

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, November 2, 2021

7:00 PM

Council Chamber and Virtual Platform (Zoom)

City Council

CITY COUNCIL MEETING

NOTICE: The City Council will hold a hybrid meeting (in Council Chamber and Virtual Platform via Zoom). All in-person participants will be required to provide proof of vaccination and wear a face covering.

How to observe the Meeting:

1. Comcast TV Channel 15
2. Live stream <https://hayward.legistar.com/Calendar.aspx>
3. YouTube Live stream: <https://www.youtube.com/user/cityofhayward>

How to submit written Public Comment:

1. Use eComment on the City's Meeting & Agenda Center webpage at: <https://hayward.legistar.com/Calendar.aspx>. eComments are directly sent to the iLegislate application used by City Council and City staff. Comments received before 3:00 p.m. the day of the meeting will be exported into a report, distributed to the City Council and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda.

2. Send an email to List-Mayor-Council@hayward-ca.gov by 3:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the City Council and staff, and published on the City's Meeting & Agenda Center under Documents Received After Published Agenda. Documents received after 3:00 p.m. through the adjournment of the meeting will be included as part of the meeting record and published the following day.

How to provide live Public Comment during the City Council Meeting:

Complete the online speaker card at the Council Chamber entrance or click the link below:
<https://hayward.zoom.us/j/86426407582?pwd=WUROcFJZcnRDVExwbUhyaWl5MlhTZz09>

Meeting ID: 864 2640 7582
Passcode: CC11/2@7pm

or

Dial: + 1 669 900 6833 or +1 253 215 8782

Meeting ID: 864 2640 7582
Password: 4848381937

A Guide to attend virtual meetings is provided at this link: <https://bit.ly/3jmaUxa>

CALL TO ORDER: Mayor Halliday

Pledge of Allegiance: Council Member Lamnin

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

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.

CITY MANAGER'S COMMENTS

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

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 21-138](#) Approve Minutes of the Special Joint Work Session of the City Council and Planning Commission on October 19, 2021

Attachments: [Attachment I Draft Work Session Minutes of 10/19/2021](#)

2. [MIN 21-139](#) Approve City Council Minutes of the City Council Meeting on October 19, 2021

Attachments: [Attachment I Draft Council Minutes of 10/19/2021](#)

3. [CONS 21-546](#) Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Tyler Technologies for Migration of Munis Enterprise Resource Planning to a Cloud-Hosted Platform for a Three-Year Term with Two One-Year Options in an Amount Not-to-Exceed \$414,000 Annually

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)

4. [CONS 21-571](#) Adopt a Resolution Authorizing the City Manager to Appropriate \$200,000 from the Water Improvement Fund 604 for Water Office Improvement Project 07139 and Award a Contract to Custom Garages, Inc., in an Amount Not-to-Exceed \$117,462

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)

5. [CONS 21-586](#) Adopt a Resolution Accepting Easements for Public Road Rights-of-Way in the Old Highlands Homeowner Association (OHHA) to Facilitate the First Phase of Road Improvements

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Exhibit A to OHHA Easement](#)

PUBLIC HEARING

6. [PH 21-092](#) Appeal of Planning Commission Denial of a New 116,844 Square Foot Industrial Building Requiring Site Plan Review Approval and a Historic Resources Demolition Permit; Certification of an Environmental Impact Report; and Adoption of a Mitigation, Monitoring and Reporting Program and Statement of Overriding Considerations for U-Haul at 4150 Point Eden Way (Item continued to December 14, 2021 at request of applicant)

LEGISLATIVE BUSINESS

7. [LB 21-049](#) Senate Bill 1383 Implementation: Adopt Resolutions and Introduce an Opt-in Ordinance to Adopt the Countywide Ordinance to Comply with SB 1383 - Short-Lived Climate Pollutants (Report from Public Works Director Ameri)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution for Adoption of Ordinance](#)
[Attachment III ORRO Opt-in Ordinance](#)
[Attachment IV Exhibit A to Ordinance](#)
[Attachment V Exhibit B to Ordinance](#)
[Attachment VI Resolution for MOU](#)

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Members can provide oral reports on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events to comply with AB 1234 requirements (reimbursable expenses for official activities).

COUNCIL REFERRALS

Council Members may bring forward a Council Referral Memorandum (Memo) on any topic to be considered by the entire Council. The intent of this Council Referrals section of the agenda is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible direction by the Council to the appropriate Council Appointed Officers for action by the applicable City staff.

ADJOURNMENT

NEXT MEETING, November 16, 2021, 7:00 PM

PUBLIC COMMENT RULES

Any member of the public desiring to address the Council shall limit their comment 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.

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.

CHILDCARE WILL NOT BE PROVIDED UNTIL FURTHER NOTICE DUE TO COUNTYWIDE SHELTER-IN PLACE ORDER.



CITY OF HAYWARD

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

File #: MIN 21-138

DATE: November 2, 2021

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve Minutes of the Special Joint Work Session of the City Council and Planning Commission on October 19, 2021

RECOMMENDATION

That the Council approves the minutes of the Special Joint Work Session of the City Council and Planning Commission of October 19, 2021

SUMMARY

The City Council and Planning Commission held a special joint work session on October 19, 2021.

ATTACHMENTS

Attachment I Draft Minutes of Work Session on October 19, 2021



SPECIAL JOINT WORK SESSION OF THE CITY COUNCIL AND PLANNING COMMISSION MEETING

777 B Street, Hayward, CA 94541

Virtual Platform - Zoom

<https://hayward.zoom.us/j/84461287766?pwd=NmlyWGIPd1lERkMvOVZNeGVPMENldz09>

Tuesday, October 19, 2021, 5:30 p.m.

The Special Joint Work Session of the City Council and Planning Commission meeting was called to order by Mayor Halliday at 5:30 p.m.

The City Council and Planning Commission held a joint work session consistent with Government Code Section 54953(e)(1) which included teleconference participation by all.

Pledge of Allegiance: Council Member Zermeño

ROLL CALL

Present: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas, Wahab, Zermeño
MAYOR Halliday
COMMISSIONERS Bonilla, Goldstein, Mendall, Oquenda, Stevens
CHAIR Roche
Absent: COMMISSIONER Ali-Sullivan

Commissioner Ali-Sullivan joined the meeting at 5:57 pm

PUBLIC COMMENTS

Ms. Lacei Amodei, The Hayward Collective member, emphasized that due to new state laws, housing elements need to affirmatively further housing, not only equity elements but policies that expand housing including reversing patterns of residential segregation for protected classes.

WORK SESSION OF THE CITY COUNCIL AND PLANNING COMMISSION

1. Joint Housing Element Work Session: Housing Element Update and Residential Objective Standards Project **WS 21-039**

Staff report submitted by Assistant City Manager/Development Services Director Ott, dated October 19, 2021, was filed.

Assistant City Manager/Development Services Director Ott provided an update of the State housing legislation and overview of the Affordable Housing Ordinance.

There being no public speakers, Mayor Halliday opened and closed the public comment section at 5:53 p.m.

Members of the City Council and Planning Commission expressed gratitude for the first joint meeting to begin discussions.

Discussion ensued among members of the City Council, Planning Commission and City staff regarding: if the plan is to increase the percent of affordable units onsite or in-lieu fees, an extensive analysis would be warranted to ensure development could support the affordability requirements; staff has not had a conversation with developers regarding incentives for residential development projects that make at least 20% of the total units affordable because of higher costs; concern about easing restrictions on Accessory Dwelling Units (ADUs) and how it increases the number of cars on the street; the Bay Area Housing Finance Authority started around 2019 to support affordable housing and was derailed by COVID but recently received \$20 million from the State to pilot programs around housing; and the requirement for large single-family properties to have ADUs.

Members of the City Council and Planning Commission provided the following recommendations: consider how to have large single-family properties participate in funding affordable housing; consider increasing in-lieu fees and affordable housing requirements; consider having no more than fifty percent (50%) of any project being at market rate given Regional Housing Needs Allocation (RHNA) numbers; do not assume lower income level housing are rentals; evaluate how the City can help incentivize lower cost loans on the front end to pass on cost savings; continue to look at how to create housing that is affordable by design for purchase; consider an increase in affordable housing fees as long as developers know ahead of time what they are; consider more aggressive affordable housing policy and a more agile approach to prioritize RHNA numbers; hold a focused joint work session; in order to meet affordability targets, the City and development community will need to find financial cooperation and secure State/Federal grants; the market will endure higher housing requirements; Hayward should not have lower costs than neighboring cities; consider increasing the 20% affordable housing threshold and evaluate pros and cons; consider supporting all types of housing including ADUs and having the parking issue mitigated by creating parking in the front yard; review the final version of the Plan Bay Area 2050 which will be discussed at the October 21 joint meeting of Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG); for future discussions share different funding, such as from bond measures, sales tax, State and Federal funds, to ensure the City remains competitive in leveraging funds; and keep in mind the concept of universal design and aging in place for multigenerational housing needs.

Acting Principal Planner Schmidt provided a presentation on the Housing Element.

Due to limited time, Assistant City Manager Ott and City Manager McAdoo recommended continuing the presentation on Residential Standards to a future joint meeting.

Discussion ensued about RHNA numbers, and the percentage of lower income housing compared to other cities and school districts, and bilingual outreach.

In response to suggestions to achieve broad equitable outreach, Planning Commission and City Council members suggested to reach out to: the Hayward Promise Neighborhood; individuals working on redistricting efforts; ethnic grocery stores; educational institutions such as California State University East Bay, Chabot College and High Schools, parent-teacher association (PTA) meetings; families of formerly incarcerated individuals; faith based organizations; Project Rebound; Just Cities; La Familia; Centro Legal de Raza; Interfaith



SPECIAL JOINT WORK SESSION OF THE CITY COUNCIL AND PLANNING COMMISSION MEETING

777 B Street, Hayward, CA 94541

Virtual Platform – Zoom

<https://hayward.zoom.us/j/84461287766?pwd=NmlyWGIPd1lERkMvOVZNeGVPMENldz09>

Tuesday, October 19, 2021, 5:30 p.m.

Council and Glad Tidings Church; community members who would benefit from affordable housing; schools and liaison with the schools; local senior centers; Senior Legal Aid; laundromats; Native Americans or those affected by redlining; ethnic media; Black, Indigenous, People of Color (BIPOC) communities; domestic violence shelters and advocates; homeowner associations and mobile home parks; and conduct broad outreach with postcards and social media to cover the entire city.

In response to events staff should visit to ensure broad equitable outreach, City Council and Planning Commission members indicated: have community ambassadors utilizing technology (e.g., iPad) to help fill out surveys onsite; downtown farmer's market; and holiday events (e.g., Light Up the Season).

In response to questions or topics for the survey, City Council and Planning Commission members indicated: density of development gauging baseline for nimbyism and getting thoughts on the inclusion of low-income affordable housing in their neighborhood; what would make the higher density in the neighborhood more livable?; what factors might help with objective design?; are there new parcels to target related to SB10?; what does evolution of policy and reparations look like for affected communities?; how a banking structure can best help keep people housed when facing difficulty and making housing affordability a matter that is addressed in financing; consider language "if you'd like more information in __ language" to get information translated as needed.

It was also suggested that for a future meeting members would like to hear more comprehensively about how the City is addressing RHNA numbers and the multi-tiered housing approach, how funding sources come together to push forward a plan to increase RHNA numbers, if there is a way to incentivize developers (who have knowledge and vision) rather than penalize them and strengthen the community by subsidizing them.

ADJOURNMENT

Mayor Halliday adjourned the special meeting at 6:52 p.m.

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 21-139

DATE: November 2, 2021

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve City Council Minutes of the City Council Meeting on October 19, 2021

RECOMMENDATION

That the Council approves the City Council meeting minutes of October 19, 2021.

SUMMARY

The City Council held a meeting on October 19, 2021.

ATTACHMENTS

Attachment I Draft Minutes of October 19, 2021



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541
Virtual Platform - Zoom
<https://hayward.zoom.us/j/82246711452?pwd=TlR2WnlXb3o4cUlxTG9MYU5DY05FQT09>
Tuesday, October 19, 2021, 7:00 p.m.

The City Council meeting was called to order by Mayor Halliday at 7:00 p.m. The City Council held a hybrid meeting which included in-person and teleconference participation by members of the City Council, staff and public.

Pledge of Allegiance: Council Member Andrews

ROLL CALL

Council Chamber: COUNCIL MEMBERS Salinas, Zermeño
MAYOR Halliday
Virtual Platform (Zoom): COUNCIL MEMBERS Andrews, Lamnin, Márquez, Wahab

PUBLIC COMMENTS

Mr. Danny Magalhaes, WPCF City employee and HAME Vice President, spoke on behalf of the Coalition (HAME, IFPTE Local 21 and SEIU 1021) asking for a fair and equitable contract.

Ms. Melissa Josue, Hayward resident, urged the City Council to vote no on City Council Referral-Item 10.

CITY MANAGER'S COMMENTS

City Manager McAdoo welcomed a delegation from the Japan Local Government Center (CLAIR, New York) sponsored by the Federal Government of Japan that sends representatives to the US for exchange programs to learn more about local government systems and introduced Deputy Executive Director Ms. Miyako Kusakabe.

Ms. Miyako Kusakabe, Japan Local Government Center Deputy Executive Director, introduced Assistant Director Mr. Katsutoshi Kakimoto, Assistant Director Mr. Shuhei Fujimoto and Assistant Director Ms. Risako Kamikasa; and thanked the City Council for the opportunity to visit Hayward.

Mayor Halliday welcomed the delegation and shared City representatives had conversations with the delegates and learned a lot about the differences and similarities between their governments.

Council Member Zermeño also welcomed the delegation and noted they had dinner at Los Carnalitos Restaurant.

CONSENT

1. Adopt a Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System for Calendar Year 2022 Pursuant to California Government Code Section 22892 **CONS 21-487**

Staff report submitted by Director of Human Resources Sangy, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-199, "Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employees Retirement System (CALPERS) for Calendar Year 2022 Pursuant to California Government Code Section 22892"

2. Adopt a Resolution Approving the Transfer and Appropriation of \$125,560 in Policy Planning Fees for the Next General Plan Update and Other Future Planning Projects **CONS 21-498**

Staff report submitted by Assistant City Manager/ Development Services Director Ott, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-200, "Resolution Approving the Transfer and Appropriation of \$125,560 in Policy Planning Fees for the Next General Plan Update and Other Future Planning Projects"



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541
Virtual Platform - Zoom

<https://hayward.zoom.us/j/82246711452?pwd=TlR2WnlXb3o4cUlxTG9MYU5DY05FQT09>
Tuesday, October 19, 2021, 7:00 p.m.

-
3. Adopt a Resolution Allocating \$381,538 in HOME Investment Partnership Program Funds and Renewing the Housing Grant Subsidy Agreement with Abode Services for Project Independence to Provide Tenant Based Rental Assistance to Emancipated and Former Foster Care Youth **CONS 21-519**

Staff report submitted by Assistant City Manager Ott, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-201, "Resolution Authorizing the Use of Home Investment Partnership Program Funds for Rental Assistance to Emancipated and Former Foster Care Youth Through Abode Services' Project Independence and Authorizing the City Manager to Negotiate and Execute a Two-Year Rental Housing Subsidy Grant Agreement with Adobe Services in an Amount Not to Exceed \$381,538"

4. Adopt a Resolution Authorizing the City Manager to Execute a Three-Year Agreement with Housing and Economic Rights Advocates (HERA) in an Amount Not-to-Exceed \$1,319,598 for Foreclosure Prevention Services **CONS 21-528**

Staff report submitted by Assistant City Manager Ott, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-202, “Resolution Authorizing the City Manager to Enter into and Execute a Three-Year Professional Services Agreement with Housing and Economic Rights Advocates in an Amount Not-to-Exceed \$1,319,598 for Foreclosure Prevention Services”

5. Adopt a Resolution Authorizing the City Manager to Accept and Execute a Funding Agreement with Caltrans for the Local Road Safety Plan Funding Program **CONS 21-532**

Staff report submitted by Director of Public Works Ameri, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-203, “Resolution Authorizing the City Manager to Accept \$90,000 from the California Department of Transportation Local Road Safety Plan Grant Program, for Use in the Development of the City’s Local Road Safety Plan Project, Project No. 05738”

6. Adopt a Resolution Accepting the Resignation of Mr. Gerald (Jerry) Sannebeck from the Keep Hayward Clean and Green Task Force, Effective Immediately **CONS 21-539**

Staff report submitted by City Clerk Lens, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-204, “Resolution Accepting the Resignation of Mr. Gerald (Jerry) Sannebeck from the Keep Hayward Clean and Green Task Force”



CITY COUNCIL MEETING

777 B Street, Hayward, CA 94541

Virtual Platform - Zoom

<https://hayward.zoom.us/j/82246711452?pwd=TlR2WnlXb3o4cUlxTG9MYU5DY05FQT09>

Tuesday, October 19, 2021, 7:00 p.m.

-
7. Adopt a Resolution Authorizing the City Manager to Sign an Agreement to Join Alameda County's ALL IN Eats Partnership **CONS 21-549**

Staff report submitted by City Manager McAdoo, dated October 19, 2021, was filed.

It was moved by Council Member Wahab, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas,
Wahab, Zermeño
MAYOR Halliday
NOES: None
ABSENT: None
ABSTAIN: None

Resolution 21-205, "Resolution Authorizing the City Manager to Sign an Agreement to Join Alameda County's all in Eats Partnership"

PUBLIC HEARING

Council Member Andrews disclosed she had to recuse herself from the public hearing because her previous employer had an interest in the project and left the Zoom meeting at 7:23 p.m.

8. Sale of Parcel Group 3 for Development of New Affordable Housing and a School: Adoption of Resolutions (1) Declaring City-Owned Properties Generally Located between Tennyson Road and Broadway Street as Exempt Surplus Lands; and (2) Approving the Government Code Section 52201 Summary Report for the Project; and Authorizing the City Manager to Negotiate and Execute a Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners for Transfer of Specified City Owned Properties; and Amendment of the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594), Consistent with Prior California Environmental Quality Act Determinations **PH 21-087**

Staff report submitted by Assistant City Manager/ Development Services Director Ott, dated October 19, 2021, was filed.

Assistant City Manager Ott provided a synopsis of the staff report and indicated there was a change to the resolution by changing the reference "charter school" to "public community school."

In response to Council Member Márquez's inquiry about safeguards in place for affordable housing project, Assistant City Manager Ott indicated there is a regulatory agreement recorded on the property and that will be restricted for affordable housing in perpetuity.

Mayor Halliday opened the public hearing at 7:38 p.m.

Ms. Daniela Ades, Greenbelt Alliance Marketing and Communications Manager, spoke in support of the La Vista residential project for its commitment to housing affordability, proximity to transit and helping reach goals of reducing greenhouse gas emissions, space dedicated to school and access to open space.

Ms. Claudio Rosendo, parent of student at Primary School, spoke in support of the development of a school as because it is a vital resource for the community.

Ms. Elena Ramos, parent of student at Primary School, expressed support about services provided through the school in partnership with Kaiser and urged approval of the proposed project.

Mayor Halliday closed the public hearing at 7:45 p.m.

Council Member Salinas noted the project had been thoroughly vetted by the Planning Commission, added the project will yield affordable housing in an area that is needed, noted it will provide housing with a school that will serve a population of families and students.

Council Member Salinas made a motion to approve staff's recommendation.

Council Member Zermeño seconded the motion.

Council Member Márquez was pleased about the affordable housing component of the project, thanked all community partners including Greenbelt Alliance, and looked forward to the development being built and more families staying rooted in Hayward.

Council Member Zermeño expressed support for the project for its 176 affordable housing units, an educational component, close to BART, and funds for the La Vista Park; and recommended that sometime in the future the residents/school administrators/teachers consider a notion of a shuttle from BART to the project as the walk uphill is very steep.

Mayor Halliday noted she would be joining her colleagues in supporting the motion.

It was moved by Council Member Salinas, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolutions.



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541
Virtual Platform – Zoom
<https://hayward.zoom.us/j/82246711452?pwd=TlR2WnlXb3o4cUlxTG9MYU5DY05FQT09>
Tuesday, October 19, 2021, 7:00 p.m.

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

Resolution 21-206 “Resolution Declaring City-Owned Properties Located Between Tennyson Road and Broadway Street as Exempt Surplus Land Pursuant to Government Code Section 54221(F)(1)(H)”

Resolution 21-207, “Resolution Approving Government Code Section 52201 Summary Report for the Project; Authorizing the City Manager to Negotiate and Execute a Disposition and Development Agreement with Eden Housing, Pacific West Communities, and the Strategic Growth Partners for Transfer of Specified City Owned Properties and for the Development of New Affordable Housing and a School; and Amending the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594) and Making Specified Findings in Association Therewith Consistent with Prior California Environmental Quality Act Determinations”

Council Member Andrews rejoined the meeting at 7:43 p.m.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Márquez thanked everyone who put on the October 15th Mariachi Festival event; noted she had done a ride-along with the Hayward Police Department on October 15th and shared positive observations; and highlighted City Hall to You events on October 23rd at Longwood Park and on November 6th outside of City Hall to provide input on the budget and other community initiatives.

Council Member Lamnin invited all to the Annual Children’s Memorial Ceremony service on October 22nd at the Sensory Garden of City Hall and announced the Alameda County Board of Supervisors was holding a final public hearing on redistricting on October 26th.

Council Member Zermeño invited all to the Make a Difference Day 2021 clean-up event on October 23rd at Weekes Park; and thanked all who attended the successful Mariachi Festival event.

Council Member Andrews thanked former Keep Hayward Clean and Green Task Force (KHCGTF) Member Sannebeck who recently resigned and was instrumental in motivating others to get involved in clean up events; reiterated the Make a Difference Day 2021 event; and announced there were two events on October 30th to welcome a new bookmobile “Curbie” in the Heritage Plaza and the Trunk or Treat event at the Eden Youth and Family Center.

Council Member Wahab noted there were important conversations around potential school closures and recommended that interested parents or residents reach out to the HUSD Board of Trustees and Superintendent and attend their town hall meetings.

Mayor Halliday shared she attended City Hall to You events where staff was looking for ideas on participatory budgeting, which was introduced as part of the innovation workshop, and thanked KHCGTF Member Sannebeck for his service on the KHCGTF.

COUNCIL REFERRALS

9. City Council Referral: Consider Adoption of a Resolution Declaring the City of Hayward a Supporter and Defender of Reproductive Freedom **RPT 21-121**

Referral submitted by Council Member Wahab dated October 19, 2021, was filed.

Council Member Wahab noted her support for the separation of church and state, stated the resolution reaffirms the right of women to govern their own body and the right to choose, and added she asked representatives from Hayward’s Planned Parenthood to give a presentation.

Mayor Halliday thanked Council Member Wahab for bringing the item forward.

Mayor Halliday opened the public comment section at 8:04 p.m.

Ms. Katie Goggin, Lead Health Services Specialist at Planned Parenthood Mar Monte, spoke about the right to access abortion services, shared a video from supporter Ms. Muriel Mahrer who shared her story, and noted they are calling on local leaders to stand with patients, staff, and the community and to call on national leaders to do the same regarding reproductive freedom.

Mayor Halliday closed the public comment section at 8:10 p.m.

Council Member Lamnin asked if the intent was to send a copy of the resolution or a letter to Congressional and Senate representatives.

Mayor Halliday stated it would be appropriate to send the resolution to Congressional representatives.

Council Member Wahab moved the referral with Council Member Lamnin’s suggestion.



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541
Virtual Platform - Zoom
<https://hayward.zoom.us/j/82246711452?pwd=TlR2WnlXb3o4cUlxTG9MYU5DY05FQT09>
Tuesday, October 19, 2021, 7:00 p.m.

Mayor Halliday seconded the item with the suggestion, pointed out one of the Whereas notes “restrictions, bans, and limitations to reproductive freedom disproportionately impact populations that already face barriers to accessing care, including communities of color, individuals with low income, immigrant communities, youth, and rural communities” and added that with Hayward’s emphasis on equity, the resolution was important to consider.

Council Member Wahab expressed appreciation for the local Planned Parenthood and noted the services are vital for abortion rights, reproductive justice, and support services.

It was moved by Council Member Wahab, seconded by Mayor Halliday, and carried by the following roll call vote, to approve the resolution and send a copy Congressional and Senate representatives.

AYES:	COUNCIL MEMBERS Andrews, Lamnin, Márquez, Salinas, Wahab, Zermeno MAYOR Halliday
NOES:	None
ABSENT:	None
ABSTAIN:	None

Resolution 21-208 “Resolution Declaring the City of Hayward a
Supporter and Defender of Reproductive Freedom”

10. City Council Referral: Consider Adoption of a Resolution Urging the Alameda County Board of Supervisors to Support the Proposed Howard Terminal/Waterfront Ballpark District Enhanced Infrastructure Finance District (EIFD) (Report from Mayor Halliday)
RPT 21-122

Referral submitted by Mayor Halliday dated October 19, 2021,
was filed.

Mayor Halliday noted the construction of the a new Oakland A’s stadium is not a Hayward project but Oakland Mayor Libby Schaaf had asked mayors of Alameda County to consider the resolution urging the Alameda County Board of Supervisors to take action at its meeting of October 26, 2021 to opt-in to the proposed Waterfront Ballpark District Enhanced Infrastructure Finance District (EIFD) and encourage redevelopment of vacant and blighted properties, and added it would be an addition to the region and provide economic benefit.

Council Member Wahab noted the Council had received letters from two Alameda County Supervisors and Mayor Schaaf and asked City Manager McAdoo to summarize the information.

City Manager McAdoo noted a member of Mayor Schaaf's office, Ms. Veronica Cummings, was on the Zoom webinar and asked her to address key points from Mayor Schaff's letter.

Ms. Veronica Cummings noted Mayor Schaaf's letter outlines facts in response to false claims about the proposed project which will help materialize public benefits including affordable housing, open space, jobs and it benefits the entire county by not putting any general funds at risk.

City Manager McAdoo noted the City also received a copy of a letter addressed to President Carson from Supervisor Haubert and Supervisor Valle requesting that the Oakland A's Stadium item and non-binding resolution be brought forward as an action item on October 26, 2021.

In response to questions about how the project affects East Oakland, why the EIFD was needed given the magnitude of the project and anticipated revenue and any conversations about affordable commercial spaces to support lower income businesses in Oakland, Ms. Cummings indicated there were no concrete plans for the Coliseum site, the EIFD was needed to make the project economically feasible, and discussion of affordable commercial space was included as recommendations for community benefit.

Mayor Halliday opened public comment at 8:31 p.m.

The following individuals spoke against the proposed resolution indicating the proposed project will negatively impact the Port of Oakland and Hayward businesses as it will reduce productivity at the Port; it will spend public tax dollars on the A's private luxury development with no oversight; it will divert public resources to a private project; there is no direct benefit to Hayward; it will displace East Oakland residents with no relocation assistance; it involves a private investor asking for funding with no guarantee the team will stay; it will create congestion at the Port; the Oakland City Council has not taken a vote on the item; it will cause gentrification and lack of accessibility to disabled individuals; the Howard Terminal is not underutilized and functionally obsolete and Port operations need to be protected; and new residential buildings will not be affordable.

Ms. Andrea Luna Bocanegra, Oakland resident and Alameda County Central Democratic Central Committee member

Ms. Sheryl Walton

Mr. Aaron Wright, International Longshore and Warehouse Union (ILWU) Local 10

Mr. Didacus Ramos, Hayward resident

Ms. Cathy Leonard, Oakland resident and Commission member

Ms. Susan Ransom with SSA Marine Terminal

Ms. Linda Adams, ILWU member

Ms. Kelly Epstein

Mr. Austin Tam, Alameda County Democratic Central Committee member

Mr. Mike Jacob with Pacific Merchants Shipping Association

Ms. Melody Davis, West Oakland resident

Mr. Henok Gidey, West Oakland resident



CITY COUNCIL MEETING
777 B Street, Hayward, CA 94541
Virtual Platform - Zoom
<https://hayward.zoom.us/j/82246711452?pwd=TlR2WnlXb3o4cUlxTG9MYU5DY05FQT09>
Tuesday, October 19, 2021, 7:00 p.m.

The following individuals spoke in support of the proposed resolution indicating the proposed project will ensure that union members continue to be employed and create new construction job opportunities at the Howard Terminal; it is not a threat to the Port and the infrastructure, grade crossing and street repairs will enhance the work at the Port; the Port is not having issues; it will help surrounding cities; bring new visitors and will create union jobs.

Ms. Liz Ortega-Toro, Alameda Labor Council Executive Secretary-Treasurer
Mr. Doug Bloch, with Teamsters Joint Council Number 7 member
Ms. Xitlali Sanchez, Unite Here member
Mr. Tom Ferreira, Hayward resident

Mayor Halliday closed public comment at 8:53 p.m.

Mayor Halliday made a motion to approve the referral, stated the Council is not deciding on whether the proposed project moves forward but is adopting a resolution urging the Alameda County Board of Supervisors to support a project with the formation of an infrastructure financing district and believed the project would have economic benefits for Alameda County if it were built.

Council Member Zermeño seconded the motion and echoed Mayor Halliday's comment indicating the Council is not voting to support the project, only suggesting the Alameda County Board of Supervisors look into the EIFD to see if it is viable.

Council Member Lamnin supported the motion, noted the idea of a countywide public benefit could stimulate the economy and housing; added it was not a vote on the project; encouraged the City of Oakland to look closely at the community benefits; had concern about the profit the private developer will make with public land facilitated with EIFD; acknowledged traffic impacts at the Port; and noted projects get built through public-private partnerships and the job as stewards is to ensure they are as publicly beneficial as possible.

Council Member Andrews noted she did not get a firm answer as to what happens to East Oakland and what happened to the infrastructure improvements; was supportive of keeping the Oakland A's baseball team in Oakland but felt the item sets a precedent of Hayward having a say on what should happen in another community; and noted she would abstain from voting as she did not think it was appropriate to vote on an item that is not Hayward business.

It was moved by Mayor Halliday, seconded by Council Member Zermeño, and carried by the following roll call vote, to approve the resolution.

AYES: COUNCIL MEMBERS Lamnin, Salinas, Wahab, Zermeno
MAYOR Halliday

NOES: None

ABSENT: None

ABSTAIN: COUNCIL MEMBERS Andrews, Márquez

Resolution 21-209 "Resolution Urging the Alameda County Board of Supervisors to Support the Proposed Howard Terminal/Waterfront Ballpark District Enhanced Infrastructure Finance District (EIFD)"

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:05 p.m.

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 21-546

DATE: November 2, 2021

TO: Mayor and City Council

FROM: CIO/Director of Information Technology

SUBJECT

Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Tyler Technologies for Migration of Munis Enterprise Resource Planning to a Cloud-Hosted Platform for a Three-Year Term with Two One-Year Options in an Amount Not-to-Exceed \$414,000 Annually

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to execute an agreement with Tyler Technologies for the migration of Munis Enterprise Resource Planning (ERP) to a cloud-hosted platform for a three-year term with two one-year options to extend in an amount not-to-exceed \$414,000 annually.

SUMMARY

Munis ERP software manages a wide range of functions for the City including payroll, accounting, budget, purchasing, revenue, utility billing, human resources, business license, permits, and inspections. Staff is seeking authorization to spend funds to migrate Munis ERP from its current physical data center location to a cloud-hosted platform. The City has used and housed Munis ERP in its data center since 2013. Over the past decade, there has been a major shift of hosting enterprise software such as Munis ERP, to the cloud to achieve increased availability of applications, consistent and frequent data backups, and speedy emergency data recovery versus using smaller local data room resources that can be constrained by size or lack of technical expertise. Migrating Munis ERP to a cloud-hosted platform aligns with the City's cloud-first philosophy and offers state of the art, secure technology infrastructure coupled with 24x7 application access at a predictable cost that can grow as the needs of the City grow.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: November 2, 2021

TO: Mayor and City Council

FROM: CIO/Director of Information Technology

SUBJECT: Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Tyler Technologies for Migration of Munis Enterprise Resource Planning to a Cloud-Hosted Platform for a Three-Year Term with Two One-Year Options in an Amount Not-to-Exceed \$414,000 Annually

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to execute an agreement with Tyler Technologies for the migration of Munis Enterprise Resource Planning (ERP) to a cloud-hosted platform for a three-year term with two one-year options to extend in an amount not-to-exceed \$414,000 annually.

SUMMARY

Munis ERP software manages a wide range of functions for the City including payroll, accounting, budget, purchasing, revenue, utility billing, human resources, business license, permits, and inspections. Staff is seeking authorization to spend funds to migrate Munis ERP from its current physical data center location to a cloud-hosted platform. The City has used and housed Munis ERP in its data center since 2013. Over the past decade, there has been a major shift of hosting enterprise software such as Munis ERP, to the cloud to achieve increased availability of applications, consistent and frequent data backups, and speedy emergency data recovery versus using smaller local data room resources that can be constrained by size or lack of technical expertise. Migrating Munis ERP to a cloud-hosted platform aligns with the City's cloud-first philosophy and offers state of the art, secure technology infrastructure coupled with 24x7 application access at a predictable cost that can grow as the needs of the City grow.

BACKGROUND AND DISCUSSION

The City of Hayward has been utilizing Munis ERP for over eight years and is seeking to update the contract to migrate the solution to Tyler Technologies cloud-hosted environment called the Tyler Data Center. Five thousand clients are hosted in the Tyler Data Center, which includes over 850 Munis ERP clients. Munis ERP is utilized in the daily operations of the City, which includes payroll, accounting, budget, purchasing, revenue, utility billing, human

resources, business license, permits, and inspections. Staff, residents, and businesses all rely on access and data contained in these core financial applications to receive and track revenue as well as track spending and process development applications. Ensuring the system is available for use as well as protecting the financial data are core functions of the Information Technology (IT) Department. Moving this suite of applications to the cloud, while complex and challenging, presents the opportunity to achieve greater application access as well as increase data security and emergency data recovery should that service be needed.

The following are the key elements of the platform that demonstrate the advantages of migrating Munis ERP to the Tyler Data Center:

I. Cloud-Hosted Features

Cloud-hosted applications have many advantages over running an application from a smaller, in-house data location. These range from increased access to technical resources to manage the operation and security of the infrastructure and software applications to the predictable costs associated with this increased level of technical expertise.

- **Simplified Administrative Tasks** – The solution is centrally hosted and managed by Tyler Technologies, which translates to external management of software and hardware system maintenance, upgrades, database backups, and restores.
- **24/7 Support** – Tyler Technologies manages the environment of the data, but the City determines when new updates are installed. This collaboration allows the City to determine the frequency of applying updates and allows the City the opportunity to test updates, service packs, and new features in a test environment prior to going live in production.
- **Fixed & Predictable Costs** – For the duration of the contact, pricing remains constant for the City. Unexpected or planned costs for local hardware upgrades of the data center are eliminated as these become the responsibility of Tyler Technologies and their investment in their data center. By moving Munis to the cloud, the network infrastructure team estimates to save over \$75,000 annually on hardware infrastructure, data storage, and virtual server software costs.
- **Managed Security** - Tyler Technologies manages all aspects of security with the hosted solution including antivirus and cyber security monitoring to full backups, failover, and disaster recovery.
- **Enhanced Technical Support** – Hosting Munis ERP in the cloud allows for increased opportunities for staff to engage directly with Tyler Support for basic support needs. IT will remain the gatekeeper of access to the system, but basic support needs for users can be met in the hosted environment as Tyler Support will have instant visibility of the solution in the cloud for analysis and troubleshooting. This model provides flexibility to IT resources to focus on problems of higher technical skill or complexity on an as needed basis.

II. Data Security

Munis ERP data will be hosted in Tyler Technologies data center. This data center hosts multiple client sites and has dedicated 24/7 staff focused on data integrity, data security, and

data availability for the platform. In addition, Tyler Technologies maintains annual audits and certifications, including SOX-404, PA-DSS, & PCI-DSS, Soc 1 Type 2 and Soc 2 Type 2. These industry certifications further demonstrate Tyler Technologies commitment to maintaining a state-of-the-art data center to align with best practices, required procedures, and industry protocols.

III. Data Ownership and Third-Party Data Sharing

The contract terms stipulate that the City is the owner of the data and the vendor may not share or resell the data, which aligns with the best practices for data ownership and third-party data sharing.

FISCAL IMPACT

In the current fiscal year, the realized cost to Hayward of migrating Munis ERP to the cloud is estimated to be \$128,000. While the annual software maintenance is increasing from \$211,000 to \$414,000, this increase will be offset on an annual basis by approximately \$75,000 due to the reduction of hardware infrastructure, data storage, and virtual server software costs. The estimated \$128,000 realized cost will be absorbed in the existing operating budget of the IT Department this fiscal year and adjusted accordingly each fiscal year thereafter in the operating budget.

STRATEGIC ROADMAP

This agenda item applies to the Improve Organizational Health strategic priority.

18. Analyze and shift technology solutions and services to external web-based platforms and providers (cloud-first transition).

NEXT STEPS

If Council approves this item, then staff will proceed with the negotiation and execution of the contract with Tyler Technologies for the migration of Munis ERP to a cloud-hosted platform.

Prepared by: Nathaniel Roush, IT Manager

Recommended by: Adam Kostrzak, CIO / Director of Information Technology

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH TYLER TECHNOLOGIES FOR MIGRATION OF MUNIS ERP TO A CLOUD-HOSTED PLATFORM FOR A THREE-YEAR TERM WITH TWO ONE-YEAR OPTIONS IN AN AMOUNT NOT TO EXCEED \$414,000 ANNUALLY

WHEREAS, the City of Hayward ("City") has been utilizing Munis ERP for over eight years and is seeking to update the contract to migrate the solution to Tyler Technologies cloud-hosted environment called the Tyler Data Center; and

WHEREAS, 5000 clients are hosted in the Tyler Data Center, which includes over 850 Munis ERP clients; and

WHEREAS, Munis ERP is integrated into the daily operations of the City which makes this transition to the cloud complex and challenging; and

WHEREAS, there are several advantages to migrating Munis ERP to the Tyler Data Center, including simplified administrative tools, fixed and predictable costs, managed security, enhanced technical support, and others.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes and directs the City Manager to negotiate and execute an Agreement with Tyler Technologies for Migration of Munis ERP to a Cloud-Hosted Platform for a three-year term with two one-year options to extend in an amount not to exceed \$414,000 per year, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021.

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



CITY OF HAYWARD

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

File #: CONS 21-571

DATE: November 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Authorizing the City Manager to Appropriate \$200,000 from the Water Improvement Fund 604 for Water Office Improvement Project 07139 and Award a Contract to Custom Garages, Inc., in an Amount Not-to-Exceed \$117,462

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to appropriate \$200,000 from the Water Improvement Fund 604 for the Corporation Yard's (Corp Yard) Water Office Improvement Project 07139, and award a contract to Custom Garages, Inc. (Custom Garages) to implement related improvements in an amount not-to-exceed \$117,462.

SUMMARY

The Water Operations Office (Water Office) is located at the City's Corp Yard on Soto Road, and is home to the City's Water Operations staff. The building has experienced no improvements since it was first constructed in the early 1980s. Staff is seeking authorization to appropriate \$200,000 to a new Project 07139, in Water Improvement Fund 604, to support much-needed flooring, storage, and workspace improvements to the building. Staff recommends awarding a contract for completion of these improvements to Custom Garages in an amount no-to-exceed \$117,462. This vendor was identified following a competitive bidding process that occurred in Spring 2021. The remaining approximately \$82,000 included in the appropriation request would be used to support improvements ensuring the building's compliance with Americans with Disabilities Act (ADA) requirements.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: November 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Appropriate \$200,000 from the Water Improvement Fund 604 for Water Office Improvement Project 07139 and Award a Contract to Custom Garages, Inc., in an Amount Not-to-Exceed \$117,462

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to appropriate \$200,000 from the Water Improvement Fund 604 for the Corporation Yard's (Corp Yard) Water Office Improvement Project 07139, and award a contract to Custom Garages, Inc. (Custom Garages) to implement related improvements in an amount not-to-exceed \$117,462.

SUMMARY

The Water Operations Office (Water Office) is located at the City's Corp Yard on Soto Road, and is home to the City's Water Operations staff. The building has experienced no improvements since it was first constructed in the early 1980s. Staff is seeking authorization to appropriate \$200,000 to a new Project 07139, in Water Improvement Fund 604, to support much-needed flooring, storage, and workspace improvements to the building. Staff recommends awarding a contract for completion of these improvements to Custom Garages in an amount no-to-exceed \$117,462. This vendor was identified following a competitive bidding process that occurred in Spring 2021. The remaining approximately \$82,000 included in the appropriation request would be used to support improvements ensuring the building's compliance with Americans with Disabilities Act (ADA) requirements.

BACKGROUND

The Water Office, located at the City's Corporation Yard on Soto Road, is home to the City's Water Operations staff, and the building has experienced no improvements since it was first constructed in the early 1980s.

The flooring, storage, and workspace improvements described in this report were originally intended to take place in 2020; however, due to the COVID-19 pandemic, initiation of the Request for Quotes (RFQ) process was put on hold as Water Operations

staff's priorities shifted to ensuring continued quality water service throughout the pandemic.

In Summer 2021, the Water Office was evaluated for ADA compliance and several areas requiring improvement were identified. Public Works Utilities staff are working with Facilities staff to coordinate these improvements, which are also recommended to be supported by this new project.

DISCUSSION

The workstations, flooring, and storage solutions currently in the Water Office are in need of significant updates. The current configuration of workspaces is a poor use of the limited square footage, and the building lacks built-in shelf and drawer space, resulting in organizational and storage challenges. Many of the desktops and counters within the office are in need of repair or complete replacement due to age. Additionally, the existing tile flooring is stripped due to age and heavy use, causing it to become slippery. The site requires industrial grade flooring, which will ensure resilience under exposure to high foot traffic, water, mud, and dirt.

To address these issues, staff sought quotes to reconfigure the built-in furniture, add storage space, and replace the flooring with industrial grade material via a formal RFQ process in early Spring 2021. Four contractors attended the Mandatory Bidder's Walkthrough in March 2021, but only Custom Garages was capable of meeting the desired criteria that all work be performed in-house by the submitting contractor. As such, Custom Garages was the only vendor to submit a responsible and responsive bid.

Additionally, in Summer 2021, the Water Office was evaluated for areas for improvement to ensure ADA compliance. A list of necessary improvements was identified, including such items as lowering certain counters, widening certain doorways, installing an accessibility ramp, among others. Staff's requested appropriation amount is intended to fund both Customer Garages' contract amount, as well as these necessary ADA improvements that will be separately performed in coordination with Maintenance Services Staff.

The improvements described in this report are recommended to take place separate of the improvements to the Corp Yard that will be funded via the America Rescue Plan Act of 2021 (ARPA) COVID-19 Stimulus Package. In the report delivered to Council on July 13, 2021¹ regarding the Federal Stimulus Package Expenditure Plan, staff proposed dedicating \$200,000 in Year 1 stimulus funding to implement significant renovations to the Corp Yard to support utility infrastructure work. However, the work discussed in this report is recommended to take place immediately and separate of the larger stimulus-funded renovation effort, due to the fact that it is long overdue and critical to providing staff an adequate working environment. The larger stimulus-funded effort will be brought before the Council Infrastructure Committee and, ultimately, Council, at a later date.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5028015&GUID=E0215022-6A47-486F-81C4-9BFB2583AE10&Options=&Search=>

ECONOMIC IMPACT

The work recommended to be completed in this report will not have a direct economic impact on the Hayward community.

FISCAL IMPACT

Staff recommends appropriating \$200,000 from the Water Improvement Fund 604 to complete this Water Office improvement work. The fund has sufficient balance to support this effort.

The estimated project costs would be as follows (including contingencies):

ADA Improvements	\$82,000
Custom Garages Contract	\$118,000
Total	\$200,000

With these funds, staff recommend awarding a contract to Custom Garages is amount not - to-exceed \$117,462, which includes a 20% contingency.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Infrastructure. Specifically, this item relates to the implementation of the following project:

Project 10: Investigate major municipal building upgrade needs

This agenda item also supports the Strategic Priority of Improve Organizational Health. Specifically, this item relates to the implementation of the following project:

Project 17: Identify, assess and upgrade systems, infrastructure, and technology to modern architecture and design

SUSTAINABILITY FEATURES

There are no sustainability features associated with the work recommended to be completed in this report.

PUBLIC CONTACT

A RFQ for the flooring, storage, and workspace improvements described in this report was posted publicly on February 23, 2021, and the submission period ended on March 26, 2021. Four contractors participated in the Mandatory Bidder's Walkthrough on March 5, 2021, and one vendor, Custom Garages, submitted a responsible and responsive bid.

The appropriate bidding requirements and purchasing policies will also be adhered to as staff work with the Maintenance Services Department to separately complete the required ADA improvements and secure contractors, as necessary.

NEXT STEPS

If approved, staff will appropriate \$200,000 from Water Improvement Fund 604 for the new Water Office Improvement Project 07139 and will award a contract to Custom Garages in an amount not-to-exceed \$117,462.

Prepared by: Kait Byrne, Management Analyst

Recommended by: Alex Ameri, Director of Public Works

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

ADOP A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROPRIATE \$200,000 FROM WATER IMPROVEMENT FUND 604 FOR THE WATER OFFICE IMPROVEMENT PROJECT 07139 AND AWARD A CONTRACT TO CUSTOM GARAGES, INC., FOR RELATED IMPROVEMENTS IN AN AMOUNT NOT-TO-EXCEED \$117,462

WHEREAS, the City released a Request for Quotes (RFQ) in Spring 2021 for the implementation of necessary improvements to the Water Operations Office (Water Office) located on Soto Road; and

WHEREAS, four contractors participated in the Mandatory Bidder's Walkthrough on March 5, 2021; and

WHEREAS, only one vendor, Custom Garages, Inc. (Custom Garages), submitted a responsible and responsive bid in an amount of \$97,885; and

WHEREAS, staff recommend that the contract be awarded to Custom Garages in an amount not-to-exceed \$117,462, which includes a 20% contingency; and

WHEREAS, certain other improvements are also required at the site to ensure compliance with the Americans with Disabilities Act (ADA); and

WHEREAS, Water Improvement Fund 604 has sufficient funds to support this effort.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to appropriate \$200,000 for the new Water Office Improvement Project 07139 from Water Improvement Fund 604.

BE IT FURHTER RESOLVED by the City Council of the City of Hayward that the contract for implementation of necessary improvements to the Water Office be awarded to Custom Garages in an amount not-to-exceed \$117,462.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized to spend up to \$82,538 on required access improvements to the Water Office to ensure compliance with the ADA.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

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



CITY OF HAYWARD

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

File #: CONS 21-586

DATE: November 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Accepting Easements for Public Road Rights-of-Way in the Old Highlands Homeowner Association (OHHA) to Facilitate the First Phase of Road Improvements

RECOMMENDATION

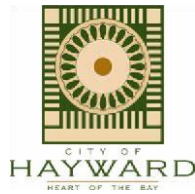
That the Council adopts a resolution (Attachment II) accepting easements for public road rights-of-way in the Old Highlands Area for the first phase of the OHHA assessment district road improvements.

SUMMARY

On February 2, 2021, the Council conducted a Proposition 218 hearing regarding assessments for the Old Highlands Area Road Improvement District. The assessment was approved by the property owners within the district. The Council must accept easements for public road rights-of-way prior to commencing the first phase of improvements.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Exhibit A to OHHA Easement



DATE: November 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Accepting Easements for Public Road Rights-of-Way in the Old Highlands Homeowner Association (OHHA) to Facilitate the First Phase of Road Improvements

RECOMMENDATION

That the Council adopts a resolution (Attachment II) accepting easements for public road rights-of-way in the Old Highlands Area for the first phase of the OHHA assessment district road improvements.

SUMMARY

On February 2, 2021, the Council conducted a Proposition 218 hearing regarding assessments for the Old Highlands Area Road Improvement District. The assessment was approved by the property owners within the district. The Council must accept easements for public road rights-of-way prior to commencing the first phase of improvements.

BACKGROUND

On December 8, 2020¹, the Council adopted Resolutions No. 20- 216 and No. 20- 217, initiating proceedings pursuant to Streets and Highways Code Sec. 1160 et. seq., and Proposition 218 (California Constitution Article XIIC and XIID; Government Code Section 53753) for creation of the Old Highlands Area Road Improvement Assessment District (District). On February 2, 2021, the Council conducted a Proposition 218 hearing regarding assessments for the District. The assessment was approved by the property owners within the District.

DISCUSSION

The Old Highland area was annexed to the City in 1963 and at that time, the 6.12 miles of streets within the Old Highland area were not brought up to City standards upon annexation

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4711817&GUID=B3F09AA4-AAC0-4CD9-84D5-D6AFAEE8EB41&Options=&Search=>

and have not been regularly or routinely maintained. When the subdivision was initially approved by the County, the subdivider dedicated roads within the subdivision as public roads. After annexation, certain streets remained unaccepted by the County and remained private right-of-way. City staff has identified streets that remained private right-of-way after annexation. Please refer to Exhibit A of the resolution (Attachment III) for the specific list of addresses from which easements are to be accepted. The Council must accept easements for public road rights-of-way prior to commencing the first phase of improvements.

ECONOMIC IMPACT

There is no economic impact associated with this item.

FISCAL IMPACT

There is no anticipated fiscal impact associated with acceptance of these easements other than the financial commitment previously made regarding the City's share of costs toward the roadway improvements.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Infrastructure. Specifically, this item relates to the implementation of the following projects:

Project 5: Maintain and improve pavement

Part 5.a: Maintain Pavement Condition Index (PCI) at 70.

Part 5.b: Prepare OHHA pavement improvement program design and financing structure.

Part 5.c: Construct various OHHA pavement improvements

SUSTAINABILITY FEATURES

The project will involve pavement improvement, which will require contractors to recycle all construction and demolition debris as a result of the project.

NEXT STEPS

Upon acceptance of the public road rights-of-way, staff will commence with the first phase of improvements.

Prepared by: Kathy Garcia, Deputy Public Works Director

Recommended by: Alex Ameri, Public Works Director

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-_____

Introduced by Council Member _____

RESOLUTION ACCEPTING EASEMENTS FOR PUBLIC ROAD RIGHTS-OF-WAY
IN THE OLD HIGHLANDS HOMEOWNER ASSOCIATION (OHHA) FOR THE
FIRST PHASE OF ROAD IMPROVEMENTS

WHEREAS, on December 8, 2020, the Council adopted Resolutions No. 20- 216 and No. 20- 217, initiating proceedings pursuant to Streets and Highways Code Sec. 1160 et. seq., and Prop. 218 (California Constitution Article XIII C and XIID; Government Code Section 53753) for creation of the Old Highlands Area Road Improvement Assessment District (District); and

WHEREAS, on February 2, 2021, the Council conducted a Prop. 218 hearing regarding assessments for the District, which was approved by the property owners within the District; and

WHEREAS, the Old Highland area was annexed to the City in 1963 and at that time, the 6.12 miles of streets within the Old Highland area were not brought up to City standards upon annexation and have not been regularly or routinely maintained; and

WHEREAS, after annexation, certain streets remained unaccepted by the County and remained private right-of-way; and

WHEREAS, City staff has identified streets that remained private right-of-way from which easements for a public road right-of-way must be accepted in advance of the first phase of pavement improvements, which are identified in Exhibit A to this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward accepts the easements for a public road right-of-way as identified in Exhibit A to this Resolution.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute any documents necessary to finalize acceptance of the easements, in a form approved by the City Attorney, and to cause the easements to be recorded with the County.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

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

EXHIBIT A**Cotati & Tribune – Public Right of Way Easement Dedication**

Number	Street	APN
2707	Tribune	081D-1645-001-00
2879	Tribune	081D-1665-008-01
2933	Tribune	081D-1665-001-06
27105	Dobbel	081D-1595-00202
2227	Cotati	081D-1595-002-01
2177	Cotati	081D-1595-001-00
2125	Cotati	081D-1595-012-02
2126	Cotati	081D-1585-027-00
2108	Cotati	081D-1585-028-01
2100	Cotati	081D-1585-028-02



CITY OF HAYWARD

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

File #: PH 21-092

Appeal of Planning Commission Denial of a New 116,844 Square Foot Industrial Building Requiring Site Plan Review Approval and a Historic Resources Demolition Permit; Certification of an Environmental Impact Report; and Adoption of a Mitigation, Monitoring and Reporting Program and Statement of Overriding Considerations for U-Haul at 4150 Point Eden Way

(Item continued to December 14, 2021 at request of applicant)



CITY OF HAYWARD

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

File #: LB 21-049

DATE: November 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Senate Bill 1383 Implementation: Adopt Resolutions and Introduce an Opt-in Ordinance to Adopt the Countywide Ordinance to Comply with SB 1383 - Short-Lived Climate Pollutants

RECOMMENDATION

That Council adopts a resolution (Attachment II) and introduces an Opt-in Ordinance (Attachment III) to adopt the Countywide Organics Reduction and Recycling Ordinance (ORRO); and adopt a resolution (Attachment IV) authorizing the City Manager to negotiate and execute a memorandum of understanding with the Alameda County Department of Environmental Health to assist with enforcement of the ORRO.

SUMMARY

Senate Bill (SB) 1383 is a state law that aims to achieve a statewide reduction in emissions of short-lived climate pollutants by reducing the amount of organic waste disposed. The law requires that by January 1, 2022, jurisdictions adopt and enforce an ordinance that will implement SB 1383 regulations. To assist member agencies and create consistent requirements throughout Alameda County, the Alameda County Waste Management Authority (ACWMA, also known as StopWaste) adopted a countywide model ordinance that can serve as the enforcement mechanism for Alameda County jurisdictions. The ordinance is titled the Organics Reduction and Recycling Ordinance (ORRO). It was adopted by the ACWMA on July 28, 2021, and supersedes the existing Mandatory Recycling Ordinance (MRO). In order for the ORRO to apply to Hayward, Council must adopt an Opt-In Ordinance. If adopted, the ORRO will become effective and the MRO will be repealed on January 1, 2022.

The Council Sustainability Committee (CSC) reviewed this item at several CSC meetings including the September 13, 2021 meeting, where the CSC recommended that Council adopt an ordinance opting into the ORRO. The CSC also recommended increasing outreach to businesses regarding proper recycling and indicated support for increasing food recovery by working with the Alameda County Food Bank.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	ORRO Opt-in Ordinance
Attachment IV	Exhibit A to Ordinance
Attachment V	Exhibit B to Ordinance
Attachment VI	Resolution for MOU



DATE: November 2, 2021

TO: Hayward City Council

FROM: Director of Public Works

SUBJECT Senate Bill 1383 Implementation: Adopt Resolutions and Introduce an Opt-in Ordinance to Adopt the Countywide Ordinance to Comply with SB 1383 - Short-Lived Climate Pollutants

RECOMMENDATION

That Council adopts a resolution (Attachment II) and introduces an Opt-in Ordinance (Attachment III) to adopt the Countywide Organics Reduction and Recycling Ordinance (ORRO); and adopt a resolution (Attachment IV) authorizing the City Manager to negotiate and execute a memorandum of understanding with the Alameda County Department of Environmental Health to assist with enforcement of the ORRO.

SUMMARY

Senate Bill (SB) 1383 is a state law that aims to achieve a statewide reduction in emissions of short-lived climate pollutants by reducing the amount of organic waste disposed. The law requires that by January 1, 2022, jurisdictions adopt and enforce an ordinance that will implement SB 1383 regulations. To assist member agencies and create consistent requirements throughout Alameda County, the Alameda County Waste Management Authority (ACWMA, also known as StopWaste) adopted a countywide model ordinance that can serve as the enforcement mechanism for Alameda County jurisdictions. The ordinance is titled the Organics Reduction and Recycling Ordinance (ORRO). It was adopted by the ACWMA on July 28, 2021, and supersedes the existing Mandatory Recycling Ordinance (MRO). In order for the ORRO to apply to Hayward, Council must adopt an Opt-In Ordinance. If adopted, the ORRO will become effective and the MRO will be repealed on January 1, 2022.

The Council Sustainability Committee (CSC) reviewed this item at several CSC meetings including the September 13, 2021 meeting, where the CSC recommended that Council adopt an ordinance opting into the ORRO. The CSC also recommended increasing outreach to businesses regarding proper recycling and indicated support for increasing food recovery by working with the Alameda County Food Bank.

BACKGROUND

In January of 2012, ACWMA enacted the MRO as Ordinance 2012-01 requiring businesses, institutions, and multi-family properties with five or more units to sort their recyclables from their trash. Hayward adopted the Ordinance in January of 2012. Phase 1 of the MRO required businesses that generate four cubic yards of trash sign up for recycling service, and generators of a significant quantity of organics sign up for organics service. Phase 2 of the MRO required all businesses regardless of the amount of waste generated to sign up for recycling. In addition, Assembly Bill (AB) 1826 that became effective in January 2016, requires businesses generating at least two cubic yards of combined recycling, organics, and trash per week to sign up for organics service.

SB 1383 is the most significant waste reduction mandate in the last thirty years. The intent of SB 1383 is to reduce greenhouse gas emissions in light of global climate change. When compostable materials such as food scraps, yard trimmings, and paper products break down in a landfill, they become powerful contributors to greenhouse gas emissions. Compostable materials, such as food waste and paper decompose anaerobically, i.e., without air, in a landfill, producing methane, a greenhouse gas with significant global warming potential.

SB 1383 requires the state to reduce organic waste disposal by 75% and to increase edible food recovery for human consumption by 20% by 2025 compared to 2014 levels. SB 1383 regulations impose significant new requirements on local jurisdictions to achieve the ambitious state goals, including mandates for new local waste reduction policies and programs, procurement of recycled content paper and recovered organics, outreach, monitoring for contamination, record keeping, enforcement, and requiring the color of collection containers be standardized throughout the state.

SB 1383 regulations require cities, counties, and special districts that provide solid waste collection services to adopt and enforce an ordinance to implement relevant provisions of the SB 1383 regulations. In response to this mandate, ACWMA's member agencies requested that it adopt a countywide ordinance to establish a uniform and comprehensive countywide system to adhere to regulations required by SB 1383. The ORRO mandates organic waste collection services, and includes the regulation of generators of organic waste, waste haulers, and generators and processors of edible food, as well as enforcement mechanisms and administrative civil penalties for violations of local regulations.

On July 8, 2019¹, staff presented a report on SB 1383 to the CSC that highlighted the major elements of the law and sought feedback from the Committee. The CSC expressed concern about the requirements for standardizing cart color schemes across the state because of the potential for waste caused by disposing of functional carts simply because they are not the correct color.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4056382&GUID=2F021C31-1392-42D1-B7A6-A2718C8B416D>

On May 10, 2021², staff presented an informational report to the CSC with an overview of the countywide model ORRO as well as a draft of the ordinance. On July 28, 2021, the ACWMA adopted the ORRO as Ordinance 2021-02. In order for the ORRO to apply in Hayward, Council must adopt an Opt-In Ordinance (Attachment III) adopting the ORRO.

On September 13, 2021³, staff presented a report to the CSC that provided an overview of the countywide model ORRO as well as a draft of the ORRO and draft Opt-In Ordinance. The CSC voted to recommend that Council adopt the attached Opt-In Ordinance to opt Hayward into the ORRO (Exhibit A of Attachment III). If adopted, the ORRO would become effective and repeal the MRO on January 1, 2022.

DISCUSSION

SB 1383 requires extensive efforts by jurisdictions to reduce the amount of organics sent to landfills and increase recycling. The ORRO aims to help member agencies comply with SB 1383 and create a consistent set of requirements across Alameda County. To ensure compliance with CalRecycle regulations, the ACWMA primarily based the ORRO on a Model Enforcement Ordinance provided by CalRecycle. The prescriptive nature of SB 1383 regulations leaves little flexibility in the ordinance's content.

ACWMA provided a draft Opt-In Ordinance template that has been customized for adoption to designate the ORRO as Hayward's required enforcement mechanism for SB 1383 regulations. The ACWMA and the City have followed the schedule listed below to adopt the Countywide SB 1383 Ordinance by CalRecycle's deadline:

April 29, 2021	Technical Advisory Committee (TAC) review draft Ordinance
• May 5, 2021	City Managers meeting - overview presentation
• May 6, 2021	Regular TAC meeting – Review of Ordinance
• May 10, 2021	Review of draft Ordinance by CSC
• May 14, 2021	Deadline for comment on draft Ordinance and Opt-in Ordinance
• May 26, 2021	Informational item on the Ordinance at WMA Board meeting
• June 23, 2021	1st reading at WMA Board meeting
• July 28, 2021	2nd reading and adoption at WMA Board meeting
• September 2021	Review by and recommendation from CSC
• November 2, 2021	1st reading by Council
• November 16, 2021	2nd reading and Council action on adoption
• December 2, 2021	Deadline for Jurisdictions to adopt Opt-in Ordinance to meet CalRecycle's January 1, 2022 deadline

The major requirements SB1383 places upon jurisdictions include the following:

- Provide Organics Collection Service to All Residents and Businesses
- Color Containers to Meet New Standards

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=4938513&GUID=ED0F4964-0887-475A-8487-FE30C14CCB44&Options=&Search=>

³ <https://hayward.legistar.com/MeetingDetail.aspx?ID=886580&GUID=B0F1C120-28D0-403B-99C2-5BB4233CBF14&Options=info|&Search=>

- Establish an Edible Food Recovery Program
- Conduct Outreach and Education
- Procure Recycled Organic Products & Recycled Content Paper
- Maintain Implementation Records & Annual Reporting
- Adopt an Ordinance to Implement Requirements
- Perform Compliance Monitoring and Enforcement

City staff is currently negotiating with Waste Management of Alameda County (WMAC) on a new franchise agreement. Part of the negotiations entail determining how WMAC will help the City comply with SB 1383.

Provide Organics Collection Service to All Residents and Businesses

SB 1383 requires organics (food waste, plant debris, paper products, etc.) collection service for all residents and businesses. Hayward is well-positioned to meet this organics collection service mandate as organics service has been available to all Hayward businesses, single-family residents, and multifamily properties since 2015. Most of Hayward's residents and businesses already subscribe to recycling and organics collection services. Businesses that don't generate organics can apply for a waiver from SB 1383 requirements.

Color Containers to Meet New State Standards

SB 1383 requires all trash containers be gray or black, recycling containers be blue, and organics containers be green. Only the organics carts in Hayward currently meet this color standard. SB 1383 states that inventory purchased prior to January 1, 2022, doesn't need replacement until the end of its service life or by January 1, 2036, whichever comes first. This requirement to replace carts can be costly and potentially waste an enormous number of useable carts. However, in light of some practical considerations, it may be best to replace the unconfirming carts with the implementation of the new franchise. Staff is discussing cart replacement options as part of franchise agreement negotiations with WMAC.

Establish an Edible Food Recovery Program

This requirement demands a 20% reduction of edible food that goes to landfills (based on a 2014 benchmark), and requires the food be provided to people. By January 1, 2022, each jurisdiction must establish an edible food recovery program for Tier 1 food generators. SB 1383 categorizes Tier 1 generators as supermarkets, grocery stores of 10,000 square feet or more, food service providers, food distributors, and wholesale food vendors. By 2024, the edible food recovery program must expand to include Tier 2 food generators, which SB 1383 defines as restaurants with 250 seats or 5,000 square feet or more, hotels that offer onsite food and have 200 or more rooms, health facilities that offer onsite food and have 100 or more beds, large events and venues, and local education facilities with on-site food facilities. Jurisdictions are required to monitor commercial food generator compliance and ensure edible food recovery organizations have enough capacity to process and distribute this surplus food. Hayward is in a good position to comply with this requirement as StopWaste is coordinating edible food recovery efforts for the county. StopWaste is

conducting regional capacity planning with the Alameda County Community Food Bank and other food recovery organizations. StopWaste is also in conversations with the Alameda County Department of Environmental Health regarding the provision of education, monitoring, and enforcement by health inspectors during their regular onsite inspections of commercial edible food generators.

Conduct Outreach and Education

SB 1383 requires jurisdictions to provide annual education regarding organic waste reduction programs to all residents, businesses, edible food generators, and food recovery organizations. Haulers are responsible for educating their staff on the generator requirements annually. Haulers are also required to inspect containers for contamination and inform generators when contamination is observed. StopWaste is creating outreach and educational material templates for jurisdictions. City staff plans to use StopWaste material and also develop Hayward-specific educational materials, such as bill inserts, social media posts, and direct mailers. City staff also plans to work with WMAC to provide onsite outreach and education for businesses and multifamily residences.

Procure Recycled Organic Products & Recycled Content Paper

SB 1383 requires jurisdictions to purchase recycled paper products with a minimum of 30% post-consumer, such as office paper and janitorial supplies, and also procure a minimum quantity of recovered organic products. Recovered organic products can include compost, mulch, renewable gas (RNG) derived from organic waste diverted from landfill, or electricity from biomass. Each jurisdiction in California must procure 0.08 tons of recovered organic products per person per year. Staff has yet to identify a compliance path using RNG, so it is anticipated that Hayward will need to meet the bulk of its procurement mandate through compost and/or mulch purchases. Hayward receives 500 cubic yards of finished compost annually per the City's current contract with WMAC as well as 5,000 bags of compost to give to residents. SB 1383 will require Hayward to procure about 13,000 cubic yards of mulch or 18,500 cubic yards of additional compost annually, which is enough to cover 208 football fields one-half inch deep twice per year.

City staff is working with WMAC to include compost procurement in the new franchise agreement and staff is also working with StopWaste to identify local and regional strategies to address the massive organic product procurement requirement. These strategies may include: compost application on City-owned land (capacity will need to be determined); developing agreements with direct service providers to apply compost on the City's behalf; and exploring pooled funding with other member agencies to apply compost on farmland. The application of compost on farmland can also help advance the City's climate goals through soil carbon sequestration. This additional cost is likely in the range of \$650,000-\$1,000,000 for material, transport, and application.

Maintain Implementation Records & Annual Reporting

SB 1383 significantly expands record keeping and annual CalRecycle reporting requirements including the following:

- Organics collection service levels;
- Container monitoring and contamination inspections and notifications;
- Waivers granted for organics service;
- Education and outreach programs;
- Procurement records;
- Edible food generator program outreach and monitoring;
- Inspection and enforcement records; and
- Copies of ordinances, contracts, franchise agreements.

Perform Compliance Monitoring and Enforcement

SB 1383 requires the adoption of ordinances, enforceable policies and procedures as well as the development of monitoring and enforcement programs. Enforcement of SB 1383 by all jurisdictions will include issuance of fines, as was done with the MRO. Monitoring and education must begin in January 2022 and enforcement shall commence January 1, 2024. Similar to the current MRO, StopWaste has committed to serve as the lead enforcement agency for annual administrative subscription reviews, compliance notifications, waivers, and provision of service compliance enforcement for commercial and multifamily locations. Haulers will be responsible for route audits, contamination monitoring, contamination notifications, and related enforcement. Current solid waste franchise agreement negotiations between Hayward and WMAC have included discussions regarding SB 1383 compliance monitoring requirements. WMAC has proposed using a system of cameras to monitor material inside containers it services and to help with route audits. WMAC would also notify customers of contamination and potentially assess surcharges as needed to help with enforcement.

The Alameda County Department of Environmental Health (ACDEH) currently permits and conducts routine inspections for retail food facilities throughout Alameda County. To maximize efficiency, StopWaste has worked with ACDEH to add enforcement of the ORRO to the inspection program for retail food facilities. StopWaste will conduct enforcement for wholesale food and food manufacturing facilities. StopWaste will enter into a memorandum of understanding (MOU) with the ACDEH. ACDEH has requested that each member agency also enter into a MOU with ACDEH to designate the County as the enforcement agency for retail food facilities within each jurisdiction. Staff recommends that Council adopt a resolution (Attachment VI) authorizing the City Manager to negotiate and execute the MOU with ACDEH.

Biosolids

Biosolids are a product of wastewater treatment at Hayward's Water Pollution Control facility and are included in SB1383's definition of the organics that must be diverted from landfills. Hayward's biosolids have been used as alternative daily cover (ADC) at the Altamont Landfill for decades, which is a cost-effective use of the material. Use as ADC has allowed for Hayward's biosolids to count as diverted material. However, SB1383 states that biosolids will be considered as solid waste when accepted by a landfill. Due to the restrictions of SB1383 and the designation of biosolids waste rather than ADC, the cost of

disposing biosolids at landfills will increase dramatically, and landfills may refuse to accept biosolids in the future. Hayward staff is researching options to best manage biosolids.

Environmental Determination

The proposed Opt-In ordinance and the ORRO were prepared pursuant to CalRecycle's SB 1383 Regulations. The Ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

On a separate and independent basis, the SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions that maintain the already established requirements of the Waste Management Authority's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance) which currently apply in Hayward, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and the EIR. No mitigation measures identified in the EIR are applicable to the City's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance, and no additional environmental review is required.

ECONOMIC AND FISCAL IMPACTS

The requirements of SB 1383 will have economic impacts to residents and businesses of Hayward, such as mandatory organics service, increased time spent sorting materials, and surcharges for contamination, but the magnitude of those impacts are unknown at this time. However, the adoption of the Opt-in Ordinance to enact the Countywide SB 1383 Ordinance will not have direct economic impacts.

The requirements of SB 1383 will have fiscal impacts to the City, such as procurement of compost and compliance with reporting requirements, but the magnitude of those impacts are unknown at this time. However, the adoption of the Opt-in Ordinance to enact the Countywide SB 1383 Ordinance will not have direct fiscal impacts.

STRATEGIC ROADMAP

SB 1383 does not directly relate to one of Council's six Strategic Priorities, but it supports the following project in the Combat Climate Change priority:

Project 5 Work with StopWaste to promote a Circular Economy and Explore Regulation of Single Use Products

SUSTAINABILITY FEATURES

CalRecycle's SB 1383 regulations are intended to reduce GHG emissions, develop markets for recycled organic material, and encourage more efficient use of edible food resources across the state. If new regulations achieve their intended goals, then California and Hayward will decrease their contribution to climate change and consumption of resources. Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural resources, and plays an important role in making a community sustainable.

PUBLIC CONTACT

The WMA is planning outreach to businesses and multi-family dwellings in the fall of 2021 regarding the Countywide SB 1383 Ordinance. In addition, staff sent a letter in October of 2021 to all businesses and multi-family properties in Hayward with information about the ORRO. On October 22, 2021, a Public Hearing notice was published in the Daily Review newspaper. The December bills from Waste Management will include inserts with information about the ORRO and staff will continue to provide outreach and educational materials to Hayward customers throughout 2022.

NEXT STEPS

If Council approves the attached resolution, a second reading of the ordinance will be scheduled for a subsequent meeting. If the ordinance is adopted, the ORRO would be effective in 30 days. Staff will continue to work with StopWaste and WMAC to educate the community and prepare to meet the requirements described in this report.

Prepared by: Jeff Krump, Solid Waste Program Manager
Erik Pearson, Environmental Services Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

RESOLUTION FINDING AND DETERMINING THE NEED FOR ADOPTION OF AN
ORDINANCE OPTING IN TO THE ALAMEDA COUNTY WASTE MANAGEMENT
AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

WHEREAS, the City of Hayward is a member of the Alameda County Waste Management Authority ("WMA"), a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts; and

WHEREAS, the WMA has established a goal for landfill obsolescence by the year 2045; and

WHEREAS, in 2012, the City Council adopted an ordinance opting into the WMA's Phase 1 of the Mandatory Recycling Ordinance and in 2014, Council adopted an ordinance opting into the WMA's Phase 2 of the Mandatory Recycling Ordinance; and

WHEREAS, on June 16, 2020, Council adopted new greenhouse gas emission targets of 30% below 2005 levels by 2025, 55% below 2005 levels by 2030 and carbon neutrality by 2045; and

WHEREAS, the WMA developed and adopted the Organics Reduction and Recycling Ordinance ("ORRO"), Ordinance 2021-02, to comply with the requirements of the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations; and

WHEREAS, in order for the ORRO to apply in the City of Hayward, the City must adopt an ordinance declaring that it will apply within the City; and

WHEREAS, the City Council Sustainability Committee received reports and presentations on the ORRO on July 8, 2019 and May 10, 2021; and

WHEREAS, on September 13, 2021, Hayward's City Council Sustainability Committee recommended adoption the Opt-In Ordinance; and

WHEREAS, the provisions in this Ordinance are designed to reduce greenhouse gas emissions; increase resource conservation; promote the health and productivity of residents, workers, and visitors to the City recognize and conserve the energy and reduce the environmental footprint of the Hayward community; and reduce disturbance of natural ecosystems; and

WHEREAS, adoption of the ORRO is consistent with and would advance goals and policies contained in the Hayward 2040 General Plan related to climate change, greenhouse gas reductions, and public health and safety.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The proposed Opt-In ordinance and the ORRO were prepared pursuant to CalRecycle's SB 1383 Regulations. The Ordinance is exempt from California Environmental Quality Act (CEQA) pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

On a separate and independent basis, the SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the Waste Management Authority's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance) which currently apply in Hayward, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and the EIR. No mitigation measures identified in the EIR are applicable to the City's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance, and no additional environmental review is required.

BE IT FURTHER RESOLVED that the City Council hereby introduces the Ordinance Opting-In to the Alameda County Waste Management Authority's Organics Reduction and Recycling Ordinance.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021.

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

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF HAYWARD OPTING IN TO THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

The City Council of the City of Hayward ("City") hereby ordains as follows:

Section 1. Purpose and Findings.

- (a) The purpose of this Ordinance is to comply with certain state laws requiring cities, counties, and special districts providing solid waste collection services to adopt ordinances and take other measures to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators, more specifically the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations (the "SB 1383 Regulations").
- (b) The City is a member of the Alameda County Waste Management Authority ("WMA"). The WMA is a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts.
- (c) The SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism applicable to residents and businesses generating or processing solid waste to implement relevant provisions of the SB 1383 Regulations. In response to this mandate, the WMA's member agencies requested that it adopt an ordinance to establish a uniform and comprehensive countywide system to establish the local regulations required by the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.
- (d) On July 28, 2021 the WMA adopted the Organics Reduction and Recycling Ordinance ("ORRO"), Ordinance 2021-01, attached hereto as Exhibit A. In order for the ORRO to apply in the City the City must adopt an ordinance declaring that it will apply within the City.
- (e) The City wishes the ORRO to apply in Hayward.
- (f) The ORRO provides jurisdictions with the option to grant enforcement authority over various of its provisions to agencies specified in the ORRO. The City is making designations by approving agreements with other entities concurrently with adoption of this ordinance.

Section 2. Adoption.

The City of Hayward hereby declares that the Organics Reduction and Recycling Ordinance as set forth in Exhibit A to be effective in the City beginning on January 1, 2022.

Section 3. Enforcement Agency Authorization.

(a) The WMA is authorized and designated to carry out the responsibilities specified in Exhibit B to this ordinance effective January 1, 2022 and the City Manager is authorized to enter an agreement with the WMA to implement this authorization and designation.

(c) The authorization and designation above does not limit the City's authority to independently carry out some or all of the responsibilities designated above. The City retains full authority to implement and enforce the ORRO.

(d) The City Council may, by resolution, modify Exhibit B and may authorize and designate other entities to carry out responsibilities under this ordinance and no amendment of this ordinance shall be required.

Section 4. Severance Clause.

The [Hayward City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause, and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause, and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause, or phrase of this ordinance is held invalid, the Hayward City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

Section 5. California Environmental Quality Act

This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the Waste Management Authority's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance) which currently apply in the City of Hayward, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. . No mitigation measures identified in the EIR are applicable to the City of Hayward's enactment of this Ordinance. Moreover, none of the conditions requiring a

subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines of as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

Section 6. Publication.

A summary of this ordinance shall be published in a newspaper of general circulation of the City of Hayward prior its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 2nd day of November, 2021, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of November, 2021, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

ORDINANCE 2021-02

**ORGANICS REDUCTION
AND RECYCLING ORDINANCE**

TABLE OF CONTENTS

SECTION 1. PURPOSE AND FINDINGS.....	1
SECTION 2. TITLE OF ORDINANCE	4
SECTION 3. DEFINITIONS	4
SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS.....	14
SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS	15
SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS.....	18
SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS	19
SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES	21
SECTION 9. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY OPERATORS.....	23
SECTION 10. REQUIREMENTS FOR SELF-HAULERS	25
SECTION 11. INSPECTIONS AND INVESTIGATIONS.....	26
SECTION 12. ENFORCEMENT	27
SECTION 13. LOCAL REGULATION AND OPT-OUT AND OPT-IN PROVISIONS.....	30
SECTION 14. SEVERABILITY.....	30
SECTION 15. EFFECTIVE DATE AND REPEAL OF ORDINANCE 2012-1	31

ORDINANCE 2021-01: ORGANICS REDUCTION AND RECYCLING ORDINANCE

The Board of the Alameda County Waste Management Authority (“WMA”) hereby ordains as follows:

SECTION 1. PURPOSE AND FINDINGS

- (a) The purpose of this Ordinance is to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators. This Ordinance repeals WMA Ordinance 2012-1 (An Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers) in its entirety in order to provide a single and comprehensive framework to achieve its purposes and comply with various state laws as set forth below.
- (b) The WMA has the power to enact this Ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management (“JPA”). The JPA grants the WMA the power, duty, and responsibility to prepare, adopt, revise, amend, administer, enforce, and implement the Countywide Integrated Waste Management Plan (“ColWMP”), and pursuant to Section 5.m of the JPA, the power to adopt ordinances necessary to carry out the purposes of the JPA.
- (c) The reduction of organic and recyclable materials deposited in landfills is necessary to carry out the purposes of the JPA and implement the ColWMP, including the following goals and objectives:
 - Goal 1 is to “maintain adequate disposal capacity and minimize landfill impacts.” Objectives 1.1 and 1.3 prioritize preserving landfill capacity in the short run through reducing landfilled materials, and aim to ultimately eliminate landfills altogether, through elimination of waste and effective recovery of materials.
 - Goal 2 is to “maximize environmental benefits by balancing high volume of recovery with related considerations such as quality of commodities, operating impacts of facilities, and other environmental impacts of programs.” Objectives 2.1 to 2.5 affirm the need for infrastructure to manage diversion of organics, minimize environmental impacts of infrastructure, support markets for recovered materials, and reduce contamination.
 - Goal 3 is to “shift from managing discards to reducing consumption, managing materials at their highest and best use, and addressing environmental impacts across the full life cycle of materials and products.”

Objectives 3.1 and 3.2 prioritize managing materials at their highest and best use and prioritize incorporating climate impacts into WMA programs.

- Goal 4 is to “inform and engage the public in waste reduction activities.” Objectives 4.2 and 4.3 provide for education of Alameda County residents, schools and businesses and emphasize the need for the public to take action and adopt positive waste reduction habits.
- Goal 5 is to “develop and administer programs and address emerging issues in partnership with member agencies, the private sector, and other key stakeholders.” Objective 5.1 identifies the need for organizational structures that foster inter-jurisdictional cooperation.

- (d) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (approved by the Governor of the State of California on September 29, 1989, which among other things, added Division 30 (Section 40000, et seq.) to the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (e) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling service and requires jurisdictions to implement a Mandatory Commercial Recycling program.
- (f) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and multi-family property owners that generate a specified threshold amount of Solid Waste, recycling, and Organic Waste per week to arrange for recycling service for those materials, requires counties and cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and to implement a Mandatory Commercial Organics Recycling program.
- (g) State organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016 (approved by the Governor of the State of

California on September 19, 2016, which added Sections 39730.5, 39730.6, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), took effect on January 1, 2017 and sets Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022.

- (h) In furtherance of the food recovery objectives of the laws noted above and to reduce legal risks associated with food recovery, the State food donation law, Assembly Bill 1219 of 2017, the California Good Samaritan Food Donation Act of 2017 (approved by the Governor of the State of California on October 9, 2017, which amended Section 1714.25 of the Civil Code, amended Section 58502 of, and repealed Section 58506 of, the Food and Agricultural Code, and amended Sections 114432, 114433, and 114434 of, and added Section 114435 to, the Health and Safety Code, as amended, supplemented, superseded and replaced from time to time), provides additional protections for entities that donate and distribute food for human consumption.
- (i) By January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.
- (j) It is in the public interest for participants in the Alameda County solid waste and recycling systems—including cities, the County, sanitary districts, haulers, processors, facility operators, businesses, institutions, the public, and the WMA—to work together to advance the goals in the state legislation noted above, as well as those in the ColWMP.
- (k) This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the WMA's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance), the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR.

No mitigation measures identified in the EIR are applicable to WMA's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment

SECTION 2. TITLE OF ORDINANCE

This Ordinance is titled "Organics Reduction and Recycling Ordinance".

SECTION 3. DEFINITIONS

The following definitions govern the use of terms in this Ordinance:

- (a) "Alameda County" means all of the geographical areas located within the incorporated and unincorporated areas of Alameda County whereas "County of Alameda" or "County" refers to the public entity, a body corporate and politic of the State of California.
- (b) "Back-Haul" means generating and transporting Organic Waste to a destination owned and operated by a generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- (c) "C&D" means construction and demolition debris.
- (d) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the state agency designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.
- (e) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (f) "Certification of Recycling Service Form" means documentation certifying that a Commercial Business does not subscribe to collection services for Compost Containers and/or Recycling Containers because the Commercial Business has arranged for collection of its Source Separated Compost Container Organic Waste and/or Source Separated Recyclable Materials by self-hauling, Back-Haul,

contracting with a third party hauler, or shares service with another Commercial Business.

- (g) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, institution or association (whether incorporated or unincorporated or for-profit or nonprofit), strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6).
- (h) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
- (i) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (j) “Compliance Review” means a review of records by the Enforcement Agency to evaluate compliance with this Ordinance.
- (k) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Waste that is Source Separated from the municipal Solid Waste stream, or which is separated at a centralized facility.
- (l) “Compost Container” has the same meaning as “Green Container” in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Compost Container Organic Waste.
- (m) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 and D6868 standards for compostability and are certified by the Biodegradable Products Institute (BPI) or similar third-party approved by the WMA, and are approved by the Member Agency for placement in the Compost Container.
- (n) “Container Contamination” or “Contaminated Container” means a container, regardless of type, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- (o) “Designee” means an entity that the WMA or a Member Agency contracts with or otherwise arranges to carry out or assist with any of the WMA’s or Member Agency’s responsibilities for compliance with the SB 1383 Regulations or

administration or enforcement of this Ordinance. A Designee may be a government entity, a private entity, or a combination of those entities.

- (p) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code, as codified in the Health and Safety Code Section 113700, et seq.
- (q) "Enforcement Action" means an action of the relevant Enforcement Agency to address non-compliance with this Ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (r) "Enforcement Agency" means an entity with the authority to enforce part or all of this Ordinance as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this Ordinance. Nothing in this Ordinance authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity.
- (s) "Excluded Waste" means hazardous substances, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from a Member Agency and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the reasonable opinion of the Member Agency or a Regulated Hauler operating in that Member Agency's jurisdiction would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Member Agency or a Regulated Hauler to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the Member Agency's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the Member Agency or the Regulated Hauler providing service to the generator.

- (t) “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- (u) “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
- (v) “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- (w) “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Ordinance.

- (x) “Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
- (y) “Food Scraps” means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (z) “Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

- (aa) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, napkins, and pizza boxes, and is approved by the applicable the Member Agency for placement in the Compost Container.
- (bb) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics in combination or separately.
- (cc) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
- (dd) “Hauler Route” means the designated itinerary or sequence of stops for each segment of a Member Agency’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (ee) “Health Facility” has the same meaning as in Section 1250 of the Health and Safety Code.
- (ff) “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
- (gg) “Hotel” has the same meaning as in Section 17210 of the Business and Professions Code.
- (hh) “Inspection” means an Enforcement Agency’s electronic or on-site review of records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (ii) “Landfill Container” has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Landfill Container Waste.
- (jj) “Landfill Container Waste” means Solid Waste that is collected in a Landfill Container that is part of a three-container or three-plus container collection service that prohibits the placement of Organic Waste in the Landfill Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section

17402(a)(6.5). (Three container collection service refers to service collecting materials in Landfill Containers, Organics Containers, and Recycling Containers.)

- (kk) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Ordinance. For the purposes of this definition of Large Event, “local agency” means all public agencies except those that are not subject to the regulatory authority of the Member Agency.
- (ll) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Ordinance.
- (mm) “Member Agency” means a party to the JPA. Current member agencies are the County of Alameda; the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City; and the Castro Valley and Oro Loma Sanitary Districts. A reference to a Member Agency means the Member Agency within whose boundaries the regulated Organic Waste Generator, Self-Hauler, Regulated Hauler, Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity resides or operates. The Member Agency boundaries for the purpose of administering and enforcing this Ordinance are:
 - (1) The legal boundaries of each of the 14 incorporated municipalities within Alameda County, except those portions of the Cities of Hayward and San Leandro that are within the boundaries of the Oro Loma Sanitary District.
 - (2) The legal boundaries of each of the Castro Valley and Oro Loma Sanitary Districts.
 - (3) The unincorporated sections of the County not included within the above.

- (nn) “Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).
- (oo) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five or more dwelling units. Multi-Family premises are considered a distinct type of Commercial Business for the purposes of implementing this Ordinance. Consistent with the SB 1383 Regulations, residential premises that consist of fewer than five units are not “Multi-Family” and instead are “Single-Family” for the purposes of implementing this Ordinance. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered other types of Commercial Businesses.
- (pp) “Non-Compostable Paper” includes, but is not limited to, paper that is coated, lined or treated with a non-compostable material, or otherwise unacceptable to the compostable materials handling facility processing the material.
- (qq) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable materials including but not limited to recyclable food and beverage glass containers, metal (aluminum and steel) food and beverage cans, HDPE (high density polyethylene) bottles and PET (polyethylene terephthalate) bottles, and other materials specified in 14 CCR Section 18982(a)(43).
- (rr) “Notice of Violation” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- (ss) “Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
- (tt) “Organic Waste Generator” means a Person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- (uu) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- (vv) “Person” includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever, or as otherwise defined in Public Resources Code Section 40170.

- (ww) "Printing and Writing Paper" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- (xx) "Prohibited Container Contaminants" includes all of the following: (i) materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the Member Agency's Recycling Container; (ii) materials placed in the Compost Container that are not identified as acceptable Source Separated Compost Container Organic Waste for the Member Agency's Compost Container; (iii) materials placed in the Landfill Container that are acceptable Source Separated Recyclable Materials and/or acceptable Source Separated Compost Container Organic Waste that can be placed in the Member Agency's Compost Container and/or Recycling Container; and, (iv) Excluded Waste placed in any container.
- (yy) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- (zz) "Recycling Container" has the same meaning as "Blue Container" in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials and Source Separated Recycling Container Organic Waste.
- (aaa) "Regulated Hauler" means a Person that collects Solid Waste (other than Solid Waste generated by a permitted building project) originating in Alameda County from Compost Containers, Recycling Containers, and/or Landfill Containers, and does so under a contract, franchise agreement, or permit with the WMA or a Member Agency. A Member Agency that collects Solid Waste within its boundaries is not a Regulated Hauler with respect to that collection.
- (bbb) "Remote Monitoring" means the use of mechanical or electronic devices to identify the types of materials in Recycling Containers, Compost Containers, and/or Landfill Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- (ccc) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- (ddd) "Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical or electronic Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

- (eee) "SB 1383" means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.
- (fff) "SB 1383 Regulations" means or refers to, for the purposes of this Ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (ggg) "Self-Hauler" means a Person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another Person for disposition as allowed by the Member Agency and otherwise in accordance with all applicable laws. Self-Hauler also includes a Person who Back-Hauls such materials, and as otherwise defined in 14 CCR Section 18982(a)(66).
- (hhh) "Single-Family" means, for purposes of this Ordinance, of, from, or pertaining to any residential premises with fewer than five units.
- (iii) "Solid Waste" has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:
- (1) Hazardous waste, as defined in the Public Resources Code Section 40141.
 - (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
 - (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.
- (jjj) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this Ordinance,

Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Landfill Container Waste or other Solid Waste for the purposes of collection and processing.

(kkk) "Source Separated Compost Container Organic Waste" means Source Separated Organic Waste that can be placed in a Compost Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Recycling Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

(III) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.

(mmm) "Source Separated Recycling Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Recycling Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables, as defined herein or as otherwise defined in Sections 18982(a)(43) and 18982(a)(46). Source Separated Recycling Container Organic Waste shall include materials as determined by the Member Agency and includes unsoiled Paper Products and Printing and Writing Paper.

(nnn) "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

(ooo) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Ordinance.

(ppp) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition as to entities subject to the regulatory authority of a Member Agency, the definition in 14 CCR Section 18982(a)(74) shall apply to this Ordinance.

- (qqq) "Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).
- (rrr) "WMA" means the Alameda County Waste Management Authority.

SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Except Single-Family Organic Waste Generators that meet the Self-Hauler requirements in Section 10 of this Ordinance and/or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12), Single-Family generators shall:

- (a) Be subscribed to the collection service(s) approved by the Member Agency for Compost Containers, Recycling Containers, and Landfill Containers. A Member Agency shall have the right to review the number and size of a generator's containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation of materials and containment of materials. A Single-Family generator shall adjust its service level for its collection services as requested by the Member Agency in order to meet the standards set forth in this Ordinance. Generators may manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- (b) Participate in the Organic Waste collection service(s) approved by the Member Agency by placing designated materials in designated containers as described below, and not placing Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Compost Container Organic Waste,

including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container. Generators shall not place materials designated for the Landfill Container into the Compost Container or the Recycling Container.

- (c) The Enforcement Agency for the provisions of this Section 4 is the Member Agency and any other Designee of the Member Agency.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS

Commercial Business Organic Waste Generators, including Multi-Family Residential Dwellings, shall:

- (a) Except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this Ordinance, or that meet waiver requirements in Section 6 of this Ordinance, or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12):
 - (1) Be subscribed to collection service(s) approved by the Member Agency for Compost Containers, Recycling Containers, and Landfill Containers and comply with requirements of those services as described below. A Member Agency shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the Member Agency.
 - (2) Participate in collection services approved by the Member Agency for Organic Waste collection service(s) by placing designated materials in designated containers as described below. Generator shall place Source Separated Compost Container Organic Waste, including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container. Generator shall not place materials designated for the Landfill Container into the Compost Container or Recycling Container.
- (b) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(c)(1), 5(c)(2), and 5(d) below) for employees, contractors, tenants, and customers, consistent with the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (c) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials generated by that business in all areas where the Commercial Business provides disposal containers for employees, contractors, tenants, customers and other users of the premises ("User Disposal Containers"). Such User Disposal Containers do not need to be provided in restrooms. If a Commercial Business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of User Disposal Container, then the business does not have to provide that particular type of container in all areas where User Disposal Containers are provided. Pursuant to 14 CCR Section 18984.9(b), the User Disposal Containers provided by the business shall have either:
- (1) A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for Landfill Container Waste, blue containers for Source Separated Recyclable Materials, and green containers for Source Separated Compost Container Organic Waste. Notwithstanding the foregoing, a Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section 5(c)(1) prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (2) Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (d) For Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials in all common areas where those materials are being generated and disposal containers are provided for tenants, and in areas for internal consolidation of materials that are later deposited in Organics Containers, Recycling Containers, and Landfill Containers for collection by Regulated Haulers. Such containers do not need to be provided in restrooms accessible from common areas of the Multi-Family Dwelling. Such containers shall comply with the color and labeling requirements specified in subsections (c)(1) and (c)(2) above.
- (e) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses'

instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (f) Periodically inspect Recycling Containers, Compost Containers, and Landfill Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (g) Annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials.
- (h) Provide information before or within fourteen days of new occupation of the premises to new tenants and no less than fourteen days before tenants move out of the premises, unless a tenant does not provide fourteen or more days' notice to before moving out, that describes requirements to keep Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials separate from each other and from Landfill Container Waste and the location of containers and the rules governing their use at the property.
- (i) Provide or arrange access for the Enforcement Agency to their properties during all Inspections conducted in connection with this Ordinance and timely provide documents requested by the Enforcement Agency to confirm compliance with the requirements of this Ordinance.
- (j) Accommodate and cooperate with any Remote Monitoring program established by a Regulated Hauler or a Member Agency for Inspection of the types of materials placed in containers for Prohibited Container Contaminants to evaluate generator's compliance with Section 5(a)(1).
- (k) At Commercial Business' option and subject to approval by the Enforcement Agency, implement its own Remote Monitoring program for self-inspection of the types of materials placed in Recycling Containers, Compost Containers, and Landfill Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Purchase and maintenance of the Remote Monitoring program shall be the responsibility of the Commercial Business.
- (l) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- (m) The Enforcement Agency for the provisions of this Section 5 is the Member Agency and, if authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS

- (a) De Minimis Waivers. Except for Multi-Family Residential Dwellings, the Enforcement Agency may waive a Commercial Business' obligation to comply with some or all of the Organic Waste collection service requirements of this Ordinance if the Commercial Business provides documentation demonstrating that the business generates below a certain amount of Organic Waste material, as described in Section 6(a)(2) below. A Commercial Business requesting a de minimis waiver shall:
 - (1) Submit an application to the Enforcement Agency specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Recycling Container or Compost Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Recycling Container or Compost Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - (C) For the purposes of subsections (A) and (B) above, total Solid Waste shall be the sum of weekly Landfill Container Waste, Source Separated Recyclable Materials, and Source Separated Compost Container Organic Waste measured in cubic yards.
 - (3) If the waiver is granted, notify the Enforcement Agency granting the waiver if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case the waiver will be rescinded.
 - (4) If the waiver is granted, provide written verification of continued eligibility for de minimis waiver to the Enforcement Agency every 5 years.
- (b) Physical Space Waivers. The Enforcement Agency may waive a Commercial Business' or property owner's (including a Multi-Family Residential Dwelling's) obligation to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements of this Ordinance if the Enforcement Agency has evidence from a Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the Enforcement Agency demonstrating that the

premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.

A Commercial Business requesting a physical space waiver shall:

- (1) Submit an application to the Enforcement Agency specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application that the premises lacks adequate space for Recycling Containers and/or Compost Containers, which shall include documentation from its Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the Enforcement Agency.
 - (3) If the waiver is granted, notify the Enforcement Agency granting the waiver if the Commercial Business' physical space configurations or amounts of Solid Waste generation change, in which case the waiver may be rescinded.
 - (4) If the waiver is granted, provide written verification to the Enforcement Agency of continued eligibility for a physical space waiver every five years.
- (c) Collection Frequency Waiver. The Enforcement Agency, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the Member Agency's three- or, if relevant, three-plus container Organic Waste collection service to arrange for the collection of their Recycling Container, Landfill Container, or both once every fourteen days, rather than once per week.
- (d) The Enforcement Agency for the provisions of this Section 6 is the Member Agency and, if authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024 or such later deadline established by State law or regulations.
- (c) Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
- (2) Enter into a contract or other written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
- (4) Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
- (5) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (6) Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.
- (7) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts and written agreements established under 14 CCR Section 18991.3(b) and/or this Ordinance.
 - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.

- (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (D) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Services pursuant to Section 7(c)(2), a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- (8) Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in Section 7(c)(7). Entities shall provide the requested information within 60 days of the request.
- (d) Nothing in this Ordinance shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 commencing with Section 49580 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time); or (2) otherwise applicable food safety and handling laws and regulations.
- (e) Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).
- (f) The Enforcement Agency for the provisions of this Section 7 is the Member Agency and, if authorized by the applicable Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Nothing in this Ordinance prohibits a Food Recovery Service or Food Recovery Organization from refusing to accept edible food from a Commercial Edible Food Generator, in accordance with 14 CCR Section 18990.2(d).
- (b) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (c) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in Alameda County and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the WMA the total pounds of Edible Food recovered from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) according to the following schedule: (i) no later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and (ii) no later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.
- (e) In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in Alameda County shall provide, upon request, information and

consultation to the Enforcement Agency regarding existing, or proposed new or expanded, Food Recovery capacity in a form that can be provided to or that can be accessed by the WMA, Member Agencies, and Commercial Edible Food Generators in Alameda County. A Food Recovery Service or Food Recovery Organization contacted by the Enforcement Agency shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Enforcement Agency.

- (f) The Enforcement Agency for the provisions of this Section 8 is Member Agency and, if authorized by the Member Agency, the WMA and any other Designee of the Member Agency.

SECTION 9. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY OPERATORS

- (a) Requirements for Regulated Haulers.

- (1) A Regulated Hauler providing Single-Family, Commercial, or industrial Organic Waste collection service to generators within Alameda County shall meet the following requirements and standards in connection with collection of Organic Waste:
 - (A) Through written notice to the Member Agency annually on or before March 31, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Compost Container Organic Waste.
 - (B) Transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Compost Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (C) Obtain approval from the Member Agency to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 13 of this Ordinance, and any WMA and Member Agency rules.
- (2) Within the boundaries of any Member Agency in which it has customers, a Regulated Hauler collecting Organic Waste shall:
 - (A) Up to four times per year, provide reports to the WMA and Member Agency on Commercial Business account information and service levels in a form to be specified by the WMA.

- (B) Assist in the dissemination of SB 1383 educational materials to Single-Family and Commercial Business accounts. .
- (C) At least annually and during new staff on-boarding, train Regulated Hauler's customer service representatives and account managers/recycling coordinators serving Organic Waste Generators in Alameda County on the generator requirements set forth in Sections 4 and 5 of this Ordinance, SB 1383 Regulations as they may be revised from time to time and on resources available to assist in compliance. Trainings may be in a virtual or in-person format.
- (D) Where a Regulated Hauler provides Landfill Container collection service, notify Single-Family and Commercial Business accounts that (i) they must also be subscribed to Recycling Container collection service and Compost Container collection service to comply with this Ordinance, except if an applicable waiver has been granted for the account, if an applicable waiver application has been submitted and is under review for the account, or if the account has an approved Certification of Recycling Service Form and (ii) that the Regulated Hauler will inform the Member Agency if the account fails to subscribe to a required collection service offered by the Regulated Hauler.
- (E) Provide quarterly reports to the WMA identifying Single-Family and Commercial accounts that are subscribed to Landfill Container collection service but that are not subscribed to Recycling Container and/or Compost Container collection service. WMA shall provide this information to the Member Agency. If a Regulated Hauler providing Landfill Container collection service does not offer Recycling Container Collection Service and/or Compost Container collection service to its Landfill Container collection service customers, the requirements of subsection (D) and (E) shall not apply with respect to those customers and the type(s) of service that is not offered.
- (F) Conduct or comply with Container Contamination minimization efforts such as Route Reviews or waste evaluations. Inform generators when Container Contamination is observed by the Regulated Hauler.
- (G) If requested by the Enforcement Agency, assist generators with verification of physical space constraints when generator submits an application for a physical space waiver.
- (H) Provide Commercial Business accounts with interactive assistance such as employee trainings, in a virtual or in-person format, when Recycling Container collection service or Composting Container collection service is added, or upon request.

- (3) The Enforcement Agency for the provisions of this Section 9(a) is the Member Agency and, where authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.
- (b) Requirements for Facility Operators and Community Composting Operations
 - (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request from the WMA, provide within 60 days information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes.
 - (2) Community Composting operators shall, upon request from the WMA, provide within 60 days information to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation.
 - (3) The Enforcement Agency for the provisions of this Section 9(b) is the WMA and any Designee of the WMA.

SECTION 10. REQUIREMENTS FOR SELF-HAULERS

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the Member Agency otherwise requires generators to separate for collection in the Member Agency's organics and recycling collection program) generated or handled on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Compost Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility. Self-Haulers may Back-haul to a destination owned and operated by the generator using the generator's own employees and equipment and then haul those consolidated materials to facilities meeting the requirements of this subsection (b).
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers

Organic Waste; this record shall be subject to Inspection by the Enforcement Agency. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the material.
 - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
 - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a Certification of Recycling Service Form to the Enforcement Agency for review for compliance if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler. Applications will be considered for approval to the extent permitted by other applicable laws.
 - (e) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a new Certification of Recycling Service Form to the Enforcement Agency for compliance review every five years, if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler.
 - (f) Self-Haulers shall notify the Enforcement Agency if they subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler, such that they are no longer Self-Haulers.
 - (g) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall provide information, upon request, collected in Section 10(c) to the Enforcement Agency. Entities shall provide the requested information within 60 days.
 - (h) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Sections 10(c) through (g).
 - (i) The Enforcement Agency for the provisions of this Section 10 is the Member Agency and, where authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 11. INSPECTIONS AND INVESTIGATIONS

- (a) The Enforcement Agency is authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or

transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with the provisions of this Ordinance for which it has enforcement authority by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, Regulated Haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow entry in a private residential dwelling unit for Inspection. For the purposes of inspecting Commercial Business containers for compliance with Section 5(b) of this Ordinance, the Enforcement Agency may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 5(j) of this Ordinance.

- (b) A Person subject to the requirements of this Ordinance shall provide or arrange for access during all Inspections (with the exception of a private residential dwelling unit) and shall cooperate with the Enforcement Agency during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this Ordinance. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of Remote Monitoring equipment, if a Remote Monitoring program is adopted; or (iii) access to records for any Inspection or investigation is a violation of this Ordinance and may result in penalties described in Section 12.
- (c) Any records obtained by the Enforcement Agency during Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) The Enforcement Agency is authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this Ordinance, subject to applicable laws.
- (e) The Enforcement Agency shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this Ordinance.
- (f) The Enforcement Agency for the provisions of this Section 11 is the Member Agency and any Designee authorized by the Member Agency to enforce one or more sections of this Ordinance.

SECTION 12. ENFORCEMENT

- (a) Violation of any provision of this Ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the Enforcement Agency. Enforcement Actions under this Ordinance are issuance of an administrative

citation and assessment of a fine. The Enforcement Agency's procedures on imposition of administrative citations and fines as contained shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this Ordinance and any rule or regulation adopted pursuant to this Ordinance, except as otherwise indicated in this Ordinance.

- (b) Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction. The Enforcement Agency may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The Enforcement Agency may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of Enforcement Agency staff and resources.

- (c) Process for Enforcement

- (1) The following provisions of this Ordinance may be enforced beginning on January 1, 2022: Section 5 concerning Requirements for Commercial Business Generators, Section 6 concerning Waivers for Commercial Business Generators, Section 9 concerning Requirements for Haulers and Facility Operators, Section 10 concerning Requirements for Self-Haulers, and Inspections related to compliance with those sections.
 - (2) The following provisions of this Ordinance may be enforced beginning on January 1, 2024: Section 4 concerning Requirements for Single Family Generators, Section 7 concerning Requirements for Commercial Edible Food Generators, and Section 8 concerning Requirements for Food Recovery Organizations and Services, and Inspections related to compliance with those sections.
 - (3) The Enforcement Agency will monitor compliance with this Ordinance through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring).
 - (4) The Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
 - (5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Enforcement Agency shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Enforcement Agency's standard procedures.

- (d) Penalty Amounts for Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the penalty shall be \$50 to \$100 per violation or such higher amount as may be established by the Enforcement Agency.
- (2) For a second violation, the amount of the penalty shall be \$100 to \$200 per violation or such higher amount as may be established by the Enforcement Agency.
- (3) For a third or subsequent violation, the amount of the penalty shall be \$250 to \$500 per violation or such higher amount as may be established by the Enforcement Agency.

(e) Compliance Deadline Extension Considerations

The Enforcement Agency may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 12 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of nature such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays not within the control of respondent or their agents in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Member Agency is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(f) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed in the administrative citation and consistent with the Enforcement Agency's appeal procedures.

(g) Education Period for Non-Compliance

With respect to provisions of this Ordinance subject to enforcement starting January 1, 2024, the Enforcement Agency will, prior to that date, conduct Inspections, Remote Monitoring (if such a program is implemented), Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the Enforcement Agency determines that Organic Waste Generator, Self-Hauler, Regulated Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Ordinance and a notice

that compliance is required and that violations may be subject to administrative citations, penalties, or other remedies starting on January 1, 2024.

(h) Civil Penalties for Non-Compliance

If the Enforcement Agency determines that an Organic Waste Generator, Self-Hauler, Regulated Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Ordinance, it may document the noncompliance or violation, issue a Notice of Violation, and/or take Enforcement Action pursuant to this Section 12, as needed and consistent with the enforcement commencement dates set forth in subsection (c)(1), above.

(i) The Enforcement Agency for the provisions of this Section 12 is the Member Agency and any Designee authorized by the Member Agency to enforce one or more sections of this Ordinance.

SECTION 13. LOCAL REGULATION AND OPT-IN PROVISIONS

- (a) Nothing in this Ordinance shall be construed to prohibit any Member Agency from enacting and enforcing ordinances and regulations regarding the collection, transport, storage, processing, and deposit in landfill(s) of Solid Waste within its jurisdiction, including more stringent requirements than those in this Ordinance.
- (b) This Ordinance shall apply only within the boundaries of Member Agencies that have adopted an ordinance declaring that the Member Agency is opting in to this Ordinance and that it shall apply within their jurisdiction. For any Member Agency that opts in, this Ordinance shall apply as to that Member Agency from the date specified in the ordinance adopted by the Member Agency. A Member Agency that has adopted such an ordinance may declare that this Ordinance no longer applies within its boundaries by adopting a subsequent ordinance setting forth the date upon which this Ordinance shall no longer apply.

SECTION 14. SEVERABILITY

If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

SECTION 15. EFFECTIVE DATE AND REPEAL OF ORDINANCE 2012-1

This Ordinance shall be posted at the WMA Office after its adoption by the Board for at least thirty (30) days and shall take effect commencing on January 1, 2022. The WMA's Ordinance 2012-01 (An Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers) is repealed as of the time that this Ordinance takes effect.

Following introduction on June 23, 2021, passed and adopted July 28, 2021 by the following vote:

AYES: Arkin, Carling, Cavanaugh, Cox, Hannon, Hernandez, Jordan, Kalb, Kassan, Lamnin, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young

NOES: None

ABSTAIN: None

ABSENT: Haubert

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of Ordinance No. 2021-02.



ARLISS DUNN

CLERK OF THE BOARD

Exhibit B**Enforcement Agency Authorization**

The City of Hayward designates the WMA and the Alameda County Department of Environmental Health to act as an additional Enforcement Agencies. The table below summarizes the enforcement delegations.

<i>Enforcement Delegations</i>	
<i>ORRO Provision</i>	<i>Enforcement Agency Authorization</i>
Section 5 – Requirements for Commercial Business Generators	Alameda County Waste Management Authority
Section 6 – Waivers for Commercial Business Generators	Alameda County Waste Management Authority
Section 7 – Requirements for Commercial Edible Food Generators	Alameda County Waste Management Authority; and Alameda County Department of Environmental Health
Section 8 – Requirements for Food Recovery Organizations and Services	Alameda County Waste Management Authority
Section 9(a)(2), 9(b) – Requirements for Regulated Haulers	Alameda County Waste Management Authority
Section 10 – Requirements for Self-Haulers	Alameda County Waste Management Authority

Without limiting the generality of the foregoing, the authority provided by this designation includes the authority to request information or conduct inspections to verify compliance with any of the above sections to support WMA's enforcement activities.

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH TO ASSIST WITH ENFORCEMENT OF THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

WHEREAS, the City of Hayward is a member of the Alameda County Waste Management Authority ("WMA"), which is a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts; and

WHEREAS, the WMA developed and adopted the Organics Reduction and Recycling Ordinance ("ORRO"), Ordinance 2021-02, to comply with the requirements of the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations; and

WHEREAS, in 2021, the Hayward City Council intends to adopt an ordinance opting into the WMA's Organics Reduction and Recycling Ordinance (ORRO); and

WHEREAS, to maximize efficiencies, the Alameda County Department of Environmental Health has agreed to incorporate enforcement of the ORRO into their existing inspection program for retail food facilities; and

WHEREAS, the WMA intends to enter into a memorandum of understanding with the Alameda County Department of Environmental Health to assist with enforcement of the ORRO; and

WHEREAS, the Alameda County Department of Environmental Health has requested an MOU with participating cities to authorize the County's to authorize enforcement activities within each city.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes and directs the City Manager to negotiate and execute on behalf of the City of Hayward a memorandum of understanding with the Alameda County Department of Environmental Health to assist with enforcement of the ORRO, specifically for retail food facilities, within the City of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021.

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