loan Program; and Appropriation of Additional Funds
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resolution](#)
 [Attachment IV Resolution](#)
 [Attachment V Resolution](#)
 [Attachment VI Resolution](#)
 [Attachment VII Bid Summary](#)
 [Attachment VIII Bid Summary](#)

PUBLIC HEARING

6. [PH 18-018](#) FY 2018 Master Fee Schedule/Fine and Bail Schedule
(Continued to March 27, 2018)

LEGISLATIVE BUSINESS

7. [LB 18-012](#) Adoption of a Resolution Authorizing the City Manager to Issue a Notice of Funding Availability for New Construction of Affordable Housing (Report from Assistant City Manager Hurtado)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Minimum Developer Qualifications](#)
[Attachment IV County A1 Rental Development Policies](#)
[Attachment V NOFA Sample Score Sheet](#)

CITY MANAGER'S COMMENTS

Oral reports from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

ADJOURNMENT

NEXT MEETING, March 27, 2018, 7:00 PM

PUBLIC COMMENT RULES

Any member of the public desiring to address the Council shall limit her/his 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. Speaker Cards are available from the City Clerk at the meeting.

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 website and on Cable Channel 15, KHRT. ****

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 TDD (510) 247-3340.

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 #: MIN 18-039

DATE: March 20, 2018

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the City Council Meeting on February 27, 2018

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on February 27, 2018,

SUMMARY

The City Council held a meeting on February 27, 2018

ATTACHMENTS

Attachment I Draft Minutes of 02/27/2018



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 27, 2018, 7:00 p.m.

The Meeting of the Hayward City Council was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Peixoto.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin, Salinas
MAYOR Halliday
Absent: None

CLOSED SESSION ANNOUNCEMENT

Mayor Halliday announced the City Council convened in closed session pursuant to Government Code 54957 regarding the annual performance evaluation of the City Attorney, and noted there was no reportable action.

PUBLIC COMMENTS

Mr. Charlie Peters, Clean Air Performance Professionals representative, reported the heater at the Hayward Senior Center was working; and shared information about autonomous self-driving cars.

Ms. Alicia Lawrence, Hayward resident, noted the recommendations made by The Hayward Collective at the February 6th Council meeting were not discussed at the February 26th housing meeting; and noted that Immigration and Customs Enforcement (ICE) was in the community and the City did not make a statement about it.

CONSENT

Consent Items Nos. 1 and 5 were removed from the Consent Calendar for separate vote.

1. Authorization to Reimburse California State University, East Bay up to \$115,000 in Support of the Hayward Promise Neighborhood Initiative During the 2017 Transition Year **CONS 18-072**

Staff report submitted by Assistant to the City Manager Korth,
dated February 27, 2018, was filed.

Council Member Salinas disclosed he needed to recuse himself from discussing and voting on Item No. 1 because of his employment at California State University East Bay and Hayward Promise Neighborhood.

Council Member Lamnin offered a motion per staff recommendation and Council Member Mendall seconded the motion.

Council Member Lamnin recommended that there be an annual report/update on outcomes and finances related to the Hayward Promise Neighborhood Initiative through the Hayward Local Agencies Committee (HLAC) or the City Council.

It was moved by Council Member Lamnin, seconded by Council Member Mendall, and carried with the following vote, to adopt the following:

AYES: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin
MAYOR Halliday
NOES: NONE
RECUSED: COUNCIL MEMBER Salinas
ABSENCE: NONE

Resolution 18-023, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement to Reimburse California State University, East Bay (CSUEB) in Support of Hayward Promise Neighborhood Operations During the 2017 Transition Year in an Amount Not to Exceed \$115,000"

2. Resolution Authorizing the City Manager to Execute a Lease Agreement with Briggs Resources, Inc., for the Lease of Airport Property **CONS 18-106**

Staff report submitted by Interim Public Work Director Ameri, dated February 27, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 18-019, "Resolution Authorizing the City Manager to Execute a Lease Agreement with Briggs Resources, Inc., for the Lease of Airport Property"

3. Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Black & Veatch Corporation for Engineering Services Related to Water Pollution Control Facility (WPCF) Facilities Plan **CONS 18-107**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated February 27, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 27, 2018, 7:00 p.m.

Resolution 18-020, "Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Black & Veatch Corporation, for Engineering Services Related to Water Pollution Control Facility (WPCF) Facilities Plan Project, in an Amount Not to Exceed \$850,000"

4. Resolution Authorizing the City Manager to Execute a Lease Agreement with Velo Two, LLC., for the Lease of Airport Property **CONS 18-109**

Staff report submitted by Interim Public Work Director Ameri, dated February 27, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 18-021, "Resolution Authorizing the City Manager to Execute a Lease Agreement with Velo Two, LLC for the Lease of Airport Property"

5. Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Management Partners for Route 238 Property Development and Disposition Project Management Services **CONS 18-123**

Staff report submitted by Management Analyst II Stefanski, dated February 27, 2018, was filed.

At the request of a speaker, Mayor Halliday opened the public comments section at 7:26 p.m.

Mr. Bill Espinola, requested that more information be provided for the neighbors and property owners about the Route 238 property development, and expressed concern for the length of time the project had taken.

Mayor Halliday closed the public comments section at 7:30 p.m.

It was moved by Council Member Mendall, seconded by Council Member Lamnin, and carried unanimously, to adopt the following:

Resolution 18-024, "Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Management Partners for Route 238 Property Development and Disposition Project Management Services in an Amount Not to Exceed \$120,000"

6. Resignation of Dwight Turner from the Keep Hayward Clean and Green Task Force
CONS 18-124

Staff report submitted by City Clerk Lens, dated February 27, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Resolution 18-022, “Resolution Accepting the Resignation of Dwight Turner from the Keep Hayward Clean and Green Task Force”

WORK SESSION

7. Presentation of the Hayward Police Department 2017 Year-end Report (Report from Chief of Police Koller) **WS 18-007**

Staff report submitted by Chief of Police Koller, dated February 27, 2018, was filed.

Police Chief Koller provided a synopsis of the staff report and Lt. Mark Ormsby and Lt. Angela Averiett provided an overview of the Police Department goals and accomplishments.

Mayor Halliday opened the public comments section at 7:56 p.m.

Mr. Zachariah Oquenda, Hayward resident, recommended that the Police Department report on programming and interactions with other service providers around homelessness, and also track interactions with homeless individuals in incident reports.

Mayor Halliday closed the public comments section at 8:02 p.m.

The City Council expressed general appreciation for the work done by the Police Department especially “Operation Winter Storm,” information shared via social media, and the collaboration with the Community Taskforce.

Discussion ensued among the City Council and City staff regarding: license plate readers; body-worn cameras; School Resource Officers (SROs) training; collaboration with Alameda County and service providers regarding issues such as immigration and homelessness; the advisory community panel recommended by the Community Taskforce; Integrating Communications, Assessment, and Tactics (ICAT) training; staffing changes; crime statistics; Immigration and Customs Enforcement (ICE) and reporting crime vs. civil warrants; strategies to recruit, hire and promote a diversified personnel; incident between



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 27, 2018, 7:00 p.m.

Victory Outreach and the Police Department; and the Barbershop Forums as a way to bridge the gap between law enforcement and the community.

Council Members provided recommendations for the next annual report: consider providing a breakdown of incident calls per “beat” territory; consider sharing data over a three to five year period that can validate policy decisions; consider showing a five-year trend on data of subsets to inform future decisions; collect data and compare it against other Alameda County jurisdictions and present it to the Council or via an Informational Item report; include Crisis Intervention Training sessions in the Hayward Police Department Community Academy and Hayward Leadership; create and share YouTube videos on crime prevention; include charts and graphs when presenting statistical information; consider various approaches for notifying residents when the department is staging; consider increasing patrol presence in the Downtown; and develop preventative measures that can be shown on Channel 15 and also written information that can be disseminated at meetings.

8. Downtown Parking Management Plan (Report from Interim Public Works Director Ameri) **WS 18-008**

Staff report submitted by Interim Public Works Director Ameri, dated February 27, 2018, was filed.

City Attorney Lawson noted that City Manager McAdoo and Council Member Márquez did not need to recuse from participating in or discussing Item No. 8 because the nature of the item did not constitute a conflict of interest.

Interim Public Works Director Ameri announced the report and introduced Transportation Manager Kelley who provided a synopsis of the staff report.

Mayor Halliday opened the public comments section at 9:31 p.m.

Mr. Kim Huggett, Hayward Chamber of Commerce President, noted that the option to have business parking permits was a good compromise.

Mayor Halliday closed the public comments section at 9:33 p.m.

Council Members thanked the Council Infrastructure Committee, comprised of Members Márquez, Mendall and Peixoto, for reviewing the parking demand management strategies and offering recommendations.

Discussion ensued among Council Members and City staff about: parking concepts such as diagonal parking; parking permit and enforcement; pricing policy and possible

consideration of a lower fee pricing tied to a specific criterion; additional enforcement personnel for the implementation of the downtown Residential Preferential Parking (RPP) permit program; and outreach conducted to downtown merchants.

The City Council was in general support of the recommended parking demand management strategies for Downtown as a year-long pilot program. Council Members offered the following recommendations: follow what the City of Oakland is doing related to parking; track revenue and expenses over a multi-year period; standardize parking restrictions; inform the public and merchants prior to implementation of a year-long pilot program; partner with the Hayward Chamber of Commerce to find a creative way to promote the municipal parking lots; and engage downtown businesses, including both members and non-Hayward Chamber of Commerce members.

CITY MANAGER'S COMMENTS

City Manager McAdoo made two announcements: 1) the construction on B Street, Mission Boulevard, and Watkins Street performed by Comcast and the notification that will go out to downtown businesses; and 2) the Main and Weekes Branch libraries will be closed on March 1, 2018, to prepare for the move to the new library in June/July.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:12 p.m., in memory of Retired Fire Captain Steven Holt and Dublin Vice Mayor Don Biddle.

Dublin Vice Mayor Don Biddle served as a member of the Alameda County Waste Management Authority, Alameda County Transportation Commission, Housing Authority of the County of Alameda County, East Bay Community Energy Board; and was involved in the League of California Cities East Bay Division. Retired Fire Captain Steve Holt served the Hayward Fire Department for 25 years. Mayor Halliday asked City staff to work with the Fire Department and family of Captain Holt to plant a tree in his memory.

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 #: MIN 18-040

DATE: March 20, 2018

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the City Council Meeting on March 6, 2018

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on March 6, 2018,

SUMMARY

The City Council held a meeting on March 6, 2018

ATTACHMENTS

Attachment I Draft Minutes of 03/06/2018



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 6, 2018, 7:00 p.m.

The Meeting of the Hayward City Council was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Lamnin.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto, Lamnin,
MAYOR Halliday
Absent: COUNCIL MEMBER Salinas

City Manager McAdoo noted that Council Member Salinas was out ill.

CLOSED SESSION ANNOUNCEMENT

Mayor Halliday announced the City Council convened in closed session at 4:00 p.m., pursuant to Government Code Section 54957, regarding the annual performance evaluations of the City Attorney and City Clerk; and noted there was no reportable action.

City Attorney Lawson announced the City Council also discussed three items: 1) conference with legal counsel pursuant to Government Code Section 54956.9 concerning Nelson v. City of Hayward, et al., Alameda County Superior Court, No. RG16822362; 2) conference with legal counsel regarding James v. City of Hayward, et al., U.S. District Court, N.D.CA., No. C13-1092; 3) conference with labor negotiators pursuant to Government Code Section 54957.6 regarding all groups; and noted there was no reportable action related to Items 2) and 3). Regarding Item 1), Mr. Lawson noted that the City Council approved the recommendation to settle the case with Council Member Zermeño moving and Council Member Lamnin seconding the item and Council Member Salinas absent.

PRESENTATION

Keep Hayward Clean and Green Task Force Chair Andrews spoke about the #HaywardBeautiful Yard Contest and the goal to commend efforts of maintaining beautiful landscaped yards, and acknowledged first place winner Elizabeth Will and second place winners Shabana and Mohammed Khan. Both recognitions were presented in memory of Kurt Otto Will. Mayor Halliday and Council Member Mendall presented certificates of recognition to Elizabeth Will and Shabana and Mohammed Khan.

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, expressed concern about the March 6, 2018 Council presentation by the Police Department reporting an increase in rapes, and noted the need for more police officers.

Ms. Wynn Grich, Hayward resident, spoke about fluoride in drinking water, and submitted related materials.

CONSENT

1. Minutes of the City Council Meeting on February 20, 2018 **MIN 18-033**

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously with Council Member Salinas absent, to approve the minutes of the City Council Meeting on February 20, 2018.

2. Resignation of Kingsley Macmadu from the Community Services Commission **CONS 18-135**

Staff report submitted by City Clerk Lens, dated March 6, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously with Council Member Salinas absent, to adopt the following:

Resolution 18-025, "Resolution Accepting the Resignation of Kingsley Macmadu from the Community Services Commission"

3. Filing Nuisance/Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations **CONS 18-116**

Staff report submitted by Interim Development Services Director Bristow, dated March 6, 2018, was filed.

It was moved by Council Member Márquez, seconded by Council Member Mendall, and carried unanimously with Council Member Salinas absent, to adopt the following:

Resolution 18-026, "Resolution Confirming the Report and Non-Abatable Code Violations and Penalties Liens List Associated with the Code Enforcement Division and Community Preservation/Rental Housing Programs"

LEGISLATIVE BUSINESS

4. Introduction of Ordinance and Resolution for Taxation of Adult Use Cannabis (Report from Finance Director Claussen) **LB 18-011**

Staff report submitted by Finance Director Claussen and City Attorney Lawson, dated March 6, 2018, was filed.

Finance Director Claussen provided a synopsis of the staff report.



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 6, 2018, 7:00 p.m.

Discussion ensued among Council members and City staff regarding: state and federal taxes; proposed tax rate and business type; and annual audits.

There being no public comments, Mayor Halliday opened and closed the public hearing section at 7:38 p.m.

Council Member Zermeño offered a motion per staff's recommendation and Council Member Márquez seconded the motion.

Council Member Lamnin recommended that Article 21, Chapter 8, Section 8-21.00 (Findings and Purpose) (d) be amended by adding "education" to the list of valid purposes for which the cannabis business tax might be used. Council Member Zermeño and Council Member Márquez were amenable to the amendment. Ms. Lamnin also offered that staff explore if cities have the option of taxing cannabis testing laboratories.

Council Member Mendall noted that there was a justification for a higher tax rate because it would be used for valid municipal purposes. Mr. Mendall added he would support a higher rate or a two-tier rate with a higher rate on the retail component.

Council Zermeño noted a higher tax rate would create a "leakage of dollars" and was comfortable with the proposed 6% tax rate with the flexibility of adjusting it at a later time.

Council Member Peixoto noted the proposed tax rate would be easier to administer, a deterrent for people opting to the black market, and provided flexibility to revisit once the City gets historical data.

Council Member Márquez offered a friendly amendment to the motion to review the cannabis business tax, set at a rate of 6% of gross sales, one year after the issuance of a business permit. Ms. Márquez noted that the proposed rate would give the City time to assess the situation and a higher rate would incentivize the continued operation in the black market. Council Member Zermeño was amenable to the amendment.

Mayor Halliday expressed she would be supporting the proposed rate with the compromise that the City will revisit the rate one year after the issuance of a business permit.

It was moved by Council Member Zermeño, seconded by Council Member Márquez, and carried with the following vote, to adopt the resolution:

AYES:	COUNCIL MEMBERS Zermeño, Márquez, Peixoto, Lamnin MAYOR Halliday
NOES:	COUNCIL MEMBER Mendall
ABSENT:	COUNCIL MEMBER Salinas

Resolution 18-027, “Resolution of the City Council of the City of Hayward Establishing the Cannabis Gross Receipts Tax Rate at 6%”

5. Resolutions Authorizing the City Manager to Purchase Brilliant 100 Electricity from East Bay Community Energy (EBCE) for City Facilities and to Request that EBCE Set Brilliant 100 as the Default Product for all Hayward Customers Served by EBCE (Report from Utilities and Environmental Services Director Ameri) **LB 18-009**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated March 6, 2018, was filed.

Utilities and Environmental Services Director Ameri announced the report and introduced Environmental Services Manager Pearson who provided a synopsis of the staff report. Mr. Pearson noted the Council was in receipt of a memorandum with an email from East Bay Community Energy (EBCE) CEO Chaset confirming that cities could choose Brilliant 100 as the default product and recommending against selecting Brilliant 100 as the default product for residential customers served by EBCE.

It was noted that Council Member Mendall serves on the EBCE Board as the City’s delegate and Council Member Márquez as the alternate.

Discussion ensued among Council Members and City staff regarding: the proposed Brilliant 100 product; opt-out opportunities; customer outreach; noticing requirements for the default option; and the rushed deadline for cities to decide to choose Brilliant 100 as the default product.

Mayor Halliday opened the public comments section at 8:13 p.m.

Mr. Jim Drake, Hayward resident, opposed the opt-out process and the City’s involvement in providing energy.

Mr. Tom Kelly, former lead consultant for Alameda County, supported requesting EBCE to set Brilliant 100 as the default product for all Hayward customers.

Mayor Halliday closed the public comments section at 8:19 p.m.

Council Member Mendall offered a motion per staff’s recommendation including the revised resolution. Council Member Mendall noted that Council’s action to select Brilliant 100 as the default product for customers served by EBCE would help meet the City’s Climate Action Plan goals for 2020; and added that customers would have an opportunity to change to Bright Choice or opt out of the program completely.

Council Member Zermeño seconded the motion noting that he preferred Brilliant 100 because it represented 100% carbon free and was not too persuaded by any savings that the other product might offer.



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 6, 2018, 7:00 p.m.

Mayor Halliday noted she would be supporting the motion noting that environmentally conscious residents had supported green measures and the proposal was another effort to lower greenhouse gas emissions.

It was moved by Council Member Mendall, seconded by Council Member Zermeño, and carried with the following vote, to adopt a resolution authorizing the City Manager to purchase Brilliant 100, and a revised resolution setting Brilliant 100 as the default product for all Hayward nonresidential customers served by EBCE:

AYES: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto,
Lamnin
MAYOR Halliday
NOES: None
ABSENT: COUNCIL MEMBER Salinas

Resolution 18-028, "Resolution Authorizing the City Manager to Purchase Brilliant 100 Electricity from East Bay Community Energy for City Facilities"

Resolution 18-029, "Resolution Authorizing the City Manager to Request that East Bay Community Energy (EBCE) Set Brilliant 100 as the Default Product for All Hayward Nonresidential Customers Served by EBCE"

PUBLIC HEARING

6. Solar Photovoltaic Project - Phase II: Approval of the Mitigated Negative Declaration; Authorization for the City Manager to Negotiate and Execute a Design-Build Contract to Construct a Two-Megawatt Solar Energy System and Submit an Application to the California Energy Commission for Financing; and Appropriation of Additional Funds (Report from Utilities and Environmental Services Director Ameri) **PH 18-016**

Staff report submitted by Utilities and Environmental Services Director Ameri, dated March 6, 2018, was filed.

Utilities and Environmental Services Director Ameri provided a synopsis of the staff report.

Discussion ensued among Council members and City staff regarding: Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) tariff, and the California Energy Commission (CEC) low-interest rate loan.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:38 p.m.

Council Member Márquez offered a motion per staff's recommendation noting the staff report included feedback from the Council Sustainability Committee. Council Member Zermeño seconded the motion.

It was noted that the Council's action would contribute to the City's goals to reduce greenhouse gas emissions.

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried with the following vote, to adopt the resolutions:

AYES: COUNCIL MEMBERS Zermeño, Márquez, Mendall, Peixoto,
Lamnín
MAYOR Halliday
NOES: None
ABSENT: COUNCIL MEMBER Salinas

Resolution 18-030, "Resolution Approving the Initial Study and Draft Mitigated Negative Declaration for a Two-Megawatt Solar Photovoltaic Renewable Energy System Project, Project NO. 07530, at the Water Pollution Control Facility (WPCF)"

Resolution 18-031, "Resolution Authorizing the City Manager to Negotiate and Execute a Contract with Engie Services U.S., INC., for a Two-Megawatt Solar Photovoltaic Energy System at the Water Pollution Control Facility (WPCF), Project NO. 07530 in an Amount Not to Exceed \$5,740,000"

Resolution 18-032, "Resolution Authorizing the City Manager to Submit an Application for a Low Interest Loan from the California Energy Commission for a Two-Megawatt Solar Photovoltaic Renewable Energy System Project, Project NO. 07530, at the Water Pollution Control Facility (WPCF), in an Amount Not to Exceed \$3,000,000"

Resolution 18-033, "Resolution Appropriating \$955,000 From the Capital Improvement Program Sewer Improvement Fund for the Solar Photovoltaic Project-Phase II, Project NO. 07530"

INFORMATION ITEM

7. Informational Report on Tiny Homes RPT 18-043



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 6, 2018, 7:00 p.m.

Staff report submitted by Interim Development Services Director Bristow, dated March 6, 2018, was filed.

City Manager McAdoo noted the item was informational.

In response to Council Member Zermeño's request for the item to be agendaized, City Manager McAdoo agreed to bring back the item at a future Council meeting for discussion.

CITY MANAGER'S COMMENTS

City Manager McAdoo noted the traffic signal at the intersection of B and Watkins Streets was out due to work performed by Comcast.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Mendall noted he would be attending the next East Bay Community Energy (EBCE) meeting to announce that Hayward will be the first municipality to provide local renewable energy in Alameda County.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 8:51 p.m., in memory of Retired Hayward Police Chief and Alameda County Sheriff Charles "Charlie" Plummer.

Retired Alameda County Sheriff Plummer had over 54 years of service in law enforcement, began his career in the Berkeley Police Department in 1952, became Hayward's Police Chief in 1976; and was elected in 1986 as the 21st Sheriff of Alameda County where he served until 2007. He lived in Hayward, initiated the Youth and Family Services Bureau in Hayward, led the Hayward Police Department to become CALEA (Commission on Accreditation for Law Enforcement Agencies) accredited, and was active in the community through the 100 Club, Hayward Rotary, Boy Scouts of America, and Salvation Army.

Mayor Halliday asked City staff to work with the Hayward Police Department and members of his family to have a tree dedicated in memory of Charlie Plummer.

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 18-155

DATE: March 20, 2018

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Adding Article 21 to Chapter 8 of the Hayward Municipal Code Relating to a Commercial Cannabis Tax

RECOMMENDATION

That the City Council adopts the Ordinance introduced on March 6, 2018.

SUMMARY

Adoption of ordinance adding Article 21 to Chapter 8 of the Hayward Municipal Code relating to a Commercial Cannabis Tax that the City Council introduced on March 6, 2018.

ATTACHMENTS

Attachment I Staff Report
Attachment II Summary of Ordinance Published on 3/16/2018
Attachment III Revised Ordinance



DATE: March 20, 2018
TO: Mayor and City Council
FROM: City Clerk
SUBJECT Adoption of Ordinance Adding Article 21 to Chapter 8 of the Hayward Municipal Code Relating to a Commercial Cannabis Tax

RECOMMENDATION

That the Council adopts the Ordinance introduced on March 6, 2018.

SUMMARY

Adoption of ordinance adding Article 21 to Chapter 8 of the Hayward Municipal Code relating to a Commercial Cannabis Tax that the City Council introduced on March 6, 2018.

BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the March 6, 2018, meeting of the City Council with the following vote:

AYES: COUNCIL MEMBERS: Zermeño, Márquez, Peixoto, Lamnin
MAYOR Halliday
NOES: COUNCIL MEMBER: Mendall
ABSENT: COUNCIL MEMBER: Salinas
ABSTAIN: None

The motion to introduce the Ordinance included an amendment to Section 8-21.00 (Findings and Purpose) to read as follows:

SEC. 8-21.00 FINDINGS AND PURPOSE. The City Council finds and declares as follows:

- (d) The cannabis business tax is intended to aid in the alleviation of the City of Hayward’s ongoing general fund operating deficit and would be used for any valid municipal purpose, including police and fire services, paramedic services, youth and anti-gang programs, **education**, disaster preparedness, economic development, street repairs and maintenance, graffiti removal, and code enforcement.

The motion also included the review of the cannabis business tax, currently set at a rate of 6% of gross sales, one year after the issuance of a business permit.

FISCAL IMPACT

There is no fiscal impact associated with this report.

STRATEGIC INITIATIVES

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

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, March 16, 2018. Adoption at this time is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA ADDITION ARTICLE 21 TO CHAPTER 8 OF THE HAYWARD MUNICIPAL CODE RELATING TO A COMMERCIAL CANNABIS TAX

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

Section 1. Article 21 is added to Chapter 8 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 21
COMMERCIAL CANNABIS TAX

- SEC. 8-21.00 FINDINGS AND PURPOSE
- SEC. 8-21.10 DEFINITIONS
- SEC. 8-21.11 TAX IMPOSED
- SEC. 8-21.12 DECLARATION STATEMENT REQUIRED
- SEC. 8-21.13 PAYMENT – TIMING
- SEC. 8-21.14 AUDIT OF DECLARATION STATEMENT AND PAYMENT
- SEC. 8-21.15 NOTICE NOT REQUIRED BY CITY
- SEC. 8-21.16 TAX DEEMED DEBT TO THE CITY
- SEC. 8-21.17 DEFICIENCY DETERMINATIONS
- SEC. 8-21.18 TAX ASSESSMENT – NON PAYMENT – FRAUD
- SEC. 8-21.19 TAX ASSESSMENT – NOTICE REQUIREMENTS
- SEC. 8-21.20 TAX ASSESSMENT – HEARING
- SEC. 8-21.21 REMEDIES FOR VIOLATION – TAXES NOT WAIVED
- SEC. 8-21.22 AMENDMENTS OF ARTICLE
- SEC. 8-21.23 ADMINISTRATIVE REGULATIONS

Section 2. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 3. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. This Ordinance shall become effective upon adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the 6th day of March 2018, by Council Member Zermeño.

This ordinance will be considered for adoption at the meeting of the Hayward City Council, to be held on March 20, 2018, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: March 16, 2018
Miriam Lens, City Clerk
City of Hayward

ORDINANCE No. 18-

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA ADDING ARTICLE 21
TO CHAPTER 8 OF THE HAYWARD MUNICIPAL CODE RELATING TO A
COMMERCIAL CANNABIS TAX

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

Section 1. Article 21 is added to Chapter 8 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 21
COMMERCIAL CANNABIS TAX

SEC. 8-21.00 FINDINGS AND PURPOSE. The City Council finds and declares as follows:

- (a) On November 8, 2016, the voters of the City of Hayward approved Measure EE authorizing the City Council to enact an ordinance imposing a general tax of up to 15% of gross sales for all products associated with medical or adult use of cannabis, from cultivation, distribution, manufacturing, and retailing of cannabis or products derived therefrom, if the City of Hayward permits cannabis business activities, such tax to be in addition to any other taxes imposed by the City of Hayward or the State of California
- (b) On October 30, 2017 and November 28, 2017, respectively, the City Council enacted regulatory and land use ordinances authorizing cannabis businesses within the City of Hayward subject to compliance with local and state regulations.
- (c) This Article is enacted solely to raise revenue for municipal purposes and is not intended for regulation.
- (d) The cannabis business tax is intended to aid in the alleviation of the City of Hayward's ongoing general fund operating deficit and would be used for any valid municipal purpose, including police and fire services, paramedic services, youth and anti-gang programs, education, disaster preparedness, economic development, street repairs and maintenance, graffiti removal, and code enforcement.

SEC. 8-21.10 DEFINITIONS. For the purpose of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their content that a different meaning is intended:

“Annual gross receipts” means the gross receipts produced by the cannabis business during the twelve (12) month period between issuance and renewal of the business license for the cannabis business.

“Building” means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind, or anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

“Business improvements” means square footage used, on a regular basis, for the operation of a nonprofit organization as defined in Article XIII, Section 26 of the California Constitution, or a for profit organization organized in a manner that is recognized by the California Secretary of State regardless of whether it is owned or leased.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (excepted the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this article “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety code.

“Cannabis Product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“Commercial Cannabis business” includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products as permitted by Article 14, Chapter 6 of this Code.

“Cannabis Testing Laboratory” means a laboratory described in Section 26101 of the California Business and Professions Code holding a Type 8 license as described in Section 26050(a) of the California Business and Professions Code.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Discontinued, dissolved or otherwise terminated” means the date the cannabis business is no longer in operation. The City’s Finance Director, using all evidence, including evidence provided by the cannabis business permittee, will make the determination as to whether a cannabis business has been discontinued, dissolved or otherwise terminated.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between state licensees.

“Gross receipts” GROSS RECEIPTS shall mean the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service, or employment of whatever nature it may be, for which a charge is made or credit allowed; and included in GROSS RECEIPTS shall be all receipts, cash, credits, and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid or payable or losses or other expenses whatever. Excluded from GROSS RECEIPTS shall be cash discounts allowed and taken on sales, value of property accepted as part of the purchase price and which property will later be sold, any tax which is measured by the sales price or the gross receipts from the sale or which is a stated sum per unit of such property sold, included in or added to the purchase price and collected from the consumer or

purchaser, and such part of the sale price of property returned by the purchaser upon revision of the contract of sale as is refunded either in cash or by credit.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Manufacturer” means a person or entity that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Medical/medicinal cannabis” or “Medical/medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Nonprofit organization” means any association, corporation or other entity that is exempt from taxation measured by income or gross receipts under Article XIII, Section 26 of the California Constitution.

“Nursery” means a permittee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

“Owner” means any of the following: (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance. (2) The chief executive officer of a nonprofit or other entity. (3) A member of the board of directors of a nonprofit. (4) An individual who will be participating in the direction, control, or management of the person applying for a permit.

“Permittee” or “cannabis business permittee” means a person who has been issued a special permit or license for operation of a cannabis business within the City.

“Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a state licensee to the state licensee from whom the cannabis or cannabis product was purchased.

“State Licensee” means a person or entity that has been issued a license pursuant to state law for commercial cannabis activity as defined by state law.

SEC. 8-21.11 TAX IMPOSED. In addition to any requirements imposed elsewhere in the Hayward Municipal Code, for the privilege of operating a commercial cannabis business in the City, an annual tax is hereby imposed on each permittee operating a commercial cannabis business as follows:

- (a) Every commercial cannabis business must pay an annual tax of up to 15% of gross receipts for all products associated with medical or adult use of cannabis, from cultivation, distribution, manufacturing, and retailing of cannabis or products derived therefrom. The tax under this Article shall not be imposed on commercial cannabis businesses unless and until the City Council, by ordinance or resolution, takes action to set a tax rate not to exceed 15% of gross receipts.
- (b) The City Council may, in its discretion at any time, by ordinance or resolution, impose the tax authorized by this section at a lower rate. No action taken by the City Council under this subsection to reduce the tax rate will prevent it from subsequently increasing the tax rate for cannabis business to the maximum rate specified in this section. If the City Council sets the tax rate by resolution, the resolution shall be published in the same manner and within the same time as ordinances are required to be published by law. Resolutions or ordinances imposing the tax rate shall be codified as amendments to this section adding new

subsections in the following form: “Pursuant to Subsection (a) the City Council adopted [Ordinance/Resolution No.] setting the cannabis business tax rate at [%] of gross receipts. Commencing on [operative date] every commercial cannabis business in the City shall pay a cannabis business tax at the rate of [%] of gross receipts.

SEC. 8-21.12 DECLARATION STATEMENT REQUIRED

At the time of payment of the taxes imposed by this Article, each commercial cannabis business permittee must file with the City Finance Department a statement, under oath, showing the true and correct amount of annual gross receipts derived from the cannabis business allowed by the special permit or license issued to the permittee. A signed declaration must be attached to the statement included therein, which will be in substantially the same form as: “I hereby declare under penalty of perjury that the foregoing is true and correct.” The City has the right to audit the matters reported in the statement to determine the accuracy of the figures contained therein.

SEC. 8-21.13 PAYMENT - TIMING

- (a) All taxes imposed by this Article on a commercial cannabis business whether it is a nonprofit organization or a for-profit business must be paid to the City’s Finance Department on or before the fifteenth (15th) day after the close of the month for which the tax is due. Permittees or operators of commercial cannabis businesses must file a monthly report with the City, even if there are no taxes currently due. The report will show the annual gross receipts to date as of the close of the prior month and will be used to calculate the amount of tax due. Payment will accompany the form. The form will be provided by the City and the City may revise the report without advance notice from time to time. Payment of taxes imposed by this Article must be in the correct amount of taxes due and owing. Such sums correctly reflecting taxes will be accepted by the City, subject, however, to the City’s right to conduct an audit.
- (b) If any permittee or operator of a cannabis business is liable for any amount of tax, interest or penalty under this Article, and he or she sells or otherwise disposes of the business, his or her successors or assigns must withhold from the purchase price a

sum sufficient to cover such amount until the former permittee or operator produces from the City either a receipt reflecting full payment or a certificate stating that no amount is due.

- (c) If the purchaser of a cannabis business fails to withhold a sum from the purchase price as required in subsection (b) of this section, he or she will be personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price.

SEC. 8-21.14 AUDIT OF DECLARATION STATEMENT AND PAYMENT

- (a) The City has the right to audit the matters referred to in the declaration statement, and to determine the correctness of the figures set forth in such statement, and the amount payable to the City.
- (b) The books, records and accounts of any permittee may be inspected and audited by the City.
- (c) Such an inspection and audit may be performed by the City's Finance Director or designee, a qualified accountant, a City official selected by the Finance Director, or a consultant selected by the Finance Director.
- (d) To facilitate such audits, the permittee must keep complete records of all transactions related to the receipt or disbursement of funds arising out of or related to cannabis business operations during the preceding three-year period. All such records must be made available to the City for audit at the permittee's place of doing business or such other place that the City may designate during normal business hours after reasonable prior notice.
- (e) Any failure or refusal of any permittee to make and file a declaration statement within the required time period, or to pay such sums by way of taxes when the same are due and payable in accordance with the provisions of this article, or to permit such inspection of such books, records and accounts of such permittee will be and constitute full and sufficient grounds for suspension or revocation of any special business license or permit for operation of a cannabis business.

SEC. 8-21.15 NOTICE NOT REQUIRED BY CITY

The City is not required to send a delinquency or other notice or bill to any person

subject to the provisions of this Article, and failure to send such notice or bill will not affect the validity of any tax, interest or penalty due under the provisions of this Article.

SEC. 8-21.16 TAX DEEMED DEBT TO THE CITY

The amount of any tax, penalties and interest imposed by the provisions of this Article will be deemed a debt to the City, and any permittee carrying on any business without having paid to the City the tax under this Article will be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

SEC. 8-21.17 DEFICIENCY DETERMINATIONS

- (a) If the Finance Director is not satisfied that a declaration statement filed, as required under the provisions of this Article, is correct, or that the amount of tax is correctly computed, the Finance Director may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the declaration statement or upon the basis of any information in the City's possession or that may come into the City's possession.
- (b) The City may make more than one deficiency determination of the amount of tax due for a period or periods.
- (c) In the case of a cannabis business which is discontinued, dissolved or otherwise terminated, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due.
- (d) Whenever a deficiency determination is made, the City will provide fifteen (15) calendar days' notice to the permittee.

SEC. 8-21.18 TAX ASSESSMENT – NON PAYMENT- FRAUD.

- (a) Under any of the following circumstances, the finance director may make and give notice of an assessment of the amount of tax owed by a cannabis business under this Article:

- (1) If the permittee has not filed any declaration statement required under the provisions of this Article;
 - (2) If the permittee has not paid any tax due under the provisions of this Article;
 - (3) If the permittee has not, after demand by the Finance Director, filed a corrected declaration statement or furnished to the Finance Director adequate substantiation of the information contained in a statement of revenue already filed, or paid any additional amount of tax due under the provisions of this Article.
- (b) The notice of assessment will separately set forth the amount of any tax known or estimated by the Finance Director to be due, after full consideration of all information within his or her knowledge concerning the cannabis business activities of the person or permittee assessed and will include the amount of any penalties, costs or interest accrued on each amount to the date of the notice of assessment.

SEC. 8-21.19 TAX ASSESSMENT – NOTICE REQUIREMENTS

The notice of assessment will be served upon the permittee either by personal service on the permittee, or by depositing the notice in the United States mail, postage prepaid thereon, addressed to the permittee at the address of the location of the business appearing on the face of the commercial cannabis business permit issued under Chapter 6, Article 14 of this Code to the permittee, or to such other address as the permittee registers with the Finance Director for the purpose of receiving notices provided under this Article. For the purposes of this section, service by mail is complete at the time of deposit in the United States mail.

SEC. 8-21.20 TAX ASSESSMENT - HEARING

- (a) Within ten (10) days after the date of service of a notice issued under Section 8-21.19, the permittee may apply in writing to the Finance Director for a hearing on the assessment.
- (b) If application for a hearing before the Finance Director is not made within the time herein prescribed, the tax assessed by the Finance Director will become final and conclusive.

- (c) Within thirty (30) days of the receipt of any such application for hearing, the Finance Director will cause the matter to be set for hearing before him or her not later than thirty (30) days after the date of application, unless a later date is agreed to by the Finance Director and the permittee requesting the hearing.
- (d) Notice of such hearing will be given by the Finance Director to the permittee requesting such hearing not later than five (5) days prior to such hearing. At such hearing, said permittee may appear and offer evidence why the assessment as made by the Finance Director should not be confirmed and fixed as a tax.
- (e) After such hearing, the Finance Director will make a written determination and may at his or her discretion reassess the proper tax to be charged and will give written notice thereof to the permittee.

SEC. 8-21.21 REMEDIES FOR VIOLATION – TAXES NOT WAIVED

- (a) Nothing in this Article limits the City from using any remedy legally available for violations of this Article, including, but not limited to, the penalties under Article 3, Chapter 1 of this Code.
- (b) The conviction and punishment of any person for failure to pay the required tax will not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction.
- (c) No civil action will prevent a criminal prosecution for any violation of the provisions of this article or of any State law requiring the payment of all taxes

SEC. 8-21.22 AMENDMENTS OF ARTICLE

The City Council may amend this Article at any time as long as the amendments do not increase the tax or, change the method of calculating the tax.

SEC. 8-21.23 ADMINISTRATIVE REGULATIONS

The City Manager may adopt administrative regulations as needed to implement this Article.

Section 2. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to

Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 3. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. This Ordinance shall become effective upon adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of, ___ 2018, by Council Member _____ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the day of _____ , 2018, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBER

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



CITY OF HAYWARD

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

File #: CONS 18-169

DATE: March 20, 2018

TO: Mayor and City Council

FROM: Interim Director of Public Works

SUBJECT

New Sidewalks FY17 - Walpert Street (Fletcher Lane to Second Street), Project No. 05258 & 05259: Approval of Plans and Specifications, and Call for Bids and Appropriation of Additional Funds

RECOMMENDATION

That Council adopts the attached resolutions:

1. Approving the plans and specifications; and
2. Appropriating additional funds for the New Sidewalks FY17 - Walpert Street (Fletcher Lane to Second Street) project, and calling for construction bids to be received on April 17, 2018.

SUMMARY

Walpert Street needs new sidewalks to provide a safe and continuous pedestrian route from Fletcher Lane to Second Street. The project will also help provide safe and convenient access to Hayward High School. Existing driveways and curb ramps in new sidewalk areas will be reconstructed to comply with the current Americans with Disabilities Act (ADA) requirements.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resolution
Attachment IV	Location Map



DATE: March 20, 2018

TO: Mayor and City Council

FROM: Interim Director of Public Works

SUBJECT New Sidewalks FY17 – Walpert Street (Fletcher Lane to Second Street), Project No. 05258 & 05259: Approval of Plans and Specifications, and Call for Bids and Appropriation of Additional Funds

RECOMMENDATION

That Council adopts the attached resolutions:

1. Approving the plans and specifications; and
2. Appropriating additional funds for the New Sidewalks FY17 – Walpert Street (Fletcher Lane to Second Street) project, and calling for construction bids to be received on April 17, 2018.

SUMMARY

Walpert Street needs new sidewalks to provide a safe and continuous pedestrian route from Fletcher Lane to Second Street. The project will also help provide safe and convenient access to Hayward High school. Existing driveways and curb ramps in new sidewalk areas will be reconstructed to comply with the current Americans with Disabilities Act (ADA) requirements.

BACKGROUND

Walpert Street was identified as needing new sidewalk construction, and repairs of existing sidewalk segments to further the City's goal of providing safe and continuous pedestrian access. The City has received requests from residents in the neighborhood for sidewalk improvements at this location. The project on Walpert Street is near Hayward High School where students currently use the street to get to and from school. Completion of this project will provide a continuous and safer sidewalk route. A location map depicting the limits of work is attached (Attachment IV).

DISCUSSION

This project will provide a continuous sidewalk on both the north and south sides of Walpert Street (from Fletcher Lane to Second Street). The proposed improvements will add 0.35 miles of new sidewalk to the City's inventory, which totals approximately 460 miles, and will repair approximately 21,500 square feet of roadway pavement adjacent to the new sidewalks. The new concrete sidewalk, curb, and gutter will meet current City standards. In addition, existing curb ramps that are non-compliant with the Americans with Disabilities Act (ADA) will be removed and reconstructed to comply with current ADA requirements.

Approximately 450 lineal feet of existing asphalt sidewalk on the south side of Walpert Street is to be reconstructed as a condition set by the City to the proposed Parkside Heights residential development at the southeast corner of Walpert Street and Second Street. The new concrete sidewalk, curb, and gutter will meet current City standards, and is estimated to be completed by summer 2019.

The project is categorically exempt under Sections 15301 (b), and (c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

ECONOMIC AND FISCAL IMPACT

This project is fully funded by the City's Capital Improvement Program without any additional contributions from the public. The estimated project cost is as follows:

Construction Contract with 10% Contingency	\$690,000
Right-of-Way Engineering and Acquisition	\$ 80,000
Design and Administration	\$125,000
Inspection, Testing and Construction Administration	<u>\$ 80,000</u>
Total	<u>\$975,000</u>

The Adopted FY 2018 Capital Improvement Program includes \$480,000 in Fund 216 - Measure B (Pedestrian and Bicycle) and \$350,000 in Fund 213 - Measure BB (Pedestrian and Bicycle) for the New Sidewalks FY17 - Walpert Street project totaling \$830,000. An additional appropriation of \$145,000 is requested to complete this project. Adequate funding is available in Fund 213 for the appropriation.

STRATEGIC INITIATIVES

This agenda item supports the Complete Streets Strategic Initiative. The purpose of the Complete Streets Strategic Initiative is to build streets that are safe, comfortable and convenient for travel for everyone, regardless of age or ability, including motorist, pedestrians, bicyclists, and public transportation riders. This item supports the following goals and objectives:

Goal 1: Prioritize safety for all modes of travel.

Goal 2: Provide Complete Streets that balance the diverse needs of users of the public right-of-way.

Objective 1: Increase walking, biking, transit usage, carpooling, and other sustainable modes of transportation by designing and retrofitting streets to accommodate all modes.

SUSTAINABILITY FEATURES

Transportation

This project will improve the existing pedestrian system (General Plan Policy M-5.2) on Walpert Street, and serves to balance the diverse needs of users of the public right-of-way.

PUBLIC CONTACT

Staff sent letters to the affected property owners notifying them of the proposed work and preliminary schedule. The project requires right-of-way acquisition from Hayward Unified School District's (HUSD) school to maintain the existing bus loading zone in front of the school. In addition, right-of-entry permits are needed from specific property owners adjacent to the project to grant the City's contractor permission to enter the property and install driveway conforms. Staff has completed the right-of-way acquisition and received all necessary right-of-entry authorizations.

The construction contractor will be required to coordinate work with HUSD to minimize impacts to the school.

NEXT STEPS

Advertise for Bids	March 23, 2018
Open Bids	April 17, 2018
Award Contract	May 15, 2018
Begin Work	June 18, 2018
Complete Work	September 28, 2018

Prepared by: Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Interim Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-_____

Introduced by Council Member _____

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE NEW SIDEWALKS
FY17 – WALPERT STREET PROJECT, PROJECT NO. 05258 & 05259 AND CALL FOR
BIDS

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

WHEREAS, those certain plans and specifications for the New Sidewalks FY17 – Walpert Street Project, Project No. 05258 & 05259, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project; and

WHEREAS, the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law; and

WHEREAS, sealed bids will be received by the City Clerk's office at City Hall, 777 B Street, 4th Floor, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday, April 17, 2018, and immediately thereafter publicly opened and declared by the City Clerk in the Public Works Conference Room, 4D, located on the 4th Floor of City Hall, Hayward, California.

NOW, THEREFORE, BE IT RESOLVED, that the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the project is categorically exempt under section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

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. 18-_____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 17-088, THE BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2018, RELATING TO AN APPROPRIATION OF FUNDS FROM FUND 213 – MEASURE BB FOR NEW SIDEWALKS.

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 17-088, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2018, is hereby amended by an additional appropriation of \$145,000 from Fund 213 - Measure BB (Pedestrian and Bicycle) to Project 05259 – New Sidewalks – Measure BB – FY17 – Walpert Street.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

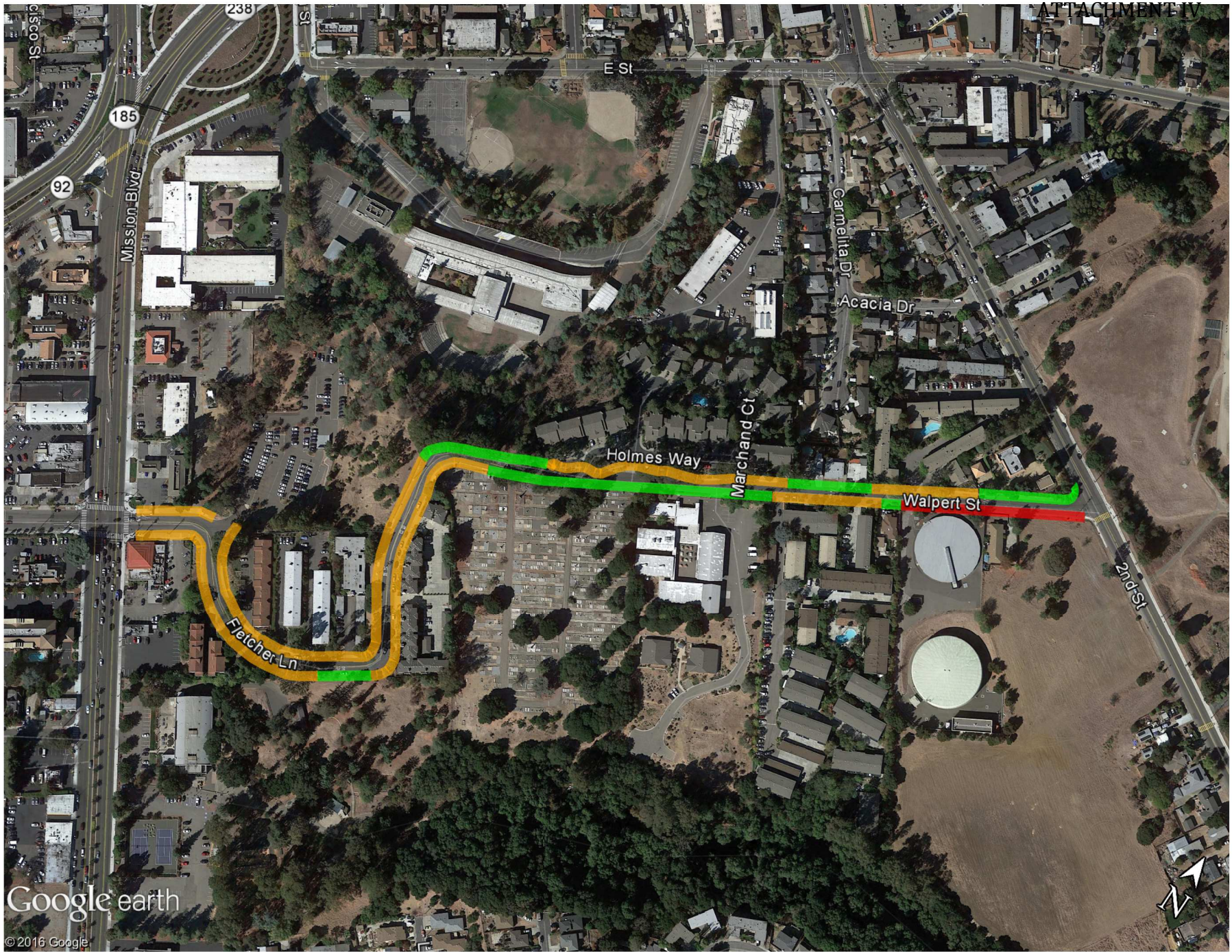
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Google earth

© 2016 Google



EXISTING CONCRETE SIDEWALKS



PROPOSED NEW CONCRETE SIDEWALKS



EXISTING ASPHALT CONCRETE SIDEWALK TO BE REPLACED WITH CONCRETE BY DEVELOPER 1 of 1

NEW SIDEWALKS FY17 - WALPERT STREET PROJECT LOCATION MAP



CITY OF HAYWARD

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

File #: CONS 18-175

DATE: March 20, 2018

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Recycled Water Storage and Distribution System Project, Project No. 07507: Approval of Addendum Nos. 1 through 3 and Award of Pump Station and Storage Tank Construction Contract; Approval of Addendums Nos. 1 through 4 and Award of Distribution Pipelines System Construction Contract; Adoption of Resolutions to apply for Increased Funding through the State Revolving Fund Loan Program; and Appropriation of Additional Funds

RECOMMENDATION

That Council adopts the attached resolutions:

1. Approving Addendum Nos. 1 through 3 and awarding a contract to Myers and Sons Construction, LP to construct the recycled water pump station and storage tank, in an amount not to exceed \$4,793,000; and
2. Approving Addendum Nos. 1 through 4 and awarding a contract to Mountain Cascade, Inc. to construct the recycled water pipelines distribution system, in an amount not to exceed \$15,963,000; and
3. Authorizing the City Manager to apply to the State Water Resources Control Board to increase the amount of funding for the Recycled Water Storage and Distribution System Project through the Clean Water State Revolving Fund (SRF) loan program; and
4. Approving a reimbursement resolution in support of a revised SRF loan application; and
5. Appropriating additional funds from the Sewer Improvement Fund for the Recycled Water Storage and Distribution System Project.

SUMMARY

The City's Recycled Water Storage and Distribution System Project consists of constructing a storage tank and pump station at the City's Water Pollution Control Facility (WPCF) and installing distribution pipelines and customer connections to deliver recycled water to customers for irrigation and industrial

uses. The project is being constructed under multiple contracts. On December 12, 2017, Council approved the plans and specifications for 1) the pump station and storage tank and 2) approximately eight miles of pipelines, and called for separate bids to be received on February 15, 2018.

Staff is requesting Council approval to award two construction contracts. The construction contract for the recycled water pump station and storage tank will be \$4,793,000, which includes the low bid of \$4,543,000 and a \$250,000 administrative change order contingency for unforeseen changes during construction. The construction contract for the distribution pipelines will be \$15,963,000, which includes the low bid of \$14,642,217.50 and an administrative change order contingency budget of \$1,320,782.50.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Approval of Addenda and Award Contract Resolution to Myers and Sons Construction
Attachment III	Approval of Addenda and Award Contract Resolution to Mountain Cascade
Attachment IV	Authorizing Resolution for SRF Funding
Attachment V	Reimbursement Resolution for SRF Funding
Attachment VI	Appropriation Resolution
Attachment VII	Bid Summary for Recycled Water Pump Station and Storage Tank
Attachment VIII	Bid Summary for Recycled Water Distribution System



DATE: March 20, 2018

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT Recycled Water Storage and Distribution System Project, Project No. 07507: Approval of Addendum Nos. 1 through 3 and Award of Pump Station and Storage Tank Construction Contract; Approval of Addendum Nos. 1 through 4 and Award of Distribution Pipelines System Construction Contract; Adoption of Resolutions to apply for Increased Funding through the State Revolving Fund Loan Program; and Appropriation of Additional Funds

RECOMMENDATION

That Council adopts the attached resolutions:

1. Approving Addendum Nos. 1 through 3 to the plans and specifications and awarding a contract to Myers and Sons Construction, LP to construct the recycled water pump station and storage tank, in an amount not to exceed \$4,793,000; and
2. Approving Addendum Nos. 1 through 4 to the plans and specifications and awarding a contract to Mountain Cascade, Inc., to construct the recycled water pipelines distribution system, in an amount not to exceed \$15,963,000; and
3. Authorizing the City Manager to apply to the State Water Resources Control Board to increase the amount of funding for the Recycled Water Storage and Distribution System Project through the Clean Water State Revolving Fund (SRF) loan program; and
4. Approving a reimbursement resolution in support of a revised SRF loan application; and
5. Appropriating additional funds from the Sewer Improvement Fund for the Recycled Water Storage and Distribution System Project.

SUMMARY

The City's Recycled Water Storage and Distribution System Project consists of constructing a storage tank and pump station at the City's Water Pollution Control Facility (WPCF) and installing distribution pipelines and customer connections to deliver recycled water to customers for irrigation and industrial uses. The project is being constructed under multiple contracts. On December 12, 2017, Council approved the plans and specifications for 1) the pump station and storage tank and 2) approximately eight miles of pipelines, and called for separate bids to be received on February 15, 2018.

Staff is requesting Council approval to award two construction contracts. The construction contract for the recycled water pump station and storage tank will be \$4,793,000, which includes the low bid of \$4,543,000 and a \$250,000 administrative change order contingency for unforeseen changes during construction. The construction contract for the distribution pipelines will be \$15,963,000, which includes the low bid of \$14,642,217.50 and an administrative change order contingency budget of \$1,320,782.50.

BACKGROUND

The City's current Capital Improvement Program includes the Recycled Water Storage and Distribution System Project (Recycled Water Project), which would provide a locally sustainable and drought-proof supply of recycled water to customers for irrigation and industrial uses. The project includes construction of a one-million-gallon storage tank and pump station at the City's WPCF and installing up to a total of ten miles of distribution pipelines and customer connections. The initial phase of the project includes installation of approximately nine miles of distribution pipelines and is anticipated to deliver an estimated 290 acre-feet per year, or about 260,000 gallons per day (gpd), of disinfected tertiary treated recycled water for parks, schools, businesses and industrial parks within a three-mile radius of the WPCF. Construction of an additional one-mile of pipeline down West Winton Avenue is being deferred until additional recycled water customers can be identified. Once the initial storage and distribution pipelines are constructed, there may be opportunities to expand the system and include more customers in future phases.

Until recently, the provision for a recycled water treatment facility had not been included in the project planning as staff anticipated obtaining recycled water from the Russell City Energy Corporation, LLC's (RCEC) Recycled Water Facility, located adjacent to the WPCF. However, due to concerns that a supply agreement cannot be implemented with RCEC in a timely manner, on December 12, 2017, Council authorized staff to move forward, in parallel, with design of a City-owned, 500,000 gpd recycled water treatment facility to meet the demand of the first phase of the City's project. Funding for the installation of a City-owned recycled water treatment facility is included as a separate project in the Ten-year Capital Improvement Program. Staff anticipates completing final design of the City-owned recycled water treatment facility by fall 2018 and asking Council to make a final decision on whether to implement the City-owned recycled water supply option in late 2018.

The Recycled Water Storage and Distribution Project will be constructed under multiple contracts, as described below:

- Whitesell pipeline: Approximately one mile of 8-inch diameter pipeline was installed in Whitesell Street in 2015, between Route 92 and Depot Road, as part of the 880/92 Route Reliever Route Project that realigned Whitesell Street.
- Pump station and storage tank and pipelines: Separate bid documents were prepared for 1) the pump station and storage tank, and 2) approximately eight miles of the distribution pipelines system. The work was separated into two bid packages since each portion of the project was substantial enough to be bid separately and the construction work requires different expertise. Staff believed that separating the work into two contracts would allow more contractors to bid on the contracts, which could result in more competitive bids for the project.
- Customer retrofits: Staff is currently working with customers on the design of customer retrofits. Customer retrofits involve making modifications to a customer's on-site piping to connect the customer to the new recycled water distribution pipelines system and maintain complete separation of the recycled water and drinking water systems at all times. Staff anticipates requesting Council approval of bid documents for customer retrofits in late 2018 or early 2019, after a substantial portion of the distribution pipelines system has been constructed.

Design of the pump station and storage tank and approximately eight miles of distribution pipelines was completed in December 2017. On December 12, 2017, Council approved the plans and specifications and called for bids to be received on February 15, 2018.

DISCUSSION

Pump Station and Storage Tank

Following Council approval of the plans and specifications, the recycled water pump station and storage tank was advertised for construction. During the bidding phase, three addenda were issued to provide minor clarifications to the plans and specifications. On February 15, 2018, the City received six (6) bids ranging from \$4,543,000 to \$5,925,800 for the construction of the pump station and storage tank. A summary of the bids received is attached. Myers and Sons Construction, LP submitted the low bid in the amount of \$4,543,000, which is approximately 7% above the Engineer's estimate of \$4,247,000. Given that there were six bids received and the low bid is reasonably close to the Engineer's estimate, staff considers the low bid submitted by Myers and Sons Construction, LP to be a fair and competitive bid.

Distribution Pipelines System

Following Council approval of the plans and specifications, approximately eight miles of the distribution pipelines system was advertised for construction. During the bidding phase, four addenda were issued to provide minor clarifications to the plans and specifications. On February 15, 2018, the City received six (6) bids ranging from \$14,642,217.50 to \$18,280,000. A summary of the bids received is attached. Mountain Cascade, Inc., submitted the low bid in the amount of \$14,642,217.50, which is approximately 12% below the Engineer's estimate of \$16,680,000.

ECONOMIC IMPACT

The economic impact of the Recycled Water Project on customers will, to some extent, depend on the total costs to implement the City's Recycled Water Project, which includes the capital and operating costs for the storage and distribution pipelines, and the cost to either obtain recycled water from RCEC, or construct, operate, and maintain a City-owned recycled water treatment facility. To the extent that the project is partially funded by grants, the overall cost impact to customers will be reduced. Once the costs are finalized and funding sources are in place, staff will recommend a rate structure that would provide a balance between recovering costs over the life the project and offering an incentive to customers who are able to receive recycled water. The community will benefit from this project through greater diversity and reliability of water supplies, especially during periods of drought.

FISCAL IMPACT

The total estimated costs for the Recycled Water Storage and Distribution System Project are shown in Table 1. The total project cost includes the two separate contracts to construct (1) the recycled water pump station and storage tank and (2) approximately eight miles of the distribution pipelines system. The construction contract for the recycled water pump station and storage tank will be \$4,793,000, which includes Myers and Sons Construction, LP's low bid of \$4,543,000, and a \$250,000 administrative change order contingency for unforeseen changes during construction. The construction contract for the distribution pipelines will be \$15,963,000, which includes Mountain Cascade, Inc.'s low bid of \$14,642,217.50 and an administrative change order contingency budget of \$1,320,782.50.

Table 1. Recycled Water Storage and Distribution System Project Capital Cost Estimate

Task	Estimated Cost
Administrative (City staff)	\$ 500,000
Planning and Design (Consultant)	\$ 2,320,191
Construction	
Whitesell Pipeline (construction completed in 2015)	\$ 513,648
Storage Tank and Pump Station	
Construction contract	\$ 4,793,000
Construction management and inspection (City Staff)	\$ 243,000
Specialty inspection (Consultant)	\$ 120,000
Engineering services during construction (Consultant)	\$ 108,700
Distribution Pipelines System	
Construction Contract	\$ 15,963,000.00
Construction management and inspection (City Staff)	\$ 700,000
Specialty inspection and testing (Consultant)	\$ 300,000
Biological resources monitoring	\$ 20,000
Traffic control plans and traffic loop repairs	\$ 150,000
Engineering services during construction (Consultant)	\$ 54,400
Customer Retrofit Construction (to be advertised late 2018)	
Customer conversions (estimated)	\$ 1,000,000
Backflow prevention upgrade (estimated)	\$ 750,000
Construction management, inspection, and training (Consultant)	\$ 275,000
Subtotal Construction	\$ 24,990,748
Total Estimated Capital Project Cost (rounded to nearest thousand)	\$ 27,811,000

As shown in Table 1, the current total estimated capital cost for planning, design, and construction of the project is \$27,811,000. The current Ten-Year Capital Improvement Program (CIP) includes a budget of \$19,330,000 for the Recycled Water Storage and Distribution System Project. The CIP budget was based on a preliminary design estimate prepared for the City’s application for State funding, which did not include prior costs that are ineligible for financing, such as grant-funded planning studies and the installed pipeline in Whitesell Street. The current total estimated capital cost exceeds the preliminary design estimate by \$8,481,000. Expected accuracy for a preliminary design stage estimate typically ranges from 30% below or above the actual cost. The current estimate in this case is approximately 44% higher than the amount budgeted in the CIP.

The December 12, 2017, Council staff report identified the potential shortfall in budget and included a discussion of the increased project costs. As described in the December 12 report, certain added costs were not previously identified or adequately defined in the preliminary design estimate. These additional costs included accounting for the one-mile pipeline that has

already been installed in Whitesell Street, refinements in the project design to address seismic concerns and avoid utility conflicts, costs for biological surveys and cultural resources monitoring to comply with the Mitigation Monitoring and Reporting Program, and traffic restrictions, which limit the contractor's work hours and construction methods. In addition, staff identified that the current bidding climate has been affected by local and national disasters that have increased the demand for raw materials and labor, which has resulted in higher bids for public works projects.

Staff is requesting that adequate funds be appropriated from the Sewer Capital Improvement Fund balance in an amount of \$8,481,000 to cover the increased project costs. There will be no impact to the General Fund. Sufficient funds are available in the fund balance.

The City has secured \$19,365,000 in financial assistance from the State Water Resources Control Board, of which \$5,831,350 is being provided in the form of a grant (principal forgiveness) funded by California Proposition 1 (Water Bond of 2014) and the remaining \$13,533,650 is in the form of a low interest loan from the Clean Water State Revolving Fund program. Staff plans to apply to increase the amount of financial assistance to cover the increased project costs. The State has indicated that there is no additional grant funding available, but the City can apply to increase the amount of the low interest loan, provided that the City submits the necessary assurances and commitments to pay back the higher loan amount. The State is also requiring that the City adopt revised authorizing and reimbursement resolutions to reflect the increased funding the City is requesting from the State to finance the project.

Staff anticipates revising the total financial assistance request from the State from \$19,365,000 to an estimated \$27,100,000, which would increase the amount of the low interest loan from \$13,533,650 to \$21,268,650. Certain project costs, such as prior construction costs and planning costs that were grant funded, are not eligible to be included in the revised application for financial assistance. The debt service is estimated to be in the range of \$824,000 annually and will be obligated to the Wastewater Enterprise Fund.

The City is also continuing to pursue federal grant funding through the Bureau of Reclamation's Title XVI Water Recycling and Reuse Program. Any additional grant funding received would be used to reduce the loan amount from the State.

STRATEGIC INITIATIVES

Implementation of the Recycled Water Project supports the Tennyson Corridor Strategic Initiative. The purpose of this initiative is to develop an attractive, cohesive, thriving Tennyson Corridor through thoughtful engagement with residents, businesses and community partnerships. There are two sites located in the Tennyson Corridor that are proposed to be connected to the recycled water system, and would therefore support the following goal and objectives:

Goal 3: Improve Community Appearance

Objective 1: Enhance landscaping

Objective 3: Decrease blight

The use of recycled water will help create and increase attractive outdoor spaces in the Tennyson Corridor. Since recycled water is a sustainable and drought-proof source of supply, customers will be able to maintain their landscaping during water supply shortages when drinking water supplies are limited.

SUSTAINABILITY FEATURES

The use of recycled water will reduce the demand for drinking water and improve the reliability and availability of drinking water, while providing a sustainable and drought-proof water supply for some irrigation uses. It will also reduce the volume of wastewater and associated residual pollutants discharged to San Francisco Bay, which is required to meet increasingly stringent discharge regulations.

PUBLIC CONTACT

The City completed an environmental review of the Recycled Water Project in October 2014 and the Council adopted an Initial Study/Mitigated Negative Declaration on December 16, 2014, incorporating all comments received. The Recycled Water Ordinance, that includes mandatory provisions for use of recycled water for appropriate irrigation and industrial uses, was introduced at a public hearing of the City Council on December 1, 2015 and adopted on December 15, 2015. Prior to the adoption of the Recycled Water Ordinance, a customer meeting was held on November 20, 2015, at City Hall to inform customers about the project.

Prior to and during construction of the distribution pipelines, 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 separately contact any large employers and schools that may be affected by the project and coordinate work to minimize impact.

Staff is also working with potential customers to answer questions on the use of recycled water and to assist with design of on-site piping modifications that would be required to connect a customer to the new recycled water distribution system.

NEXT STEPS

If Council approves the award of contracts, staff would proceed with executing and issuing notice to proceed for both contracts. The following schedule has been developed for this project:

Award Construction Contracts

March 20, 2018

Notice to Proceed

April 13, 2018

Construction Completion

Storage Tank and Pump Station

April 2019

Distribution Pipelines System

December 2019

Prepared by: Feng Chang, Senior Utilities Engineer
Suzan England, Senior Utilities Engineer

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-_____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDUM NOS. 1 THROUGH 3 AND AWARDING A CONTRACT TO MYERS AND SONS CONSTRUCTION, LP FOR THE CONSTRUCTION OF THE RECYCLED WATER PUMP STATION AND STORAGE TANK, PROJECT NO. 07507, IN AN AMOUNT NOT TO EXCEED \$4,793,000

WHEREAS, by Resolution 17-189 on December 12, 2017 the City Council approved the plans and specifications for the Recycled Water Pump Station and Storage Tank, Project No. 07507, and called for bids to be received on February 15, 2018; and

WHEREAS, Addendum Nos. 1, 2 and 3 were issued to make minor revisions to the plans and specifications; and

WHEREAS, on February 15, 2018, six (6) bids were received ranging from \$4,543,000 to \$5,925,800. The low bid, submitted by Myers and Sons Construction, LP, is approximately 7% higher than the Engineer's estimate of \$4,247,000; and

WHEREAS, the Capital Improvement Program Sewer Improvement Fund includes sufficient funding for Myers and Sons Construction, LP to perform the scope of work required by the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Addendum Nos. 1, 2 and 3 are hereby approved and adopted as parts of the plans and specifications for the project.

BE IT FURTHER RESOLVED that Myers and Sons Construction, LP is hereby awarded the contract for construction of the Recycled Water Storage and Pump Station Project, Project No. 07507, 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 the City Manager is hereby authorized and directed to execute an agreement with Myers and Sons Construction, LP, in the name of and for and on behalf of the City of Hayward, in an amount not to exceed \$4,793,000, including administrative change orders, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

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. 18-_____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDUM NOS. 1 THROUGH 4 AND AWARDING A CONTRACT TO MOUNTAIN CASCADE, INC., FOR THE CONSTRUCTION OF THE RECYCLED WATER DISTRIBUTION SYSTEM, PROJECT NO. 07507, IN AN AMOUNT NOT TO EXCEED \$15,963,000

WHEREAS, by Resolution No. 17-189 on December 12, 2017, the City Council approved the plans and specifications for the Recycled Water Distribution System, Project No. 07507, and called for bids to be received on February 15, 2018; and

WHEREAS, Addendum Nos. 1 through 4 were issued to make minor revisions to the plans and specifications; and

WHEREAS, on February 15, 2018, six (6) bids were received ranging from \$14,642,217.50 to \$18,280,000. The low bid, submitted by Mountain Cascade, Inc., of Livermore, is approximately 12% below the Engineer's estimate of \$16,680,000; and

WHEREAS, the Capital Improvement Program Sewer Improvement Fund includes sufficient funding for Mountain Cascade, Inc., to perform the scope of work required by the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Addendum Nos. 1 through 4 are hereby approved and adopted as part of the plans and specifications for the project.

BE IT FURTHER RESOLVED that Mountain Cascade, Inc., is hereby awarded the contract for the construction of the Recycled Water Distribution System, Project No. 07507, 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 the City Manager is hereby authorized and directed to execute an agreement with Mountain Cascade, Inc., in the name of and for and on behalf of the City of Hayward, in an amount not to exceed \$15,963,000, including administrative change orders, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

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. 18-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND FILE A STATE REVOLVING FUND LOAN FINANCIAL ASSISTANCE APPLICATION IN AN AMOUNT NOT TO EXCEED \$27,100,000 FOR CAPITAL IMPROVEMENT PROJECT NO. 07507 – RECYCLED WATER STORAGE AND DISTRIBUTION SYSTEM PROJECT

WHEREAS, the City of Hayward's current Ten-Year Capital Improvement Program includes the Recycled Water Storage and Distribution System, Project No. 07507, which would reduce the demand for potable water and provide a sustainable and drought-proof water supply for some irrigation and industrial uses; and

WHEREAS, on September 13, 2016, the City Council adopted Resolution 16-159 authorizing the City Manager to sign and file a State Revolving Fund loan application in an amount not to exceed \$20,000,000 for the Recycled Water Storage and Distribution System Project; and

WHEREAS, in October 2016, the City of Hayward submitted an application to the State Water Resources Control Board for \$19,365,000 in financial assistance through the State Revolving Fund loan program to help finance the Recycled Water Storage and Distribution System Project; and

WHEREAS, on May 31, 2017 the City of Hayward and State Water Resources Control Board executed an agreement for financial assistance in the amount of \$19,365,000 for the Recycled Water Storage and Distribution System Project, of which \$5,831,350 is being provided as a grant funded under Proposition 1 (Water Bond of 2014) and the remaining \$13,533,650 is in the form of a low interest loan; and

WHEREAS, the estimated cost of the Recycled Water Storage and Distribution System Project has increased to approximately \$28,000,000 due to refinements in the project design and escalating labor and material costs; and

WHEREAS, the City desires to increase the amount of low interest loan funding from the State Water Resources Control Board to finance the increased costs for the Recycled Water Storage and Distribution System Project that are eligible for financing under the Clean Water State Revolving Fund program; and

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RECYCLED WATER STORAGE AND DISTRIBUTION SYSTEM PROJECT
REIMBURSEMENT RESOLUTION IN SUPPORT OF STATE WATER RESOURCES
CONTROL BOARD STATE REVOLVING FUND LOAN APPLICATION

WHEREAS, the City of Hayward (the City) desires to finance the costs of constructing and/or reconstructing certain public facilities and improvements relating to its water and wastewater system, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the City intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the City desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the City; and

WHEREAS, the City has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The City hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$27,100,000.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the City will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each of the City's expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, the City is not aware of the previous adoption of official intents by it that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the City in order to comply with Treasury Regulation §1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and the City Council so finds, determines and represents.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

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. 18-

Introduced by Council Member _____

RESOLUTION APPROPRIATING \$8,481,000 FROM THE CAPITAL IMPROVEMENT PROGRAM SEWER IMPROVEMENT FUND FOR THE RECYCLED WATER STORAGE AND DISTRIBUTION SYSTEM PROJECT, PROJECT NO. 07507

WHEREAS, the City of Hayward Recycled Water Storage and Distribution Project, Project No. 07507, would reduce the demand for potable water and provide a sustainable and drought-proof water supply for some irrigation and industrial uses; and

WHEREAS, the current Ten-Year Capital Improvement Program includes \$19,330,000 for the Recycled Water Storage and Distribution System Project; and

WHEREAS, the total capital cost for planning, design, and construction of the Recycled Water Storage and Distribution System Project is estimated at \$27,811,000; and

WHEREAS, the current total project cost estimate exceeds the amount originally budgeted in the Capital Improvement Program by \$8,481,000 due to refinements in the project design and escalating labor and material costs; and

WHEREAS, sufficient funds are available in the Capital Improvement Program Sewer Improvement Fund.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that additional funds be appropriated in the amount of \$8,481,000, from the Capital Improvement Program Sewer Improvement Fund, to increase the budgeted amount for the Recycled Water Storage and Distribution System Project, Project No. 07507, from \$19,330,000 to \$27,811,000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

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

BID SUMMARY

**CITY OF HAYWARD
UTILITIES & ENVIRONMENTAL SERVICES DEPARTMENT
CONSTRUCTION OF: RECYCLED WATER PUMP STATION & STORAGE TANK**

PROJECT NO.: 07507

COUNCIL RESO DATE: 12/12/2017

BID ADVERTISE DATE: 12/13/2017

BID OPENING DATE: 02/15/2018

NO. BIDS RECEIVED: SIX (6)

NO. ADDENDA: THREE (3)

Name: Myers and Sons Construction, LP	Mountain Cascade	Western Water Constructors, Inc.	TNT Industrial Contractors, Inc.	Monterey Mechanical Co.	JMB Construction, Inc.
Mail Add.: 4600 Northgate Blvd.	555 Exchange Ct.	707 Aviation Blvd.	3600 51st Ave.	8275 San Leandro St.	132 South Maple Ave.
Ste., #, etc.: Suite 100					
City, State, ZIP: Sacramento, CA 95834	Livermore, CA 94550	Santa Rosa, CA 95403	Sacramento, CA 95823	Oakland, CA 94621	San Francisco, CA 94124
Phone: (916) 283-9950	(925) 373-8370	(707) 540-9640	(916) 395-8400	(510) 632-3173	(650) 267-5300
Fax: (916) 614-9520	(925) 373-0940	(707) 540-9641	(916) 395-8429	(510) 632-0732	(650) 267-5301

BID ITEMS				ENGINEER'S ESTIMATE		BIDDER #1		BIDDER #2		BIDDER #3		BIDDER #4		BIDDER #5		BIDDER #6	
ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	MOBILIZATION/DEMOLITION	1	LS	\$173,000	\$173,000	\$170,000	\$170,000	\$230,000	\$230,000	\$312,570	\$312,570	\$234,354	\$234,354	\$300,000	\$300,000	\$180,000	\$180,000
2	WORKER PROTECTION AND SAFETY/SHORING	1	LS	\$50,000	\$50,000	\$30,000	\$30,000	\$50,000	\$50,000	\$32,345	\$32,345	\$27,270	\$27,270	\$50,000	\$50,000	\$120,000	\$120,000
3	RECYCLED WATER FACILITY SYSTEM	1	LS	\$3,763,000	\$3,763,000	\$3,843,000	\$3,843,000	\$4,222,425	\$4,222,425	\$4,206,866	\$4,206,866	\$4,367,351	\$4,367,351	\$4,730,000	\$4,730,000	\$4,765,800	\$4,765,800
4	BIOFILTER MODIFICATIONS	1	LS	\$250,000	\$250,000	\$400,000	\$400,000	\$250,000	\$250,000	\$308,233	\$308,233	\$400,673	\$400,673	\$450,000	\$450,000	\$680,000	\$680,000.0
5	BIOFILTER MEDIA	1	LS	\$21,000	\$21,000	\$100,000	\$100,000	\$80,000	\$80,000	\$349,547	\$349,547	\$235,767	\$235,767	\$250,000	\$250,000	\$180,000	\$180,000
TOTALS:				\$4,257,000.00		\$4,543,000.00		\$4,832,425.00		\$5,209,561.00		\$5,265,415.00		\$5,780,000.00		\$5,925,800.00	

BID SUMMARY

ATTACHMENT VIII

UTILITIES & ENVIRONMENTAL SERVICES DEPARTMENT
 CITY OF HAYWARD'S RECYLED WATER DISTRIBUTION SYSTEM
 WINTON AVENUE TO EDEN PARK PLACE, PROJECT NO. 07507
 COUNCIL RESO DATE: 12/12/17
 BID ADVERTISE DATE: 12/13/17
 BID OPENING DATE: 02/15/2018
 NO. BIDS RECEIVED: SIX (6)
 NO. ADDENDA: FOUR (4)

ITEM	DESCRIPTION	BID SCHEDULE		ENGINEER'S ESTIMATE		MOUNTAIN CASCADE		RANGER PIPELINE		JMB CONSTRUCTION		CRATUS, INC.		GARNEY CONSTRUCTION		PRESTON PIPELINE	
		QTY	UNIT	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
1	Mobilization/Demobilization (5%)	1	LS	\$ 662,000	\$ 662,000	\$ 635,000.00	\$ 635,000.00	\$ 725,000.00	\$ 725,000.00	\$ 600,000.00	\$ 600,000.00	\$ 500,000.00	\$ 500,000.00	\$ 835,000.00	\$ 835,000.00	\$ 511,328.50	\$ 511,328.50
2	Worker Protection and Safety/Shoring	1	LS	\$ 125,000	\$ 125,000	\$ 250,000.00	\$ 250,000.00	\$ 240,000.00	\$ 240,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 300,000.00	\$ 150,000.00	\$ 150,000.00
3	Traffic Control	1	LS	\$ 250,000	\$ 250,000	\$ 800,000.00	\$ 800,000.00	\$ 140,000.00	\$ 140,000.00	\$ 750,000.00	\$ 750,000.00	\$ 200,000.00	\$ 200,000.00	\$ 873,000.00	\$ 873,000.00	\$ 600,000.00	\$ 600,000.00
4	Dewatering	1	LS	\$ 425,000	\$ 425,000	\$ 200,000.00	\$ 200,000.00	\$ 50,000.00	\$ 50,000.00	\$ 110,000.00	\$ 110,000.00	\$ 50,000.00	\$ 50,000.00	\$ 150,000.00	\$ 150,000.00	\$ 250,000.00	\$ 250,000.00
5	Install 6" PVC Recycled Water Main by Open Cut	7,846	LF	\$ 152	\$ 1,192,592	\$ 209.00	\$ 1,639,814.00	\$ 245.00	\$ 1,922,270.00	\$ 210.00	\$ 1,647,660.00	\$ 272.50	\$ 2,138,035.00	\$ 241.00	\$ 1,890,886.00	\$ 260.00	\$ 2,039,960.00
6	Install 8" PVC Recycled Water Main by Open Cut	19,342	LF	\$ 203	\$ 3,926,426	\$ 207.00	\$ 4,003,794.00	\$ 250.00	\$ 4,835,500.00	\$ 205.00	\$ 3,965,110.00	\$ 291.50	\$ 5,638,193.00	\$ 260.00	\$ 5,028,920.00	\$ 275.00	\$ 5,319,050.00
7	Install 12" PVC Recycled Water Main by Open Cut	13,311	LF	\$ 305	\$ 4,059,855	\$ 243.00	\$ 3,234,573.00	\$ 350.00	\$ 4,658,850.00	\$ 290.00	\$ 3,860,190.00	\$ 332.50	\$ 4,425,907.50	\$ 272.00	\$ 3,620,592.00	\$ 330.00	\$ 4,392,630.00
8	Additional depth adjustment for installing Recycled Water Main between 2 feet and 4 feet deeper than depth shown on drawings, as approved by the Construction Manager	2,000	LF	\$ 40	\$ 80,000	\$ 41.00	\$ 82,000.00	\$ 15.00	\$ 30,000.00	\$ 30.00	\$ 60,000.00	\$ 15.00	\$ 30,000.00	\$ 50.00	\$ 100,000.00	\$ 40.00	\$ 80,000.00
9	Install 6" Gate Valve and Box	11	EA	\$ 1,500	\$ 16,500	\$ 2,800.00	\$ 30,800.00	\$ 1,400.00	\$ 15,400.00	\$ 2,200.00	\$ 24,200.00	\$ 2,000.00	\$ 22,000.00	\$ 1,500.00	\$ 16,500.00	\$ 2,500.00	\$ 27,500.00
10	Install 8" Gate Valve and Box	35	EA	\$ 2,000	\$ 70,000	\$ 3,100.00	\$ 108,500.00	\$ 1,800.00	\$ 63,000.00	\$ 2,600.00	\$ 91,000.00	\$ 3,500.00	\$ 122,500.00	\$ 2,000.00	\$ 70,000.00	\$ 3,000.00	\$ 105,000.00
11	Install 12" Gate Valve and Box	25	EA	\$ 3,500	\$ 87,500	\$ 4,100.00	\$ 102,500.00	\$ 3,000.00	\$ 75,000.00	\$ 3,500.00	\$ 87,500.00	\$ 5,000.00	\$ 125,000.00	\$ 3,000.00	\$ 75,000.00	\$ 4,000.00	\$ 100,000.00
12	Construct Recycled Water Fire Hydrant Assembly	16	EA	\$ 8,000	\$ 128,000	\$ 17,400.00	\$ 278,400.00	\$ 13,500.00	\$ 216,000.00	\$ 17,500.00	\$ 280,000.00	\$ 15,000.00	\$ 240,000.00	\$ 18,000.00	\$ 288,000.00	\$ 15,000.00	\$ 240,000.00
13	Install 1" Air & Vacuum Valve Assembly	34	EA	\$ 2,000	\$ 68,000	\$ 9,000.00	\$ 306,000.00	\$ 4,000.00	\$ 136,000.00	\$ 8,500.00	\$ 289,000.00	\$ 5,000.00	\$ 170,000.00	\$ 10,000.00	\$ 340,000.00	\$ 12,000.00	\$ 408,000.00
14	Install 2" Air & Vacuum Valve Assembly	23	EA	\$ 2,500	\$ 57,500	\$ 12,000.00	\$ 276,000.00	\$ 4,500.00	\$ 103,500.00	\$ 11,700.00	\$ 269,100.00	\$ 6,000.00	\$ 138,000.00	\$ 12,000.00	\$ 276,000.00	\$ 15,000.00	\$ 345,000.00
15	Install 1-1/2" Recycled Water Service	17	EA	\$ 2,000	\$ 34,000	\$ 11,000.00	\$ 187,000.00	\$ 5,000.00	\$ 85,000.00	\$ 9,000.00	\$ 153,000.00	\$ 5,000.00	\$ 85,000.00	\$ 10,000.00	\$ 170,000.00	\$ 12,000.00	\$ 204,000.00
16	Install 2" Recycled Water Service	18	EA	\$ 2,500	\$ 45,000	\$ 10,900.00	\$ 196,200.00	\$ 5,200.00	\$ 93,600.00	\$ 8,850.00	\$ 159,300.00	\$ 6,000.00	\$ 108,000.00	\$ 11,000.00	\$ 198,000.00	\$ 13,000.00	\$ 234,000.00
17	Install 3" Recycled Water Service	2	EA	\$ 4,500	\$ 9,000	\$ 13,000.00	\$ 26,000.00	\$ 7,500.00	\$ 15,000.00	\$ 22,000.00	\$ 44,000.00	\$ 10,000.00	\$ 20,000.00	\$ 12,000.00	\$ 24,000.00	\$ 15,000.00	\$ 30,000.00
18	Install 4" Recycled Water Service	6	EA	\$ 5,000	\$ 30,000	\$ 14,000.00	\$ 84,000.00	\$ 9,500.00	\$ 57,000.00	\$ 22,800.00	\$ 136,800.00	\$ 12,000.00	\$ 72,000.00	\$ 15,000.00	\$ 90,000.00	\$ 20,000.00	\$ 120,000.00
19	Install Sampling Station	5	EA	\$ 4,000	\$ 20,000	\$ 13,700.00	\$ 68,500.00	\$ 8,500.00	\$ 42,500.00	\$ 9,500.00	\$ 47,500.00	\$ 5,000.00	\$ 25,000.00	\$ 12,000.00	\$ 60,000.00	\$ 14,000.00	\$ 70,000.00
20	12" Tie-in at Cabot Blvd & Depot Rd	1	LS	\$ 10,000	\$ 10,000	\$ 12,700.00	\$ 12,700.00	\$ 12,500.00	\$ 12,500.00	\$ 14,500.00	\$ 14,500.00	\$ 20,000.00	\$ 20,000.00	\$ 5,000.00	\$ 5,000.00	\$ 40,000.00	\$ 40,000.00
21	6" Tie-in at Enterprise Ave & Whitesell St	1	LS	\$ 5,000	\$ 5,000	\$ 8,000.00	\$ 8,000.00	\$ 7,500.00	\$ 7,500.00	\$ 8,000.00	\$ 8,000.00	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 20,000.00	\$ 20,000.00
22	6" Tie-in at Bay Center Pl & Whitesell St	1	LS	\$ 5,000	\$ 5,000	\$ 8,000.00	\$ 8,000.00	\$ 10,000.00	\$ 10,000.00	\$ 8,000.00	\$ 8,000.00	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 22,000.00	\$ 22,000.00
23	Construct Boring Pit	11	EA	\$ 25,000	\$ 275,000	\$ 28,000.00	\$ 308,000.00	\$ 50,000.00	\$ 550,000.00	\$ 55,000.00	\$ 605,000.00	\$ 60,000.00	\$ 660,000.00	\$ 70,000.00	\$ 770,000.00	\$ 50,000.00	\$ 550,000.00
24	Construct Receiving Pit	11	EA	\$ 10,000	\$ 110,000	\$ 15,000.00	\$ 165,000.00	\$ 30,000.00	\$ 330,000.00	\$ 17,000.00	\$ 187,000.00	\$ 30,000.00	\$ 330,000.00	\$ 40,000.00	\$ 440,000.00	\$ 22,500.00	\$ 247,500.00
25	Install 24" Steel Casing and PVC Carrier Pipe by Bore and Jack	80	LF	\$ 625	\$ 50,000	\$ 750.00	\$ 60,000.00	\$ 300.00	\$ 24,000.00	\$ 800.00	\$ 64,000.00	\$ 650.00	\$ 52,000.00	\$ 1,400.00	\$ 112,000.00	\$ 850.00	\$ 68,000.00
26	Install 24" Steel Casing and PVC Carrier Pipe by Pilot Tube Auger Boring	1,245	LF	\$ 750	\$ 933,750	\$ 550.00	\$ 684,750.00	\$ 555.00	\$ 690,975.00	\$ 850.00	\$ 1,058,250.00	\$ 550.00	\$ 684,750.00	\$ 1,200.00	\$ 1,494,000.00	\$ 850.00	\$ 1,058,250.00
27	Install Concrete Cap Above Recycled Water Main	265	LF	\$ 30	\$ 7,950	\$ 83.00	\$ 21,995.00	\$ 20.00	\$ 5,300.00	\$ 65.00	\$ 17,225.00	\$ 20.00	\$ 5,300.00	\$ 70.00	\$ 18,550.00	\$ 250.00	\$ 66,250.00
28	Micro-Surfacing Full Lane Width for Streets Under Pavement Moratorium	91,383	SF	\$ 2	\$ 137,075	\$ 0.50	\$ 45,691.50	\$ 0.50	\$ 45,691.50	\$ 0.50	\$ 45,691.50	\$ 0.65	\$ 59,398.95	\$ 1.00	\$ 91,383.00	\$ 0.50	\$ 45,691.50
29	Grind and 2" HMA Inlay Full Lane Width for Streets Under Pavement Moratorium	64,825	SF	\$ 6	\$ 388,950	\$ 2.00	\$ 129,650.00	\$ 1.37	\$ 88,810.25	\$ 2.50	\$ 162,062.50	\$ 2.76	\$ 178,917.00	\$ 2.20	\$ 142,615.00	\$ 3.20	\$ 207,440.00
30	Catholic Protection	1	LS	\$ 200,000	\$ 200,000	\$ 180,000.00	\$ 180,000.00	\$ 20,000.00	\$ 20,000.00	\$ 80,600.00	\$ 80,600.00	\$ 30,000.00	\$ 30,000.00	\$ 60,000.00	\$ 60,000.00	\$ 85,000.00	\$ 85,000.00
31	Restore Survey Monuments	12	EA	\$ 2,000	\$ 24,000	\$ 2,200.00	\$ 26,400.00	\$ 1,125.00	\$ 13,500.00	\$ 1,000.00	\$ 12,000.00	\$ 2,000.00	\$ 24,000.00	\$ 2,000.00	\$ 24,000.00	\$ 2,000.00	\$ 24,000.00
32	Adjustments to 6" Pipe Profile by Constructing Vertical Offsets Over or Under Unknown Utility Crossings, as approved by the Construction Manager	10	EA	\$ 3,000	\$ 30,000	\$ 6,100.00	\$ 61,000.00	\$ 988.00	\$ 9,880.00	\$ 3,500.00	\$ 35,000.00	\$ 2,500.00	\$ 25,000.00	\$ 5,000.00	\$ 50,000.00	\$ 5,500.00	\$ 55,000.00
33	Adjustments to 8" Pipe Profile by Constructing Vertical Offsets Over or Under Unknown Utility Crossings, as approved by the Construction Manager	10	EA	\$ 4,000	\$ 40,000	\$ 7,000.00	\$ 70,000.00	\$ 1,165.00	\$ 11,650.00	\$ 4,500.00	\$ 45,000.00	\$ 3,000.00	\$ 30,000.00	\$ 5,500.00	\$ 55,000.00	\$ 7,200.00	\$ 72,000.00
34	Adjustments to 12" Pipe Profile by Constructing Vertical Offsets Over or Under Unknown Utility Crossings, as approved by the Construction Manager	10	EA	\$ 5,000	\$ 50,000	\$ 8,500.00	\$ 85,000.00	\$ 2,645.00	\$ 26,450.00	\$ 7,500.00	\$ 75,000.00	\$ 3,500.00	\$ 35,000.00	\$ 7,000.00	\$ 70,000.00	\$ 12,500.00	\$ 125,000.00
35	Disposal of Contaminated Materials	200	TON	\$ 400	\$ 80,000	\$ 123.00	\$ 24,600.00	\$ 100.00	\$ 20,000.00	\$ 120.00	\$ 24,000.00	\$ 100.00	\$ 20,000.00	\$ 300.00	\$ 60,000.00	\$ 130.00	\$ 26,000.00
36	Cultural Resources	1	LS	\$ 160,000	\$ 160,000	\$ 150,000.00	\$ 150,000.00	\$ 35,000.00	\$ 35,000.00	\$ 150,000.00	\$ 150,000.00	\$ 100,000.00	\$ 100,000.00	\$ 300,000.00	\$ 300,000.00	\$ 187,500.00	\$ 187,500.00
37	Bypass Around Depot Rd Jacking Pit	1	LS	\$ 30,000	\$ 30,000	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 80,000.00	\$ 80,000.00	\$ 30,000.00	\$ 30,000.00	\$ 80,000.00	\$ 80,000.00	\$ 100,000.00	\$ 100,000.00
38	Place Class II AB at WPCF and Hesperian Pump Station Staging Area	770	TON	\$ 100	\$ 77,000	\$ 55.00	\$ 42,350.00	\$ 50.00	\$ 38,500.00	\$ 100.00	\$ 77,000.00	\$ 50.00	\$ 38,500.00	\$ 35.00	\$ 26,950.00	\$ 70.00	\$ 53,900.00
SUBTOTAL				\$ 13,900,098													
CONTINGENCY				10% \$ 1,390,010													
Bidding Environment Factor				10% \$ 1,390,010													
TOTAL (rounded)				\$ 16,680,000		\$ 14,642,217.50		\$ 15,493,376.75		\$ 15,622,689.00		\$ 16,762,501.45		\$ 18,215,396.00		\$ 18,280,000.00	



CITY OF HAYWARD

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

File #: PH 18-018

DATE: March 20, 2018

TO: Mayor and City Council

FROM: Finance Director

SUBJECT

FY 2018 Master Fee Schedule/Fine and Bail Schedule (Continued to March 27, 2018)



CITY OF HAYWARD

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

File #: LB 18-012

DATE: March 20, 2018

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adoption of a Resolution Authorizing the City Manager to Issue a Notice of Funding Availability for New Construction of Affordable Housing

RECOMMENDATION

That Council adopts a resolution (Attachment II) that authorizes the City Manager to issue a Notice of Funding Availability (NOFA) for new construction of affordable rental housing to identify affordable housing projects eligible for Alameda County Measure A1 funds and projects that advance the City's affordable housing priorities.

SUMMARY

The staff report identifies the criteria to be set-forth in the NOFA that will identify affordable rental housing projects eligible for Alameda County Measure A1 funds and projects that advance the City's affordable housing priorities. The purpose of the NOFA is to ensure that the award of local housing funds are: (1) based on the City's priorities; (2) made to affordable housing developers in an amount necessary to make the projects feasible; and (3) eligible for Alameda County Measure A1 bond funds, including Hayward's base allocation and the Mid County Regional Pool. Eligible activities under the NOFA will include new construction of rental, supportive, or transitional affordable housing. Projects must meet basic standards regarding developer experience, income targeting (20% of the units at 20% Area Median Income (AMI) per Measure A1 program requirements), site control, and other requirements. The NOFA also sets forth criteria by which projects will be scored and ranked, including project readiness, percentage of leveraged funds, location attributes, income targeting, targeting to households with special needs or who are homeless, developer experience, and project energy efficiency measures. Lastly, the NOFA discloses the City's financing guidelines, loan terms, applicable state and federal requirements, and other City requirements. After review and ranking of projects submitted under the NOFA, staff will return with funding recommendations for Council approval.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Developer Experience
Attachment IV	Alameda County Measure A1 Policies for Rental Housing
Attachment IV	NOFA Sample Scoring Sheet



DATE: March 20, 2018

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT Adoption of a Resolution Authorizing the City Manager to Issue a Notice of Funding Availability (NOFA) for New Construction of Affordable Rental Housing

RECOMMENDATION

That Council adopts a resolution (Attachment II) that authorizes the City Manager to issue a Notice of Funding Availability (NOFA) for new construction of affordable rental housing to identify affordable housing projects eligible for Alameda County Measure A1 funds and projects that advance the City's affordable housing priorities.

SUMMARY

The staff report identifies the criteria to be set-forth in the NOFA that will identify affordable rental housing projects eligible for Alameda County Measure A1 funds and projects that advance the City's affordable housing priorities. The purpose of the NOFA is to ensure that the award of local housing funds are: (1) based on the City's priorities; (2) made to affordable housing developers in an amount necessary to make the projects feasible; and (3) eligible for Alameda County Measure A1 bond funds, including Hayward's base allocation and the Mid County Regional Pool. Eligible activities under the NOFA will include new construction of rental, supportive, or transitional affordable housing. Projects must meet basic standards regarding developer experience, income targeting (20% of the units at 20% Area Median Income (AMI) per Measure A1 program requirements), site control, and other requirements. The NOFA also sets forth criteria by which projects will be scored and ranked, including project readiness, percentage of leveraged funds, location attributes, income targeting, targeting to households with special needs or who are homeless, developer experience, and project energy efficiency measures. Lastly, the NOFA discloses the City's financing guidelines, loan terms, applicable state and federal requirements, and other City requirements. After review and ranking of projects submitted under the NOFA, staff will return with funding recommendations for Council approval.

BACKGROUND

On January 31, 2017, the City Council convened a work session to review housing affordability strategies and resources in Hayward and Alameda County. Council explored four major areas in depth and directed staff to pursue five specific strategies for further Council review and potential implementation. One of these strategies included the issuance of a NOFA for affordable rental housing development projects.

On December 12, 2017, after the Alameda County Board of Supervisors approved the rental housing development policies, Council held a work session to provide preliminary direction on the NOFA for affordable housing projects. The following criteria were discussed and recommended by Council:

- Project readiness;
- Leverage A1 and the City's funding with other sources of funding;
- Location attributes, which include proximity to major transit stops or other area amenities that will benefit the population served by the development;
- Serve the City's Housing Element-identified target populations (including households with special needs, seniors, persons with disabilities, single-parents, large families, and the homeless) and A1-identified populations, which, in addition to the City's priorities, include veterans, emancipated youth, and re-entry individuals;
- Income targeting to meet or exceed the A1-required units affordable to extremely low-income households 20% at 20% Area Median Income (AMI); and
- Additional Council priorities
 - Sustainability
 - Cost control
 - Innovative or unique projects

DISCUSSION

The affordable housing NOFA is a tool that allows the City to fund projects that are aligned with the City's housing priorities and discloses to developers the City's funding requirements. The NOFA identifies eligible activities, threshold criteria, scoring criteria, financing guidelines, loan terms, funding source requirements, and other City requirements.

Eligible Activities

Eligible activities under this NOFA would include new construction of rental, supportive, or transitional affordable housing. Homeownership projects have been excluded as an eligible activity because homeownership projects will not require matching funds from the local jurisdictions to be eligible for Alameda County Measure A1 funds. Homeownership projects can apply directly to Alameda County for Measure A1 funding.

Threshold Criteria

Threshold criteria establish required project and developer attributes. Threshold criteria will include:

- Meeting developer experience as described in Attachment III;
- Conformance with Alameda County's Measure A1 policies for rental housing development per Attachment IV;
- Serving extremely low-income households to the extent that ensures the City's compliance with Measure A1 funding requirements (at least 20% of the affordable units must have rents plus utility allowance of no more than 30% of 20% AMI);
- Restricting a minimum of 30% of the units as affordable units to exceed affordable housing ordinance requirements;
- Projects with 10 units or more;
- Maximum City loan amount equal to the greater of the cost of planning and permit fees or 10% of total development costs of the affordable units;
- Maximum A1 funding loan amount per Attachment III including compliance with per unit subsidy limits;
- Site control;
- Holding a minimum of one community meeting to provide the community an opportunity to provide feedback on the proposed project; and
- Inclusion of documents necessary to determine project feasibility, for example, preliminary title report, environmental site assessment(s), project budgets and proforma, appraisal, evidence of demand or market study, development schedule, and preliminary sketches.

Scoring Criteria

Scoring criteria evaluate to which degree the project meets the City's established housing priorities. Higher scoring projects which incorporate more of the City's priorities, will be advanced in the development process. Scoring also allows the City to establish a list of the types of project attributes that will serve the needs of the community and allows the City to include priorities that are mutually exclusive, such as targeting housing for emancipated youth, and targeting housing for large families. Based on the criteria discussed at the December 12, 2017 work session, the following scoring criteria are recommended:

- **Readiness:** Readiness evaluates the degree to which the project has advanced through the discretionary public land use approval process, the degree to which it has obtained financing commitments from outside sources, and the degree to which it has secured partnerships with service providers.
- **Leveraging:** Leveraging evaluates the degree to which outside funding will be pursued. Projects that have identified sufficient funding to reduce the City's contribution to the project to the minimum required match under Measure A1 policies for rental housing will receive additional points.

- **Location:** Location evaluates the project's proximity to and availability of service amenities to future residents of the projects. These service amenities include proximity to public transportation and grocery stores.
- **Target Population and Project Attributes:** Target population and project attributes will evaluate the degree to which the project exceeds the minimum required number of extremely low-income units. These units are necessary to serve vulnerable target populations identified in the Housing Element. Additionally, projects will be evaluated on the degree to which the developer designates units and provides services for people with special needs and for permanent supportive housing units for the homeless. Lastly, projects will be evaluated on the degree to which they provide housing with two or more bedrooms to encourage the development of housing for large families.
- **Developer Experience and Capacity:** Developer experience and capacity will evaluate the degree to which a developer exceeds established threshold criteria and will evaluate the financial strength of the organization.
- **Sustainability:** The sustainability criteria will encourage projects to exceed the current green building and energy codes.
- **Innovation:** The innovation criteria will encourage projects to incorporate project attributes or services that are not typical in affordable housing developments. Developers will have to identify elements that make their project unique and innovative.

Attachment V provides a sample score sheet. The high number of points under the readiness category prioritizes projects that score well under the readiness category which means the City will advance projects that are closer to start of construction.

Project Costs and Comparative Analysis

In 2014, the California Department of Housing and Community Development (HCD) released the California Affordable Housing Cost Study. The report concluded that there were multiple factors on the state, local, and developer level that could influence cost yet cautioned that implementing some cost saving measures can have trade-offs. For example, on the development level, building to lower quality and building standards on the front end will increase maintenance and repair costs on the back end, making affordable housing more expensive to maintain in the long run.

Most affordable housing projects receive funding from a variety of sources, including local government, state government, private financing, and private investors. Each entity that contributes to the project will have its associated fees and costs that it recovers from the project. Additionally, local development requirements such as state or federal wage

requirements, project labor agreements, local hire requirements, and apprenticeship requirements increase construction costs. Per the Measure A1 Rental Housing Development Fund Policies, projects will be subject to federal or state prevailing wage laws, local employment requirements, contracting with local businesses requirements, and if the project has 80 units or more, project labor agreements. These requirements will provide additional community benefit but also increase project costs. Additionally, private lenders may require capitalized reserves for projects that target vulnerable populations to mitigate risk of default.

Because of the factors unique to affordable housing development, comparative analysis amongst NOFA applicants of both the project's development budget and operating budget, will be conducted to identify unusually high costs. Projects with costs above 15 percent of the median development cost per unit, per bedroom, or per square foot for similar projects, must provide additional justification for the cost.

Loan Terms

Loans will be provided at a simple interest rate of three percent per annum, for a term of 55 years. Payments of interest and principal will be due from excess cash flow from operations after payment of operating costs, senior debt, reserves, and deferred developer fees. To the extent payments cannot be made, they will be deferred for the term of the loan. All loans are due on sale, refinancing, transfer (except to a related entity, such as a limited partnership, subject to City approval) or at the end of the 55-year term.

City loans will be evidenced by a promissory note secured by a deed of trust on the project. A loan agreement will specify all development obligations. Post-occupancy use restrictions will be enforced through a regulatory agreement recorded against the project, including both the land and the improvements. The minimum term for affordability restrictions is 55 years.

ECONOMIC IMPACT

Developers will leverage the City's investment in their project to secure funding from the County, the State, and private sources. Based on the proposed NOFA criteria, developers will have to secure 90% of their total development costs from outside sources, securing a \$9 investment for every dollar invested by the City.

Additionally, social research indicates that access to affordable housing can improve education outcomes, increase health and wellbeing, boost economic activity, and lower the costs for state and local governments to provide emergency housing, mental health crisis services, emergency medical care, and other services to assist the homeless or families and individuals with a housing crisis. The projects described in this report that may potentially be funded with A1 and the local sources of funding will help the City achieve these and other socio-economic benefits. The specific project benefits will be further described when the proposals are presented to Council as funding for any project must be reviewed and approved by Council.

FISCAL IMPACT

There is no fiscal impact associated with this item. At this time, staff is only requesting authority to issue the NOFA.

This NOFA will identify projects that are both eligible for the City's affordable housing funds and Alameda County A1 funds. Staff will return to Council with recommendations to award City affordable housing funds to top ranking projects identified through the NOFA, making them eligible for Alameda County A1 funds. Concurrently, staff will return to Council for approval of projects to receive Alameda County A1 funds from the City's base allocation. Once the City has committed local matching funds and identified projects for the City's base allocation, each project will have to apply to the County to receive funding from the base allocation. However, this process is non-competitive, and projects will only be reviewed for compliance with the County's policies.

Through the NOFA, projects will be encouraged to leverage other affordable housing funds reducing the need for City affordable housing funds and enabling the City to fund more projects that can compete for the Alameda County Measure A1 regional pool. Projects that request only the minimum required matching funds from the City will be awarded additional points; however, because project feasibility is also a concern, each project can request up to 10 percent of the total development costs from City affordable housing funds. Depending on the other financing involved in the project, the developer can request between 30 percent and 40 percent of the total development costs from the County subject to a per unit subsidy limit. Between the City and the County, projects can request up to 40 to 50 percent of the total development costs.

Based on the projects identified in the December 12, 2017 work session, projects in the pipeline will need subsidies from the City's affordable housing funds and Alameda County Measure A1 funds ranging from 28% to 47% of the total development costs. The total gap exceeds \$60 million. Staff is also aware of at least one other project that would attempt to apply for funds under the City's NOFA but the required subsidy is unknown at this time. To bridge this gap, the City will have to utilize its affordable housing money to leverage not only the City's base allocation but also the regional pool funds. Based on project readiness and application deadlines for other funding sources, staff will also provide Council with funding option scenarios that consider either approving projects for funding from the City's base allocation or propose that the projects compete for regional pool funds.

STRATEGIC INITIATIVES

The identification of potential projects for Measure A1 funding 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. This item supports the following goal and objectives:

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Objective 1: Centralize and expand housing services.

Objective 2: Facilitate the development of diverse housing types that serve the needs of all populations.

Objective 4: Increase the supply of affordable, safe and resilient housing in Hayward.

SUSTAINABILITY FEATURES

Projects that exceed the current green building and energy codes will receive points under the NOFA scoring system which will promote exceeding local codes. To qualify for points, projects must analyze the ways the project exceeds current standards.

PUBLIC CONTACT

Under the NOFA, developers will be required to provide a community outreach plan and hold at least one community meeting to provide the community an opportunity to provide feedback on the proposed project. Housing proposals often encounter concerns and opposition. Under the NOFA, applicants need to host a forum for community engagement, draft a plan for addressing concerns that may be identified, and document community support.

NEXT STEPS

Staff is compiling a distribution list of affordable housing developers, affordable housing advocates and market rate developers to notify regarding the release of the NOFA. Any interested party is encouraged to contact the Housing Division to be added to the distribution lists. Organizations will be notified by mail and by email with instructions on how to obtain a copy of the NOFA, application forms, and information regarding the bidder's conference. The NOFA and applications forms will be made available online.

The timeline for the NOFA is dependent on the deadline for submission of applications for Alameda County Measure A1 Mid County Regional Pool Request for Proposal (RFP). It is anticipated that the County's RFP will be issued in the summer of 2018.

The following is a tentative timeline for the NOFA:

Release NOFA	April 15, 2018
Deadline for submission	May 31, 2018
Complete project review and ranking	June 30, 2018
Return to Council for funding approvals	July 24, 2018

The proposed timeline is subject to change based on the submission deadline for Alameda County Measure A1 Mid County Regional Pool Request for Proposals. If the submission deadline is later in the summer, then additional time will be provided to project proponents for application preparation and for application review.

Prepared by: Christina Morales, Housing Division Manager

Recommended by: María A. Hurtado, Assistant City Manager

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written above a horizontal line.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE A NOTICE OF FUNDING AVAILABILITY FOR NEW CONSTRUCTION OF AFFORDABLE RENTAL HOUSING

WHEREAS, the County of Alameda has made funds from the Alameda County General Obligation Bond for Housing (Measure A1) available from the base allocation of such funds set aside for projects in Hayward for affordable rental housing; and

WHEREAS, the City's Housing Element establish the goals of assisting in the development of affordable housing to low and moderate-income households, promoting equal housing opportunities for all persons, and providing for special housing needs of seniors, persons with disabilities, large families with children, single female headed households, and the homeless; and

WHEREAS, the Notice of Funding Availability for New Construction of Affordable Housing establish criteria that will prioritize projects that meet the requirements for Measure A1 funding and advance the City's priorities; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager or her designee to issue a Notice of Funding Availability for new construction of affordable rental housing.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

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

Minimum Developer Qualifications

DEVELOPER QUALIFICATIONS

The following set of developer criteria apply to the development entity that has applied for funding. All development entities applying for funding must meet the experience requirements below. A developer which does not meet the criteria for experience may joint-venture with a developer which does. Joint-venture criteria are outlined below in Section III.

I. NONPROFIT DEVELOPERS

Development Experience. The development entity applying for funding must have experience successfully completing at least three affordable housing development projects. At least one of the completed projects must be similar to the project for which funding is being sought. Developers must submit the following information concerning completed projects.

1. The type of project developed (Number of units, funding sources, total development cost, new construction or rehabilitation).
2. Location of project.
3. Date of project start and completion.
4. List of staff members involved in the development of the project.
5. The income level of the households that were served.
6. Name, title, and telephone number of staff member of local governing body most familiar with the project.
7. Whether project was on time and on budget (relative to schedule and budget at start of construction)

II. FOR-PROFIT DEVELOPERS

In general, the experience of a for-profit developer will be treated similarly to the experience of a nonprofit developer. For-profit developers must also submit the resumes of the firm's principals.

III. JOINT-VENTURES

- A. Prior to funding approval, the City must review and approve all joint-venture agreements. In all joint-ventures, a majority interest and control must be held by the development entity meeting the City's requirements for experience as described in Sections I & II above.
- B. If the joint-venture entity is composed of a for-profit developer and a nonprofit developer, the City will decide which criteria are applicable by determining which joint venture partner has the majority interest in the management and operation of the joint venture

In special circumstances only, the City may approve joint-venture agreements in which the development entity meeting the City experience requirements does not hold a majority interest in the development, but holds control over key development and management decisions.

IV. LIMITED PARTNERSHIPS

For projects proposed as limited partnerships, the City reserves the right to approve the limited partnership agreement.

DEVELOPMENT TEAM QUALIFICATIONS

The following section addresses the required elements of the development team. Resumes must be included for each development team member to document their qualifications and experience.

I. REQUIRED EXPERIENCE OF THE DEVELOPMENT TEAM

A. Developer Project Management: Experience with 3 similar projects is required.

1. Demonstrate experience with at least 3 projects similar to the project proposed.
2. Demonstrate that the lead staff person assigned has completed one project from start to finish, which should be of the same general type and complexity as the project being proposed.
3. Submit resumes and job descriptions of key staff.

B. Architect: Experience with 3 similar projects is required.

1. Demonstrate experience with at least 3 projects similar to the project proposed.
2. Demonstrate experience with a project that was financed by similar types of funding sources (e.g. local, state or federal). Experience in this area is desirable, not mandatory.
3. Demonstrate experience with similar construction types, e.g. steel or wood frame, podium construction.
4. If this project is unusually complex, demonstrate experience with a project of similar complexity.
5. Demonstrate that the lead staff person assigned to the project has the required experience.
6. Submit resumes and job descriptions of key staff.

C. Attorney: If the developer uses different law firms for different aspects of the projects, then key staff for the assignment should have experience in the relevant area.

1. Demonstrate experience in housing law.
2. Demonstrate experience in corporation law (nonprofit corporate law desirable, if a nonprofit developer is involved).
3. Demonstrate experience in real estate law.
4. Demonstrate experience in low income housing tax credit syndication (if the project is proposed to be syndicated).
5. Submit resumes and job descriptions of key staff.

D. Development and/or Financial Consultant: Experience with 3 similar projects required. A development consultant is not required if the developer and development team possess sufficient experience.

1. Demonstrate experience with a project that was financed by similar types of funding sources (e.g. local, state or federal). Experience in this area is mandatory.
2. If this project is unusually complex, please demonstrate experience with a project of similar complexity. Please show that the lead staff person assigned has completed one project from start to finish, which should be of the same general type and complexity as the project being proposed.
3. Submit resumes and job descriptions of key staff.

E. General Contractor: Experience with 3 similar projects required. Designation of a general contractor is not required with the NOFA application submission. Upon designation of a general contractor, the following information must be submitted as part of the City approval process.

1. Demonstrate experience with similar construction types, e.g. steel or wood frame, podium construction.
2. If this project is unusually complex, demonstrate experience with a project of similar complexity.
3. Demonstrate experience with prevailing wage/Davis-Bacon requirements. Experience in this area is desirable. If contractor has been involved with a previous project partially financed by the City, previous performance will be considered.
4. Demonstrate experience with local hiring programs. Experience in this area is desirable. If contractor has acted on a previous project partially financed by the City, previous performance will be considered.
5. Demonstrate that the contractor has the capacity to take on the project.
6. Demonstrate that the on-site construction supervisor has the experience required of the contractor.

7. Submit resumes and job descriptions of key staff including the on-site manager.
8. Submit evidence that the contractor has the ability to obtain the required labor and materials, and performance bonds in an amount equal to one hundred percent (100%) of the construction contract amount.

F. Property Manager

1. Submit evidence of experience with 3 similar projects.
2. Submit list of all projects managed within the past five years and show the current status.
3. Submit evidence of experience with the management of projects that are subject to rent and occupancy restrictions.
4. If the proposed project is unusually complex, please demonstrate experience with a project of similar complexity.
5. Demonstrate that the lead staff person assigned has the same management experience that is required of the manager.
6. Provide evidence that the management company has the capacity to take on the project.
7. Submit resumes and job descriptions of key staff.

G. Developer as Builder

If the developer desires to act as the builder, all the requirements that have been listed under "E. Contractor" must be met by the developer.

H. Developer as Property Manager

If the developer desires to act as the property manager, all the requirements that have been listed under "F. Property Manager" must be met by the developer.



Measure A1 Implementation Policies

Rental Housing Development Fund & Innovation and Opportunity Fund

Adopted on November 7, 2017

On June 28, 2016, the Alameda County Board of Supervisors placed Measure A1 on the November ballot for \$580 million in general obligation bonds designated for affordable housing, and adopted a program summary outlining basic parameters of programs to be funded. The residents of Alameda County voted to support the Measure A1 Bond by 73% in favor on November 8, 2016. Alameda County's Housing and Community Development Department (HCD) is implementing the programs under the Bond.

Of the Bond's five programs, two are intended to increase the affordable rental housing inventory in Alameda County. Implementation-level policies have been developed within the framework of the program parameters approved by the Board in June 2016 to guide the use of the funds allocated to the Rental Housing Programs.

Adopted Program Summary Framework

When the Alameda County Board of Supervisors placed Measure A1 on the ballot, they adopted a program summary that framed each of the programs to be funded by the Bond.

- To create and preserve affordable rental housing for the County's most vulnerable current and displaced households, including low-income workforce households.
- The rental housing allocation includes funding for a Rental Housing Development Fund as well as for a Rental Housing Innovation and Opportunity Fund.
 - a. The Rental Housing Development Funds will be distributed throughout the county by formula in two different ways: Creation of four regional pools (North/Mid/South/East) and "Base City Allocations" for financing projects in each jurisdiction.
 - b. The Rental Housing Innovation and Opportunity Fund will be available countywide with no geographic distribution by formula.

The adopted Program Summary provides the overarching framework for these programs. These implementation policies, once adopted by the Board, will provide more detail for how the programs will operate while still providing flexibility to implement the programs. In addition, HCD will continue to use its existing Administrative Loan Terms (see Exhibit A) and detailed Housing Development Policies and Procedures, as applicable to Bond programs (see <http://www.acgov.org/cda/hcd/rhd/requirements.htm>) for specific project requirements. Measure A1 policies for the **Rental Housing Development Fund** and the **Innovation and Opportunity**

Fund that are different or more restrictive than the administrative policies and procedures listed above are outlined under Sections I and II below. Projects that received early commitments of Measure A1 Base City Allocation financing in Spring 2017 will not be subject to new or conflicting provisions in these policies. However, those projects will be subject to any Measure A1 Bond or other legal requirements as determined necessary by Bond Counsel.

It is anticipated that some of these initial Implementation Policies will evolve over time. HCD will track and report on implementation on an annual basis, including recommendations for modifications to policies to ensure achievement of Measure A1 goals or for legal compliance.

Note that for the purposes of these policies, unless explicitly stated otherwise, use of the term “city” shall include the Unincorporated County. For example, the Unincorporated County has an allocation as a city under the Base City Allocations of Rental Housing Development Program funding.

RENTAL HOUSING DEVELOPMENT FUND POLICIES

Measure A1 Specific Policies for Rental Housing Development Fund – Applies to Both Base City Allocations and Regional Pools

I. Income Levels

- A. The majority of the housing units are expected to serve very low-income households with incomes between 30% and 60% of Area Median Income (AMI).
- B. A portion of the funds may be allowed to subsidize units for households at or below 80% of AMI to create affordable housing for a mix of lower-income levels within developments.
- C. At least 20% of the units funded by this program will have an income cap at and serve extremely low-income households at or below 20% of AMI.
- D. The maximum amount of funding allowed to be spent on units at 80% of AMI is 5% of each funding Base City Allocation and each Regional Pool.
- E. Each city must restrict at least 20% of the units financed by its base city allocation to 20% of AMI and at least 20% of the units financed by each regional pool must be restricted at 20% AMI. HCD’s goal will be to meet this requirement with each funding allocation round of the Regional Pools.
- F. Any unit with a project-based voucher shall be counted towards meeting the 20% unit requirement, so long as the unit has a preference for households at 20% of AMI, even if the voucher specifies that it can serve households with incomes up to 50% of AMI.

Note: HCD will work to identify and coordinate with sources that can provide operating subsidies in coordination with capital funding provided by Measure A1. Measure A1 funds cannot pay for operating subsidies or services, capitalized operating reserves, services, or services reserves.

II. **Eligible Types of Projects:**

This component of the Bond program will assist in the creation and preservation of affordable rental housing for vulnerable populations; including:

- A. New construction
- B. Acquisition/rehabilitation
- C. Acquisition only
- D. Rehabilitation of existing affordable housing with extended affordability.
- E. Permanent Housing, with the exception of a portion of the Base City Allocation allowed to be spent on Emergency or Transitional Housing (see policies below specific to Base City Allocations).
- F. Projects must meet all Measure A1 Rental Housing Development Fund policies and requirements.
- G. **Project Size:** While it is anticipated that most projects will be multi-family projects of 5 or more units, scattered site single-family homes, accessory dwelling units (ADUs), properties zoned as commercial or industrial which will be legally converted to residential, small houses and shared housing may also be eligible, provided they are financially feasible, they meet all the Measure A1 Rental Housing Development Fund requirements, and they do not place an undue burden on the County to monitor for compliance.
- H. **Market Rate Housing:** Market rate housing is not eligible for Measure A1 funds.
 - 1. Measure A1 funds may not be used for development of units that are built to comply with local requirements such as density bonus, inclusionary zoning, or on site alternatives to payment of impact fees, unless the Measure A1 funding will result in units with a deeper level of affordability than otherwise required, with corresponding lower rents. These units will be part of a larger market rate development and physically integrated into that development.

2. Units that are built on land donated to satisfy local inclusionary requirements and are part of a stand-alone multi-family affordable project (such as a tax credit project or other project serving very low- and low-income households) would be eligible for Measure A1 funding as long as they meet all other requirements of the A1 program.

III. **Project Criteria:**

- A. **Affordability Term:** Projects must remain affordable for a minimum of 55 years.
- B. **Local Support & Contribution:** Proposed affordable developments must have the support of the city in which they are located, including a financial contribution. (See Match section below for more details.)
- C. **Target Population Priority:** Priorities for one or more of the following target populations, within the income limits described above:
 1. Homeless people, including individuals and families, chronically homeless people with disabilities and other homeless populations
 2. Seniors
 3. Veterans
 4. People with disabilities, including physical and developmental disabilities and mental illness
 5. Re-entry
 6. Transition-age youth aging out of foster care
 7. Lower-income workforce
- D. **Resident/Workforce Priority:** Alameda County residents and workforce will be given priority for these housing units.
- E. **Fair Housing:** The Board of Supervisors has adopted findings which support the need and public purposes of supporting the creation of affordable housing for the target populations and resident and workforce housing. To the extent possible and permissible under law, staff will implement restrictions and priorities for populations listed above using, where possible, regulatory agreements, marketing and rent up policies, and points in competitive funding selection processes for projects that include the target populations and resident and workforce goals.
 1. Alameda County HCD will track units dedicated to each of the target populations. Annually, the target populations of the projects funded and units produced will be reviewed and such review may impact priorities for future projects to ensure a spread of units serving these target populations.

2. Projects funded from the Base City Allocations must include units targeting one or more of the above target populations.
3. Applications for funding will require specificity regarding which target population(s) and income level(s) will be served.
4. Projects funded under Measure A1 must report on the number of tenant applicants denied/accepted for tenancy for households with a member with criminal convictions, along with the basis of denials. HCD may expand this policy at a later date as needed to serve target populations.
5. Sub-regional live/work goals: To prevent displacement and to encourage residential proximity to workplace, should a city wish to implement a sub-regional live/work preference policy for a portion of the units in a project, the city must meet certain criteria and be approved by the County. Criteria will include but not be limited to:
 - a) Completion of a study and making one or more findings which demonstrate city-level residential displacement is occurring and/or is at high risk of occurring and a need for a sub-regional live/work preference is needed to respond to or prevent displacement; and,
 - b) Enter into an agreement obligating the city to defend and indemnify the County against any claims or litigation that may arise from such a restriction.

F. Affirmative Fair Marketing Plans: HCD will require a Fair Marketing Plan for each project to ensure that the target populations, countywide and local resident and workforce populations will be aware of the housing opportunities to the greatest extent possible and that the leasing of the project units will be conducted in such a manner as to provide fair and equal access under the law.

1. Affirmative Fair Marketing/Rent-up Plans will be reviewed and evaluated by HCD.
2. All marketing efforts to include, at minimum, listing the unit openings with Eden I&R's 211 system, notifying parties on an HCD-established "Housing Opportunities" email list service, and broadly advertising to community- and faith-based organizations, service providers, all members of the Board of Supervisors, and others that register to receive such information.
3. The Marketing Plan must include notification to and active engagement with neighborhood-based organizations in the neighborhood in which the housing is or will be located.
4. All marketing and outreach materials must be provided in the core languages as specified in each city's Language Access Plan.

G. Selection Process:

1. Points in competitive project selection processes may be awarded to incentivize units for specific target populations, additional units for the target populations, and/or specific income levels, as well as for developers that have met or exceeded workforce goals in past projects and can demonstrate that achievement

2. Points in competitive selection processes will be awarded to incentivize partnerships with local and neighborhood nonprofit community and faith based organizations that contribute assets to the proposed development.

- H. **Tenant Screening:** To the greatest extent feasible, property owners and managers will use tenant screening tools that screen these vulnerable target populations into the projects rather than rejecting them for tenancy due to conditions associated with their target population status (such as homelessness, disability, re-entry, etc.). An example of a ‘screen in’ tenant screening tool is the Everyone Home tenant screening tool. Other examples or tools may be developed or authorized by the County. HCD will monitor and track the basis of rejections of applications for tenancy by target populations, such as homelessness and/or criminal justice involved households.
- I. **Immigration Status:** All Measure A1 Bond-financed projects shall comply with California law prohibiting landlords from requiring any tenant to state, certify, or represent immigration status to a landlord, unless required by applicable Federal law.
- J. **Application and Waitlist:** Should a unified core tenancy application or single wait list or point of entry be created for Bond-financed and/or other subsidized housing units in the county, all Bond-funded units will utilize and participate in that application, list or entry point.
- K. **Coordinated Entry:** Referrals to all Permanent Supportive Housing will be made through the homeless Coordinated Entry System.
- L. **Tenant Rights and Responsibilities:** All projects must provide to residents and post in a public location in each building funded with Bond proceeds a Tenant Rights and Responsibilities document (to be developed by HCD based on the HUD Tenants Rights and Responsibilities document).
- M. **Anti-Displacement:** To prevent displacement while allowing Measure A1 funds to be used for acquisition of existing rental housing, for an Acquisition project to be eligible at least 85% of the existing tenant households must be income eligible under Measure A1 requirements. The existing “over income” households (households whose incomes exceed Measure A1 limits) will be allowed to remain and the units will be eligible for Measure A1 financing, as needed for project feasibility. Rent for the over income household will be set based on 30% of actual income or market rate, whichever is less. Upon unit turnover, the “over income” unit must be filled by a Measure A1 income-qualified household. Alternatively, Measure A1 funds may be used to finance less than 100% of the units in a building, excluding all or some of the units occupied by existing “over income” tenants. For example, in a 50 unit building in which 25 of the households have incomes at or below Measure A1 limits (50% of units), Measure A1 funds might only be used to subsidize the 25 units. Alternatively, Measure A1 funds could subsidize 35 units, with the requirement that upon turnover the 10 over-income units be rented to

tenants who meet specified Measure A1 income limits.

- N. **Relocation:** Should a project need to temporarily relocate residents (for example to allow units to be rehabilitated), the existing low-income residents shall have the first right of refusal to return to their previous or comparable unit at comparable or lower rents after the rehabilitation of the project is complete. Relocation benefits must be provided, utilizing State of California standards.
- O. **Administrative Loan Terms:** All projects must meet the Alameda County Housing and Community Development Department Administrative Loan Terms and underwriting requirements, as modified by these adopted Measure A1 Implementation Policies. In situations where additional public funding requirements are more restrictive than Alameda County's requirements, the more restrictive requirements shall prevail. See Exhibit A for summary details or the HCD website for the full document.

IV. **Eligible Uses of the Funds**

Uses of funds will be flexible, within the parameters of eligibility for use of general obligation bond proceeds, which include costs associated with land acquisition and capital improvements, as defined by the Internal Revenue Service (IRS).

- A. **Predevelopment period costs:** Subject to securing a deed of trust and regulatory agreement, acquisition of real property and standard soft costs are eligible.
- B. **Construction period costs:** New construction and rehabilitation to preserve affordability are eligible.
- C. **Permanent Financing:** Take-out of construction financing is eligible so long as the uses paid with construction financing meet the Measure A1 requirements.
- D. **Acquisition Costs:** Acquisition of land and buildings are an eligible use of bond proceeds, including tax defaulted properties, provided that a project is developed in a reasonable period of time. "Reasonable" is defined as having a financing plan in place within two years from acquisition and starting construction within three years from acquisition. An extension of one additional year for commencement of construction may be granted by the Housing Director, as long as the project is making significant progress towards construction start.
- E. **Rehabilitation Standards:** For Acquisition/Rehabilitation or Rehabilitation only projects, after completion of rehabilitation the project must meet applicable codes of the jurisdiction in which it is located, as evidenced by signoff approval by the local code official.
- F. **Relocation Costs:** Temporary Relocation costs are an allowable project cost, as part of the normal costs of development, and may upon approval of the County (and County's

Bond Counsel), be an eligible cost for Measure A1 funding.

G. **Land Banking:** Long-term land banking will not be eligible for funding under the Rental Housing Development Fund program. Additional time may be granted to projects under section D above should a project not move ahead, and not be considered a “Land Banking” project.

H. **Operating & Services Costs:** General obligation bond proceeds may not be used to fund services or operations costs, including capitalized operating or services reserves.

V. **Amount of Measure A1 Investment per Project**

The goals associated with the Measure A1 investment into affordable housing projects are to produce the largest number of units possible and to maximize leverage of other funding sources. In addition, the County will select feasible projects which will compete well for state and federal funding opportunities. The County intends to fund projects at a level that ensures viability for the life of the regulatory period.

A. The Measure A1 Bond funds must fill a gap and not supplant other funding.

B. Subject to the availability of funds in an applicable Base City Allocation or any Regional Pool, the maximum amount of Measure A1 funds per project shall be based on a percentage of the Total Project Costs (TPC). The number of units restricted by Measure A1 funds will be calculated using the State of California HCD maximum loan subsidy limit in place at the time of application, except as modified under items 3-5 below:

1. For 9% Low Income Housing Tax Credit projects, a maximum of 30% of the TPC, and the State 9% subsidy limit per unit size (See Exhibit B) will be used to size the number of County restricted units, as determined by the Housing Director based on financial feasibility and as approved by the Board of Supervisors;
2. For 4% Low Income Housing Tax Credit projects, a maximum of 40% of the TPC, and the State’s non 9% subsidy limit per unit size (See Exhibit B) will be used to size the number of County restricted units, as determined by the Housing Director based on financial feasibility and as approved by the Board of Supervisors;
3. For small projects, defined as 20 units or less, or Special Needs projects (i.e. Extremely Low Income, Homeless, or Supportive Housing), up to an additional 10% increase in Bond fund subsidy may be allowed should the project demonstrate a financial need for additional funds to be feasible after other leveraged funds from other financing sources have been sought (i.e. from 30% of TPC to 40% of TPC in a 9% TCAC project or from 40% of TPC to 50% of TPC in a 4% TCAC project);
4. If a project is subject to a Project Labor Agreement (PLA) (see Section X below), or a project voluntarily opts into a PLA, up to an additional 5% increase to the Measure A1 loan limits may be allowed to cover additional costs associated with the Project Labor Agreement, should the project demonstrate the need for the

additional funds to be feasible. This policy will be evaluated on the same timeframe as the evaluation of the Measure A1 Project Labor Agreement policies and may be subsequently modified by the Board of Supervisors

5. Minor changes to these maximum amounts, associated with a small funding gap in a previously approved project, may be approved at the discretion of the Board of Supervisors.

C. The maximum Measure A1 subsidy levels are a combined total of any Base City Allocation and any Regional Pool funds in a project.

D. The maximum Measure A1 subsidy levels will be reviewed at least annually to determine if modifications are needed for Measure A1 funded projects to compete successfully for Low Income Housing Tax Credits or other competitive State or Federal funding.

VI. Match Requirements

A. **Match:** All projects funded by Measure A1 Bond proceeds must include match from the city in which the project is located.

B. **Eligible Type:** Match must have a determinable financial value, including, but not limited to, any combination of such things as:

1. Cash, including HOME, CDBG and other federal or State funds that flow through the jurisdiction and are funding sources on which the jurisdiction relies;
2. The value of land which has been donated or the value of a reduction in cost of land from market value;
3. Waived planning, building or impact fees;
4. Cash or land donated by developer as a result of a negotiated deal with the city or due to a city policy;
5. The additional loan amount leveraged by a local housing authority's commitment of project based vouchers (including, but not limited to, Section 8, Veterans Administration Supportive Housing, and Local programs).

C. **Ineligible Type:** The following are not eligible sources of match:

1. City staff or consultant time;
2. Use of Base City Allocation.

D. **Commitment:**

1. The formal Match Commitment must occur in advance of construction loan closing, but the city will be allowed to administratively determine the amount of proposed match at the time of application in order for a project to qualify for Measure A1 funding.
2. A City Council-approved "future commitment" of match funds not yet available (e.g., inclusionary housing fees or ongoing revenue generated by the city) is allowable, so long as they are backed by its commitment that will replace this "future commitment" should the identified original funding source not become available.

- E. **Amount:** The minimum amount of match must equal the city planning and building fees, not including impact fees, for the city in which the project is located. Additional amounts are encouraged.
- F. **Base City vs. Regional Pools:** The minimum amount of required match is the same for projects funded by the Base City Allocations and projects funded by a Regional Pool.

VII. **Leverage Requirements**

- A. HCD seeks to leverage other sources of affordable housing financing including State, Federal and other local subsidy sources to the maximum extent possible.
- B. Additional points may be awarded in competitive project selection processes to incentivize leveraging of Measure A1 funds.

VIII. **Wage Levels and Employment Opportunities**

- A. **Wage Rates:** If a project funded under Measure A1 is, independent of such funding, subject to federal or state prevailing wage laws, those federal or state mandates will control. If a project funded under Measure A1 is not otherwise subject to federal or state prevailing wage laws, it will be required to pay wage rates equivalent to California prevailing wage. The project will be required to report on these wages and HCD will monitor compliance.

B. Employment of Local Residents:

1. Local Hire Goal: 30% of all construction project hours worked under an affordable housing development project funded by Measure A1 shall be by Alameda County residents.
2. Targeted Disadvantaged Hire Goal: 5% of all construction project hours worked shall be by Targeted Disadvantaged Workers. Targeted Disadvantaged Workers are residents of Alameda County with incomes below 80% of Area Median Income, and who may also meet any of the following:
 - a. Are apprentices in any construction trade with two years or less participation;
 - b. Are current or past participants in Apprenticeship Readiness Programs serving Alameda County residents, including but not limited to Cypress Mandela Training Center and Rising Sun Energy Center;
 - c. Are current or past participants in Pre-Apprenticeship Programs serving Alameda County residents, including but not limited to Youth Employment Partnership, or construction training programs at the community college level;
 - d. Are recipients of public assistance;
 - e. Belong to any of the target populations in Alameda County identified in the Measure A1 program, including:
 - i. Re-entry individuals;
 - ii. Homeless or formerly homeless individuals living in homeless housing;

- iii. Veterans;
- iv. People with disabilities;
- v. Seniors; and
- vi. Transition-age foster youth.

C. **Career Pathway Programs:** Should the County establish or designate Job Training and Career Pathway programs for certification of local or disadvantaged workers, projects funded subsequent to establishment or designation of the program with Measure A1 Bond shall meet the requirements, as applicable.

D. **Outreach Requirements & Good Faith Efforts:** Projects are required to conduct outreach to make a good faith effort to meet all of the goals in this section. Evidence of this outreach will be submitted to HCD before subcontractors are offered subcontracts, or at the time of application for Measure A1 funding. HCD may require additional outreach if evidence submitted shows inadequate outreach to meet the local hire or disadvantaged worker requirements.

- 1. Evidence of outreach attempts through at least 3 venues to recruit local and targeted disadvantaged workers must be submitted for construction-related subcontracts.
- 2. Progress on all goals in Section VIII and documentation of good faith efforts towards these goals shall be reported quarterly to HCD prior to construction start, and shall be coordinated with weekly certified payroll reporting during construction. Final goal attainment will also be reported at the end of the project period.
- 3. A list of good faith efforts and acceptable forms of documentation of these efforts will be provided to bidders in bid documents by the developer.

E. **Preference Points:** A project may receive points in a competitive selection process if:

- 1. The applicant submits evidence of meeting local/targeted hiring goals in at least three previous affordable housing developments in the past ten years.
- 2. The applicant submits evidence of an existing partnership or plans to partner with a construction workforce training organization that will place local workers onto its A1 Bond-financed project.

F. **Pilot Period:** After a period of fifteen (15) months from the date of approval of these policies by the Board of Supervisors, Alameda County Housing and Community Development (“HCD”) staff will evaluate these policies and they will either be extended or amended and re-approved.

IX. Contracting with local Businesses

A. **Local Contracting Goal:** An amount equal to 25% of the amount of the Measure A1 contract shall be paid to Alameda County-based businesses. These businesses may include but are not limited to professional service sub-contracts, the prime general contractor and/or any of the construction related subcontractors.

- B. **Small Local Contracting Goal:** An amount equal to 20% of the amount of the Measure A1 Contract, shall be paid to certified small Alameda County-based businesses. This goal may overlap with the local contracting goal. State Small Business Enterprise (SBE) certification and Alameda County Small, Emerging and Local Business (SLEB) certification are both acceptable as verification of “small” status of local businesses.
- C. **Minority-owned and Women-owned Business Enterprises (MBE/WBE):** Projects shall track and report on the hiring of Minority-Owned Businesses (MBE) and Woman-Owned Businesses (WBE).
- D. **Outreach Requirements & Good Faith Efforts:** Projects are required to conduct outreach to make a good faith effort to meet all of the goals in this section. Evidence of this outreach will be submitted to HCD before subcontractors are offered subcontracts, or at the time of application for Measure A1 funding. HCD may require additional outreach if evidence submitted shows inadequate outreach.
 - 1. Evidence of outreach attempts through at least 3 venues to recruit local and local and small businesses.
 - 2. Progress on all goals in Section IX and documentation of good faith efforts towards these goals shall be reported quarterly to HCD prior to construction start, and shall be coordinated with weekly certified payroll reporting during construction. Final goal attainment will also be reported at the end of the project period.
 - 3. A list of good faith efforts and acceptable forms of documentation of these efforts will be provided to bidders in bid documents by the developer.
- E. **Preference Points:** A project may receive extra points in a competitive selection process if:
 - 1. The applicant submits evidence of meeting local/small local contracting goals in at least three previous affordable housing developments in the past ten years.
- F. **Pilot Period:** After a period of fifteen (15) months from the date of approval of these policies by the Board of Supervisors, Alameda County Housing and Community Development (“HCD”) staff will evaluate these policies and they will either be extended or amended and re-approved.

X. **Private Project Labor Agreements**

With authorization from the voters, the County of Alameda is expanding its role as a participant in the market to develop affordable housing. The provision of affordable housing is an important means of protecting the health, safety and welfare of our citizens. The County also has a desire to advance the County’s proprietary interests in avoiding labor disputes on County funded projects. It is imperative that affordable housing projects funded by the County with Measure A1 Bond proceeds are completed promptly and efficiently.

- A. In order to promote labor peace, to secure the availability of an adequate skilled labor pool, and to ensure that these construction projects are completed on time and on schedule for the benefit of residents and County taxpayers, all new construction of affordable housing projects funded by Measure A1 bond proceeds allocated to the Rental Housing Program that are 80 units or larger (a “Covered Project”) shall have a Project Labor Agreement (“PLA”) signed by the private developer (“Developer”), the Building and Construction Trades Council of Alameda County (“Trades”), and affiliated construction trades unions. The County will not be a party to these private PLAs.

- B. The eleven (11) affordable housing projects previously approved by the Board of Supervisors to receive Measure A1 Bond Rental Housing Program permanent financing loans¹ are not Covered Projects and are not required to enter into a private PLA, but their developers are encouraged to do so.

- C. After a period of fifteen (15) months from the date of approval of these policies by the Board of Supervisors, Alameda County Housing and Community Development (“HCD”) staff, with support of representatives from the Non Profit Housing Association of Northern California (“NPH”), the East Bay Housing Organizations (“EBHO”), the Minority Contractors Association, Bay Area Community Benefits Organization, the Trades, and any other appropriate stakeholders, shall initiate an evaluation of the impact of the PLA on the Covered Projects and the Rental Housing Program to determine if the minimum threshold of 80 units can be feasibly adjusted, with the intent of lowering the unit threshold to include more Measure A1 Bond Rental Housing Program funded affordable housing projects under the PLA requirement, if feasible. HCD will present its recommendation to the Board of Supervisors for the final determination.

- D. The PLA, to be compliant with this policy, will include the terms set forth below. The NPH and Trades are expected to negotiate a compliant template PLA within 90 days after Board adoption of this policy and should submit the proposed template to HCD for verification of compliance. Developers receiving Measure A1 Bond Rental Housing Program affordable housing funds for Covered Projects may elect to use (sign on to) the pre-approved template PLA, or negotiate an alternate compliant PLA that includes the

¹ The eleven projects are: (1) Fruitvale BART Affordable Rental Housing Project (94 units) developed by EBALDC and Unity Council; (2) Kottinger Gardens II Affordable Rental Housing Project (54 units) developed by MidPen Housing; (3) Camino 23 Affordable Rental Housing Project (39 units) developed by Satellite Affordable Housing Associates (SAHA); (4) EMBARK Affordable Housing Project (70 units) developed by Resources for Community Development; (5) Grayson Street Affordable Rental Housing Project (23 units) developed by SAHA; (6) 3706 San Pablo Avenue Affordable Rental Housing Project (87 units) developed by EAH; (7) Everett and Eagle Affordable Rental Housing Project (19 units) developed by Housing Authority of the City of Alameda (HACA); (8) San Leandro Senior Apartments Affordable Rental Housing Project (85 units) developed by Bridge Housing Corporation; (9) Mission Court Senior Apartments Affordable Rental Housing Project (90 units) developed by Eden Housing; (10) Coliseum Connections Affordable Rental Housing Project (110 units) developed by UrbanCore Development Partners, LLC; and (11) Redwood Hill Townhomes Affordable Rental Housing Project (28 units) developed by SAHA.

terms below and any other terms to which the parties agree.

- E. To avoid potentially inconsistent obligations, the County will not require compliance with these Measure A1 PLA requirements if another funding source for the Covered Project has imposed a PLA requirement for the Covered Project or if a PLA is prohibited by State or Federal law, regulations or funding conditions.
- F. The required components of a compliant PLA for Measure A1 Covered Projects include:
1. **No Strike/No Lockout.** The PLA will contain guarantees against work stoppages, strikes, lock-outs, and similar disruptions on the Covered Project.
 2. **Participation by Non-Union Contractors.** All qualified contractors, both union and non-union, will be allowed to bid on and be awarded work on the Covered Projects without regard to whether they are otherwise parties to collective bargaining agreements.
 3. **Rule of Three.** If the general contractor receives bids from subcontractors that result in the Covered Project exceeding the 125% Tax Credit Allocation Committee (“TCAC”) 9% cost basis limit, then, for those subcontracts with fewer than three “Qualified Contractor” bidders the Trades will be granted a ten-day “re-bid” period to identify and encourage additional bidders on those subcontracts. If, after the re-bid period there are still fewer than three bidders for those subcontracts, then the general contractor may re-bid those subcontracts without PLA coverage (i.e., not Covered Work). The term “Qualified Contractor” means a licensed, financially qualified contractor with experience in the type of work required and that is capable of meeting the job schedule, has submitted a commercially reasonable bid, is bondable, carries appropriate insurance, including Workers’ Compensation insurance (or participates in a State recognized Workers’ Compensation Alternative Dispute Resolution (“ADR”) Program), and is otherwise capable of satisfying all requirements of the bid specifications. Developer and Trades can negotiate a different cost control approach in a specific case.
 4. **Non-union contractors: ability to use “core workers.”** Nonunion contractors must make first hires from the union hall; then can retain a “Core Worker” (registered with the hall); additional hires shall alternate 1:1 until a maximum of five (5) Core Workers have been hired; all future hires are from the hiring hall. A Core Worker is defined as an employee who was on active payroll for 60 out of the prior 140 days, and possesses all required credentials and licenses and the skill to safely perform the work.
 5. **Wages and Benefits funds.** All contractors working under the PLA will pay into benefits funds as set forth in applicable Master Agreements, and pay wages consistent with the applicable Master Agreement.
 6. **New Apprentices.** One new apprentice shall be hired for each \$5 million in Covered Project cost.

7. **Process for compliance with Targeted Hire Requirements.** When a public entity or jurisdiction providing funding for the Covered Project (“Funding Jurisdiction”) imposes a local/targeted hiring requirement as a condition of funding, contractors may comply with any other recruitment or hiring procedures required by any Funding Jurisdiction. Unions agree to refer local/targeted workers to contractors on a priority basis as needed for contractors to satisfy the requirement; and if the hiring halls do not have local/targeted workers available, they will allow contractors to obtain those workers from other non-union sources.
8. **Compliance with Small/Local Business Entity (“S/LBE”) Contracting Requirements.** If, after the Developer receives bids from subcontractors, there is not sufficient S/LBE participation to achieve S/LBE requirements imposed on the Covered Project by Funding Jurisdictions while not exceeding 125% of the TCAC 9% cost basis limit, and the Developer (or prime contractor) has identified an S/LBE contractor who would have bid under different PLA terms, then the parties obligation to meet and confer is triggered (with opportunity for discussion of terms for re-bid). At the end of a ten-day meet and confer period, one or more subcontracts may be re-bid competitively if necessary to meet the S/LBE participation requirement, either with agreed-to revised terms or without application of the PLA requirements to the subcontract in question.
9. **Assignment of work.** Jurisdictional assignments will be based on the Trades’ system.
10. **Off-site work.** Off-site manufacture of modular housing or structural components will not covered work under the PLA; off-site manufacture of sheet metal and plumbing components will be covered work within PLA if such work is covered by Sheet Metal or U.A. Master Agreements.
11. **Dispute Resolution.** A binding dispute resolution procedure shall apply for alleged violations of the PLA that allows for resolution of grievances through unanimous agreement of Developer and Trades or, if no unanimous agreement, through arbitration. PLA lists five arbitrators empowered to resolve grievances; parties strike names on an alternate basis. A separate binding dispute resolution procedure shall apply to jurisdictional disputes and to no-strike/no-lockout disputes.
12. **Sole Proprietors.** A Sole Proprietor self-performing work shall not be required to use a worker from the union hiring hall. However, if during the term of the PLA, the Sole Proprietor later hires employees, the Sole Proprietor will be treated as a Core Worker and any subsequent employee(s) will be dispatched from the hiring hall. Sole Proprietors in the trucking industry will be treated as Core Workers, but must nevertheless be dispatched from the hiring hall and will be exempt from trust fund obligations, but must pay representational fees. "Sole Proprietor" means a licensed contractor with no employees and exempted by the California Contractor's State License Board from the requirement to obtain and maintain workers' compensation insurance.
13. **Project Management.** Developer and prime contractor, through the bid documents, may establish a uniform work schedule across crafts of up to 8 hours

per day, with consistent start and stop times. Overtime for hours performed within that schedule shall be paid if required by applicable prevailing wage laws.

14. **Taxpayer Protection Provisions.** The PLA will contain all of the taxpayer protection provisions listed in Public Contract Code section 2500(a), including prohibiting discrimination based on race, national origin, religion, sexual orientation, political affiliation, or membership in a labor organization in hiring or dispatching workers for the Covered Project and an agreed-upon protocol concerning drug testing for workers who will be employed on the Covered Project.

XI. **Single Core Tenancy Application/Posting Unit Openings**

Goal: HCD desires to create a robust and easy to access method for low-income households seeking subsidized housing to locate and be informed of unit availability, as well as a universal core tenancy application system to streamline the application process for low-income households to apply for tenancy to these projects.

- A. Should HCD develop such a system, all projects funded by Measure A1 will be required to utilize the system.

XII. **Geographic Distribution of Funding**

- A. Regional Pools - \$200,000,000 will be divided into four regional pools which can be used to finance projects located in these regions, as follows:

HALF OF FUNDS TO REGIONAL POOLS		
Regional Pools Allocations by:	% of Total	Need-Blend of Poverty and RHNA LI & VLI
North County	44.7%	\$89,325,065
Mid County	24.9%	\$49,803,134
East County	13.7%	\$27,332,372
South County	16.8%	\$33,539,429
ALAMEDA COUNTY TOTAL	100.0%	\$200,000,000

North County Region: Albany, Berkeley, Emeryville, Oakland and Piedmont.

Mid County Region: Alameda, Hayward, San Leandro, and Unincorporated County.

South County Region: Fremont, Newark and Union City.

East County Region: Dublin, Livermore, and Pleasanton.

- B. Base City Allocation - \$225,000,000 will be divided by formula into base amounts for use in each city and the unincorporated county as follows:

HALF OF FUNDS TO BASE CITY ALLOCATIONS	
City Base Allocations by:	Total Population
City of Alameda	\$10,370,727
City of Albany	\$2,588,918
City of Berkeley	\$15,796,369
City of Dublin	\$8,831,465
City of Emeryville	\$2,799,109
City of Fremont	\$33,264,459
City of Hayward	\$20,298,294
City of Livermore	\$12,722,700
City of Newark	\$6,029,275
City of Oakland	\$54,803,565
City of Piedmont	\$2,431,300
City of Pleasanton	\$13,720,684
City of San Leandro	\$11,907,775
Unincorporated County	\$19,671,892
City of Union City	\$9,763,468
ALAMEDA COUNTY TOTAL	\$225,000,000

Measure A1 Specific Policies for Base City Allocations

(Note that for the purposes of these policies, unless explicitly stated otherwise, use of the term “city” shall include the Unincorporated County. For example, the Unincorporated County has an allocation as a city under the Base City Allocations of Rental Housing Development Program funding)

XIII. Procurement Process

- A. Cities will follow their own procurement processes to preliminarily select projects to be funded and to propose the amount of Base City Allocation to be awarded to each project, subject to the Measure A1 maximum subsidy limits.
- B. Cities must submit an application for each selected project to HCD. HCD will review the application for compliance with Measure A1 bond program requirements and HCD’s Rental Housing Development Policies and underwriting requirements.
- C. HCD will accept applications in an over-the-counter process, with specific deadlines established for proposed projects to be included in bond issuances as needed.

- D. Alternatively, a city may request that HCD administer the project selection process for all or a portion of the city's Base City Allocation, in which case HCD will run the city's selection process concurrently with the regional pool competitive RFP process, with the city approval of the Measure A1 eligible project(s) to be funded from its Base City Allocation.
- E. Initially, 10% of the Base City Allocations shall be reserved to cover the County's bond issuance and program delivery/administration costs. This percentage may be adjusted and any amounts not needed or projected to be needed for this purpose shall be released back into Base City Allocations.

XIV. **Types of Projects**

- A. In addition to the types of projects listed above, cities may use a portion of their Base City Allocations to finance the development of interim, crisis, or transitional housing for homeless households, provided the city has identified funding for operations and services.
- B. If a city uses a portion of its Base City Allocation for crisis, interim, or transitional housing, the city must identify funding sources for associated operations and services prior to HCD approval of use of Measure A1 funds.
- C. The "portion" of the Base City Allocation that may be used for crisis, interim, or transitional housing is defined as up to 10% for cities with Base City Allocations over \$15 million, up to 15% for cities with Base City Allocations under \$15 million and over \$10 million, and up to 20% for cities with Base City Allocations under \$10 million.
- D. A city may, at its discretion, use a portion of its Base City Allocation to finance a regional-serving project located in another jurisdiction.

XV. **Loan Administration**

- A. HCD will administer the Measure A1 funding, including negotiating deal terms and executing County loan documents.
- B. HCD will collect sufficient information to ensure that the projects meet Measure A1 policies and requirements.

XVI. **Commitment Deadline**

- A. Cities will have up to 4 years (until December 31, 2021) to commit funds to specific projects, with the possibility of a reasonable extension of this period should a feasible project be identified.
- B. "Commitment" is defined as a City Council action to allocate funds to a project.

- C. Funds not committed by the city within the deadline will be moved into the Regional Pool in which the city is located on January 1, 2022, unless an extension has been granted by the Housing Director, in which case the funds will be moved into the Regional Pool on the first day following the extension period.
- D. Once funds are committed, a project will have up to 3 years to start construction, and up to five years to expend funds.

Measure A1 Specific Policies for Regional Pools

XVII. Procurement

- A. Developments financed with Bond funds must have the support and approval of the cities in which they are located, including financial support [as defined under the Match section of these policies].
- B. HCD will use a competitive Request for Proposals (RFP) process to select projects.
- C. It is a goal to use the Regional Pool funds to finance projects in various locations disbursed around each region, not only in one jurisdiction. In the competitive process, regional geographic spread will be considered.
- D. Initially, 10% of each Regional Pool shall be reserved to cover the County’s bond issuance and program delivery/administration costs. This percentage may be adjusted and any amounts not needed or projected to be needed for this purpose shall be released back into the Regional Pools.

XVIII. Commitment Deadline

- A. HCD will use its best efforts to commit all funds in each Regional Pool within 6 years (by December 31, 2023).
- B. Once funds are committed, a project will have up to 3 years to start construction, and up to five years to expend funds.
- C. Should a Regional Pool not have eligible, feasible projects requesting funding, after December 31, 2023, the funds in such a Regional Pool may be moved to one or more other Regional Pools which have eligible, feasible projects requesting funds that exceed the Pools’ available balance.
- D. If uncommitted funds remain in any Regional Pool after January 1, 2024 those funds will be made available countywide through a competitive RFP process.

RENTAL HOUSING INNOVATION AND OPPORTUNITY FUND POLICIES

I. Use of Funds:

- A. The goal of this component of the Measure A1 Bond program is to support the ability of affordable housing developers to respond quickly to opportunities that arise in the market (i.e. properties that are for sale), to preserve and expand affordable rental housing and prevent displacement of current low-income Households.
- B. Eligible properties can include vacant land, existing apartment buildings and motels, tax defaulted properties, or other buildings to be converted into eligible housing. It is not intended to pay off mortgages of owned properties.
- C. All funds under this program shall be fully amortizing or fully repaid. This is not an equity program.
- D. HCD shall create the Acquisition and Opportunity Fund to provide loans for the acquisition of property for the development of long-term affordable rental housing:
 - 1. Eligible properties for acquisition can include commercial or industrial properties so long as the intent is to convert them to residential use and there is a reasonable expectation of the ability to do so;
 - 2. Acquisition of land or buildings, including tax defaulted properties, and related project soft costs are eligible uses of funds;
 - 3. Land trusts, which may result in rental or ownership affordable housing, are eligible projects under this category;
 - 4. Funds will be provided in the form of short-term loans, with an initial maximum loan term of three years;
 - 5. Repayments to this fund will be used to provide financing for additional projects over time; and
 - 6. HCD may administer this program internally or propose the use of a contracted Program Administrator to implement the program, with approval by the Board of Supervisors.
 - 7. Five percent (5%) of this fund shall be designated for development partnerships that include local nonprofit community-based or faith-based organizations and a Tier 1 developer.
- E. In addition to the Acquisition and Opportunity Fund described in D above, HCD will develop an Innovation Fund to support innovations in addressing the need for affordable rental housing for the household income levels and target populations of the Measure A1 Rental Housing Development Fund and will bring a program description and implementing policies to the Board of Supervisors for review and consideration.

- II. **Criteria:**
The housing developed under the Innovation and Opportunity Fund must meet the requirements of the Rental Housing Development Fund.
- III. **Geographic Distribution:**
The Acquisition and Opportunity Fund is available countywide for eligible projects.
- IV. **Procurement:**
 - A. HCD will issue a Request for Qualifications (RFQ) to establish a pool of pre-qualified Tier 1 Developers, or partnerships which include a Tier 1 Developer, which will then be able to apply over-the-counter for loans from the Innovation and Opportunity Fund.
 - B. Requirements for developers: To be considered for the Acquisition and Opportunity Fund, developers must meet HCD's Tier One Developer requirements.
 - C. Should the County select a Program Administrator to administer the Acquisition and Opportunity Fund, HCD will work with the Program Administrator to conduct the selection process for pre-qualified developers.
- V. **Leveraging**
Encourage developers to leverage funds to the greatest degree possible.
- VI. **Maximum or Minimum Loan Amounts:**
HCD will work with community-based lenders to establish minimum and maximum Measure A1 loan amounts, in order to combine Measure A1 funds in this program component with other, leveraged funds to the maximum extent possible.
- VII. **Loan Terms:**
 - A. These funds will be provided in the form of short-term loans. It is expected that the initial loan term will be a maximum of three years; however this term may be modified if necessary to leverage other financing. It is expected that the maximum term will not exceed five years.
 - B. The loans must be documented with a full set of loan documents, including a recorded deed of trust, regulatory agreement, signed promissory note and loan agreement.
 - C. Regular reporting on project progress will be required.
- VIII. **Match Requirements:**
 - A. Formal Commitment of city matching funds is not required at this stage of development as a prerequisite for award of Acquisition and Opportunity Fund loans.
 - B. City support and approval of the project is required at the time of the loan.

Exhibit A

Alameda County Housing and Community Development Department Administrative Loan Terms

Alameda County Housing and Community Development Department (HCD) maintains a set of Administrative Loan Terms and Housing Development Policies and Procedures used to implement its Affordable Housing Development Program. These policies are updated periodically, as changes occur in the affordable housing finance field, including programmatic changes at the State (CalHFA, California State Housing and Community Development, California Tax Credit Allocation Committee and California Debt Limit Allocation Committee) and Federal (Housing and Urban Development) levels.

The below is a very high level overview of HCD policies and do not represent all requirements of HCD funding. For additional details, see HCD's Affordable Housing Development Policies and Procedures, an annual Request for Proposals document, and HCD's Loan Documents, available on HCD's website. For the Measure A1 Bond program, also see specific Measure A1 policies and requirements, available on HCD's website.

A. Loan Documents:

It is anticipated that regardless of how funds are initially used, they will roll into permanent financing secured by long-term debt against the real estate secured by a Deed of Trust and Regulatory Agreement. In addition, borrowers must sign a Promissory Note and Loan Agreement documenting the County's investment. HCD's existing affordable housing development program policies as of the date of the contract will govern loan terms and HCD-imposed requirements.

1. Contract for funding, approved by the Board of Supervisors
2. Loan Agreement
3. Regulatory Agreement
4. Promissory Note
5. Deed of Trust
6. Subordination Agreement(s) (as applicable)

B. Term

In general, a 59-year loan term and regulatory period is required for affordable housing projects funded by HCD. This term has, on occasion, been reduced with the Housing Director's approval to 55 years in tax credit projects, when borrower's counsel justifies the reduction due to tax credit requirements. The term begins as of the date of initial occupancy, which can be set by either the Certificate of Occupancy or by the first occupancy of the building as reported in the closeout report.

C. Interest Rate

3% simple interest, owed as of the date of disbursement unless the Promissory Note indicates otherwise.



D. Payments

1. HCD loan may be amortized over a 59-year period, with equal payments throughout the term (amortized loan); or
2. In special needs projects that serve Extremely Low Income Households, payments may be deferred, at the Housing Director's discretion in order to make the project financially feasible; or
3. HCD loan may be repaid through a proportionate share of residual receipts. HCD may allow the General Partner of the borrower partnership to retain up to 50% of the residual receipts as an "Incentive Management Fee", but may restrict this to only 25% if there are soft lenders in addition to HCD sharing repayment from residual receipts. Should the Partnership Agreement not allow the GP to keep the full amount of the Incentive Management Fee, HCD will require that the amount of the soft lender share of residual receipts be increased to capture those funds.

E. Security

Deed of trust recorded against fee title or leasehold interest.

F. Regulatory Agreement

The HCD Regulatory Agreement must be recorded against the fee title interest on the property and in senior lien position to bank loan documents. In leasehold transactions, the Regulatory Agreement must be on the fee title. HCD's Regulatory Agreement includes a prohibition against discrimination based on the source of a tenant's income and requires acceptance of rental assistance programs like Shelter Plus Care and Section 8 Vouchers.

G. Income Restrictions

See the Measure A1 Specific Policies for Income Restrictions.

H. Rent Increases

Rent increases are subject to the requirements of the funding source(s) invested in the project. Rent may be increased by not more than 5% annually (unless approved in writing by the Housing Director in advance of the increase based on feasibility of the project). HCD will consider allowing rents to "Float Up" if a project based voucher contract is not renewed.

I. 4% MFMR Bond Projects

In any project funded by Alameda County Housing and Community Development, HCD will be the issuer of the Bonds, subject to the Housing Director, and approval by the Board of Supervisors.

J. Replacement Reserve

0.6% of the replacement cost of the structure annually, up to \$600 per unit for family developments and \$500 per unit for senior developments. These amounts may change annually as part of the RFP process to reflect updates or changes to State HCD program requirements.

K. Operating Reserve



Three months of operating expenses must be capitalized at conversion. Developers must make payments in schedule approved by the County until the reserve reaches 6 months of operating expenses. A larger deposit is encouraged.

L. Developer Fees

Developer fees will be set to be in conformance with the State Tax Credit program. At the time of this publication, for 9% Tax Credit projects, the maximum allowed by TCAC will generally be equal to \$2.2 Million. In 4% Tax Credit Projects, the maximum amount the Developer may take out of the Development Costs is equivalent to a 9% deal, however additional fee to increase basis is allowable if matched general partner capital contribution or taken out of the Borrower's share of cash flow over the tax credit compliance period. For non Tax Credit projects, the maximum developer fee is 10% of TPC, subject to the Housing Director's approval.

M. Retention

\$50,000 of HCD's loan funds must be allocated toward the developer fee and held as a performance retention, to be paid upon completion of construction and delivery of close out items. This amount can be adjusted for smaller projects, at the Housing Director's discretion.

N. Asset/Partnership Management Fees

Combined \$25,000 limit with no escalator; unpaid fees do not accrue; any fees above this amount or escalators must come from borrower's 50% Incentive Management Fee. State HCD is currently proposing new limits, but has not yet adopted them. The Housing Director may revise this policy to be in conformance with any new State policies on this issue.

O. Loan Fees

HCD may charge a loan closing fee.

P. Monitoring Fees

HCD will charge a monitoring fee for each HCD-restricted unit. The current fee is \$300 per restricted unit per year.

Q. Insurance Minimums

1. Workers Compensation: to the extent required by law, including Employer's Liability coverage, at least \$1,000,000 each accident
2. Commercial General Liability: \$2,000,000 per occurrence
3. Commercial Automobile Liability: \$1,000,000 per occurrence
4. Builder's Risk/Property: 100% of property replacement value
5. Commercial Crime: covering all officers and employees, for loss of HCD loan proceeds caused by dishonesty
6. Borrower must ensure that any general contractor or subcontractors maintain the insurance in #1-3 in the amount of \$1,000,000 each.
7. Commercial General Liability and Automobile Liability insurance policies must be endorsed to name as an additional insured HCD, and its officers, agents, employees and members of the County Board of Supervisors.

R. Records Retention

Records related to Alameda County bonds or loans used to fund construction or rehabilitation of low-income housing, including individual homeowner loans through large affordable housing developments, must be kept for the length of time the property is restricted plus 6 years.

S. Reports

1. Quarterly progress reports required during construction and with any invoice;
2. Quarterly reports required during the first year of operations, starting from certificate of occupancy;
3. Annual Reports required (within 180 days of the end of the fiscal year) after the first year and for the term of the loan.

T. Change Orders

For construction period loans, construction change orders are subject to HCD's approval.

U. Subcontracts

1. Contractor must submit proof that subcontractors are not debarred prior to construction loan closing.
2. HCD requires competitive bidding for all subcontractors.

V. Construction Contingency

1. **New Construction:** 10% required at initial application, but can drop down to 5% remaining after construction bids are known.
2. **Rehab:** 15% construction contingency required.

W. Jobs/Hiring

See the Measure A1 Specific Policies for Job/Hiring requirements.

X. Subordination

HCD will not accept standstill provisions or enter into a standstill agreement requested by senior lenders that prohibits HCD from exercising remedies during a specified period after a default

Y. Developer Criteria

HCD awards funds to Tier One developers. In order to be considered for funding under the Tier One criteria, a developer must demonstrate experience and capacity to complete the project. Experience includes the successful development and completion of three projects of a similar size and scope by the developer.

Capacity includes having staff on board and assigned to the project who have worked on similar projects and whose resume's demonstrate their ability to guide the project through all stages of the development process.

For developers that do not meet these requirements, a partnership with a Tier One developer is required.

Long term ownership entity must include a Tier One developer and its capacity to oversee the asset management of the building over the term of the regulatory agreement.

Z. HCD's Costs

Borrower (or Project) to pay for required 3rd party environmental review (NEPA/CEQA), HCD's legal costs associated with development and execution of project legal documents, wage monitoring associated with the project, and construction management costs associated with overseeing the progress of construction.

These administrative loan requirements are updated regularly in connection with the annual Request for Proposals process and in connection with changes at the State and Federal level to standard affordable housing finance policy, and subsequently approved by the Housing Director. HCD's objective is funding affordable housing that is financially viable over the long term loan and regulatory period as well as meets the County's fiduciary responsibilities in relationship to funding sources.

Exhibit B – Per Unit Subsidy Limit

Projects without 9% Tax Credits State HCD Loan Limits for Alameda County 2016**

Alameda County	Efficiency	1 BR	2 BR	3 BR	4+ BR
Income Limit					
80% AMI	\$110,000	\$110,000	\$110,000	\$110,000	\$110,000
60% AMI	\$125,000	\$125,000	\$125,000	\$125,000	\$125,000
55% AMI	\$137,244	\$138,252	\$140,845	\$143,294	\$145,311
50% AMI	\$149,632	\$151,361	\$156,690	\$161,588	\$165,765
45% AMI	\$161,876	\$164,613	\$172,536	\$179,882	\$186,076
40% AMI	\$174,120	\$177,721	\$188,237	\$198,032	\$206,387
35% AMI	\$186,508	\$190,830	\$204,082	\$216,326	\$226,841
30% AMI	\$198,752	\$204,082	\$219,927	\$234,620	\$247,152
25% AMI	\$211,140	\$217,190	\$235,772	\$252,914	\$267,607
20% AMI	\$223,384	\$230,443	\$251,474	\$271,064	\$287,918
15% AMI	\$235,628	\$243,551	\$267,319	\$289,358	\$308,228

*80% AMI has been calculated by HCD

**Note: Maximum loan limits are adjusted annually.

Projects with 9% Tax Credits State HCD Loan Limits for Alameda County 2016**

Alameda County	Efficiency	1 BR	2 BR	3 BR	4+ BR
Income Limit					
80% AMI	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
60% AMI	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000
55% AMI	\$57,244	\$58,252	\$60,845	\$63,294	\$65,311
50% AMI	\$69,632	\$71,361	\$76,690	\$81,588	\$85,765
45% AMI	\$81,876	\$84,613	\$92,536	\$99,882	\$106,076
40% AMI	\$94,120	\$97,721	\$108,237	\$118,032	\$126,387
35% AMI	\$106,508	\$110,830	\$124,082	\$136,326	\$146,841
30% AMI	\$118,752	\$124,082	\$139,927	\$154,620	\$167,152
25% AMI	\$131,140	\$137,190	\$155,772	\$172,914	\$187,607
20% AMI	\$143,384	\$150,443	\$171,474	\$191,064	\$207,918
15% AMI	\$155,628	\$163,551	\$187,319	\$209,358	\$228,228

*80% AMI has been calculated by HCD

**Note: Maximum loan limits are adjusted annually.

SCORING CRITERIA – SELF SCORE WORKSHEET

Complete applications will be scored in the following categories. Maximum points in each category are noted. Please note that points will be rounded to the nearest ¼ point. Projects scoring less than 50% of possible points are unlikely to be awarded funding. In most cases, points are awarded for exceeding, rather than meeting, the threshold requirements for the category. Descriptions of each scoring category will be provided to the developer to fully explain requirements for obtaining maximum points.

		<i>Self Score</i>
I.	Readiness	40 pts
	A. Discretionary Land Use Approval	20
	B. Funding Commitments	15
	C. Partnerships with Service Providers	5
II.	Leveraging	8 pts
I.	Location	10 pts
	A. Proximity to Public Transit	5
	B. Proximity to Grocery or Drug Store	5
II.	Target Population and Project Attributes	20 pts
	A. Income Targeting	5
	B. Unit Size	5
	C. Units for People with Special Needs	5
	D. Homeless - Permanent Supportive Housing Units	5
III.	Developer Experience and Capacity	27 pts
	A. Developer Experience Exceeds Minimum	10
	B. Developer Capacity	8
	C. Developer Financial Strength	6
	D. Strength of the Development Team	3
IV.	Sustainability	10 pts
V.	Innovation	5 pts
Total Possible Points		120