

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, December 6, 2022

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 Chambers and virtually via Zoom.

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:

Participate in the Council Chambers or click link below to join the meeting:
<https://hayward.zoom.us/j/89416478079?pwd=MWRlY1htckdHRFN4ZzZuNWoxZDI1Zz09>

Meeting ID: 894 1647 8079

Password: CC12/6@7pm

or

Dial: +1 669 900 6833 or +1 646 931 3860

Meeting ID: 894 1647 8079

Password: 4640117730

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**

PRESENTATION

Certificate of Commendation Presented to Senator Bob Wiecekowsky

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 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, items 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 22-129](#) Approve the City Council Minutes of the City Council Meeting on November 1, 2022

Attachments: [Attachment I Draft Minutes of 11/1/2022](#)

2. [MIN 22-140](#) Approve the City Council Minutes of the City Council Meeting on November 15, 2022

Attachments: [Attachment I Draft Minutes of 11/15/2022](#)

3. [CONS 22-659](#) Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

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

4. [CONS 22-674](#) Adopt a Resolution Accepting the Resignation of Ms. Gordean Lum-Villiados from the Keep Hayward Clean and Green Task Force, Effective Immediately
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resignation Letter](#)
5. [CONS 22-672](#) Adopt a Resolution Accepting the Resignation of Ms. Arti Garg from the Community Services Commission, Effective Immediately
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resignation Letter](#)
6. [CONS 22-661](#) Adopt a Resolution Accepting the Resignation of Mr. Zachariah Oquenda from the Planning Commission, Effective Immediately
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resignation Letter](#)
7. [CONS 22-662](#) Adopt a Resolution Appointing Ms. Arti Garg to the Planning Commission to Fill the Unexpired Term of Mr. Zachariah Oquenda
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
8. [CONS 22-648](#) Adopt a Resolution Rescinding a Portion of the Previously Adopted Resolution 20-065, Regarding Approval of a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorization of the City Manager to Execute Purchase Option Agreements with the California Community Housing Agency
- Attachments:** [Attachment I Staff Report](#)
 [Attachment II Resolution](#)

9. [CONS 22-663](#) Adopt a Resolution Authorizing the City Manager to Amend the Professional Services Agreement with Brown and Caldwell to Increase the Contract Amount by \$4,800,000 to a Total Not-to-Exceed Amount of \$8,649,711 for Final Design Services for the Administration and Laboratory Building, and Primary Effluent Equalization Basin Relocation Projects, and Geotechnical Investigation Services for the Water Pollution Control Facility Improvements Phase II Project No. 07760

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

10. [CONS 22-665](#) Adopt a Resolution Supporting East Bay Municipal Utility District's (EBMUD) Grant Funding Application for the Implementation of Management Actions and Projects in the City/EBMUD Jointly Prepared East Bay Plain Subbasin Groundwater Sustainability Plan

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

11. [CONS 22-666](#) Adopt a Resolution Demonstrating Compliance with State Housing Laws per the Metropolitan Transportation Commission and One Bay Area Grant Funding Requirements

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

12. [CONS 22-676](#) Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement with Workforce Integrity and Training Solutions, LLC for Labor Compliance Coordination Services in the Amount of \$200,000 for a Total Not-To-Exceed Amount of \$372,000 and for Extension of the Agreement to December 31, 2023

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

13. [CONS 22-678](#) Adopt a Resolution Amending Resolution 22-087 to Apply as Joint Applicant with EAH, Inc for the California State Department of Housing and Community Development California Housing Accelerator Limited Accelerator Project Gap Funding Program

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Resolution 22-087](#)
 [Attachment IV Income and Rent Limits](#)

14. [CONS 22-679](#) Adopt a Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System (CalPERS) for Calendar Year 2023 Pursuant to California Government Code Section 22892 of the Public Employees' Medical and Hospital Care Act

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

15. [CONS 22-680](#) Adopt a Resolution Authorizing the City Manager to Accept \$8,558,902 in State Library Grant Funds for Construction of the Stack Center and to Execute Associated Grant Agreements

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

16. [CONS 22-681](#) Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Lease Agreement with the Alameda County Deputy Sheriffs' Activities League to Expand the Commercial Kitchen at the Matt Jimenez Community Center and Operate the Commercial Kitchen Incubator Program

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

17. [CONS 22-682](#) Adopt Resolutions Authorizing the City Manager to: (1) Accept and Appropriate Funds Awarded by the California State Legislature under Assembly Bill 179 in an Amount up to \$5.4 Million for the City's Scattered Site Housing Program, and Negotiate and Execute Documents and Any Subsequent Amendments, Modifications, or Documents Thereto with the California State Department of Housing and Community Development; and (2) Negotiate and Execute Loan Documents between the City of Hayward and Bay Area Community Services in an Amount Not-to-Exceed \$5.4 Million to Acquire and Rehabilitate a Minimum of Three Single-Family Homes for the City's Scattered Site Housing Program, for which the California Environmental Quality Act Does Not Apply

Attachments:[Attachment I Staff Report](#)[Attachment II Resolution to Accept and Appropriate Funds](#)[Attachment III Resolution to Negotiate and Execute Loan](#)

18. [CONS 22-684](#) Adopt a Resolution Authorizing the City Manager to 1) Negotiate and Execute an Agreement with Eden Health District (EHD) for the Award of \$250,000 to the City for the Acquisition of the St. Regis Retirement Center; (2) Accept and Appropriate the Funds Awarded by EHD; and (3) Negotiate and Execute an Agreement for Transfer of the \$250,000 in Funds from the City to Bay Area Community Services for Down Payment Assistance to Acquire the St. Regis Retirement Center

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

19. [CONS 22-686](#) Adopt a Resolution Accepting the Fiscal Year 2023 Statement of Investment Policy and Delegation of Authority

Attachments:[Attachment I Staff Report](#)[Attachment II Resolution](#)[Attachment III Statement of Investment Policy Review Memo](#)[Attachment IV FY 2023 Statement of Investment Policy](#)

20. [CONS 22-687](#) Adopt a Resolution Accepting Transmittal of the Annual Mitigation Fee Act Report (AB1600)

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Annual Report of Development Fees](#)

21. [CONS 22-698](#) Adopt a Resolution Authorizing the City Manager to Execute a Letter of Intent with the Alameda County Fire Department to Negotiate the Terms of a Proposal for Ambulance Services and/or Emergency Medical Services in Alameda County

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Letter of Intent](#)

PUBLIC HEARING

22. [PH 22-065](#) Density Bonus Ordinance: Introduce an Ordinance Related to Text Amendments to Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Adoption and Updates to the City's Density Bonus Ordinance and Adopt a Resolution Supporting the Proposed Zoning Text Amendments and Approving an Addendum to the Hayward 2040 General Plan Environmental Impact Report for the Administration of a New Density Bonus Program in the City of Hayward (Report from Assistant City Manager/Development Services Director Ott)

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III Draft Ordinance](#)
 [Attachment IV CEQA EIR Addendum](#)
 [Attachment V Recommendations Not Supported By Staff](#)
 [Attachment VI Stakeholder Interview Comments](#)
 [Attachment VII Draft Planning Commission Minutes 11/10/22](#)

INFORMATIONAL ITEM

Information items are presented as general information for Council and the public, and are not presented for discussion. Should Council wish to discuss or take action on any of the "information" items, they will direct the City Manager to bring them back at the next Council agenda as an Action Item.

23. [RPT 22-111](#) Smoke-Free Multi-Family Housing: Proposed Timeline for Updated Regulations

Attachments: [Attachment I Staff Report](#)

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.

24. [RPT 22-113](#) City Council Referral: Hayward Family Resource Center (Report from Council Members Andrews and Wahab)

Attachments: [Attachment I Council Referral Memo](#)

ADJOURNMENT

NEXT SPECIAL MEETING, December 13, 2022, 6:00 PM

INSTALLATION OF MAYOR-ELECT SALINAS AND

COUNCIL MEMBERS-ELECT JULIE ROCHE AND GEORGE SYROP

PUBLIC COMMENT RULES

Any member of the public desiring to address the Council shall limit their address to three (3) minutes unless less or further time has been granted by the Presiding Officer or in accordance with the section under Public Hearings. The Presiding Officer has the discretion to shorten or lengthen the maximum time members may speak. Speakers will be asked for their name before speaking and are expected to honor the allotted time.

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 City website, Cable Channel 15 - KHRT, and YouTube. ****

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 cityclerk@hayward-ca.gov.

Assistance will be provided to those requiring language assistance. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400.



CITY OF HAYWARD

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777 B Street
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File #: MIN 22-129

DATE: November 15, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve the City Council Minutes of the City Council Meeting on November 1, 2022

RECOMMENDATION

That the Council approves the City Council meeting minutes of November 1, 2022.

SUMMARY

The City Council held a meeting on November 1, 2022.

ATTACHMENTS

Attachment I Draft Minutes of November 1, 2022



CITY COUNCIL MEETING

777 B Street, Hayward, CA 94541

Hybrid (Council Chamber) Virtual Platform (Zoom)

<https://hayward.zoom.us/j/85407475291?pwd=MzZiVDdBWjNjSTV0dFkrOTYwVnhLUT09>

Tuesday, November 1, 2022, 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 in Council Chambers and virtually via Zoom.

Council Member Andrews was joined by members of the Castro Valley Cub Scout Pack 765 in leading the pledge of allegiance.

Present

Council Chamber: Council Members Lamnin, Zermeño
Mayor Halliday

Virtual Platform (Zoom): Council Members Andrews, Márquez, Salinas, Wahab

Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session with all members present and no public comments, pursuant to Government Code Sections 54956.9(d)(2) and 54956.9(e)(1) regarding two anticipated litigation cases. As to the first matter, based on facts and circumstances that warrant the initiation of litigation by the City, the Council gave direction to staff but otherwise took no reportable action. As to the second matter, based on facts and circumstances that could lead to the initiation of litigation against the City, the Council gave direction to staff but otherwise took no reportable action. Council Member Wahab was absent during discussion of the second matter. The closed session adjourned at 6:38 p.m.

PUBLIC COMMENTS

Ms. Peggy Guernsey, Hayward resident, thanked Mayor Halliday for her service to the community during her tenure; and expressed concerns about the uncleanness of the city, vacant storefronts, lack of recreational options, and disruption in service of AC Transit bus lines, among other concerns.

The following individuals expressed concern that street vendors do not adhere to food regulations, do not follow health and sanitation policies; noted Senate Bill 972 provides protections for street vendors but also outlines regulations; inquired how cash sales were being reported; suggested that street vendors be located in a designated area away from already established businesses; advocated for the city to evaluate issues experienced by businesses in low-income communities; and urged Council to find solutions.

Ms. Lesly Garcia, Xenias Gelato businessowner

Mr. Jorge Flores, Don Polveron Bakery owner

Mr. Alfonzo Perez, Taqueria La Placita representative

Mr. Raul Martinez, Don Gaspacho Ice cream shop

Mr. Gino Altamirano, South Hayward Now representative

Mr. Bob Mackay expressed his discontentment with the structure of the public comment period and commented the Council should enable grievances to be addressed during public comments without suppression.

Ms. Suzanne Luther, Hayward Concerned Citizens representative suggested that Council address the matter with street vendors sooner than at the start of 2023; and not ignore the concerns of low-income minority South Hayward business owners.

Mayor Halliday shared that the matter would be on a future City Council agenda, advised speakers to share their contact, and suggested holding a community meeting before the Council meeting.

City Manager McAdoo added that if people were being disruptive to business establishments, the Hayward Police Department (HPD) could be of assistance; and noted the matter would come before Council after the December business closure.

Members of the City Council thanked the South Hayward community for bringing the matter to Council's attention; were in favor of addressing the matter within a month and having staff review short term as well as long term solutions for all interested parties; acknowledged that while the issue was predominantly occurring in South Hayward, it was occurring throughout the city and staff was reviewing to adopt an effective policy; and asked if it would be possible to look into which agencies are administering the permits, how permits are reviewed and the locations where vendors are operating.

City Clerk Lens provided November 8, 2022 General Municipal Election information related to California Voter's Choice Act, 24-hour drop box and vote center locations, and referred to the City Election webpage for additional information. Mayor Halliday thanked City Clerk Lens and her office for helping to ensure that Election Day runs smoothly and expressed gratitude for the election's process.

Council Member Márquez reminded the public to make sure to sign their ballots before returning them and make sure signatures match the one on file.

CITY MANAGER'S COMMENTS

City Manager McAdoo announced the City was hosting the 2022 Fall Compost Giveaway on November 5, 2022 at 1401 Golf Course Road, beginning at 7:30 a.m.

CONSENT

Council Member Andrews recused herself from discussing and voting on Consent Item No 5 due to a potential conflict of interest.



CITY COUNCIL MEETING

777 B Street, Hayward, CA 94541

Hybrid (Council Chamber) Virtual Platform (Zoom)

<https://hayward.zoom.us/j/85407475291?pwd=MzZiVDdBWjNjSTV0dFkrOTYwVnhLUT09>

Tuesday, November 1, 2022, 7:00 p.m.

-
1. Approve the City Council Minutes of the City Council Meeting on October 18, 2022 **MIN 22-125**

It was moved by Council Member Márquez, seconded by Council Member Zermeño, and carried unanimously, to approve the minutes of the City Council Meeting on October 18, 2022.

2. Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 7, D -1 and D -2 Improvement Project No. 05296

Staff report submitted by Public Works Director Ameri, dated November 1, 2022, was filed.

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

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

Resolution 22-266, "Resolution Approving Plans and Specifications and Call for Bids for Municipal Parking lot nos. 7, d-1 and d-2 Improvement Project, Project no. 05296"

3. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Site License Agreement with East Bay Community Energy for Electric Vehicle Charging at Multiple Locations **CONS 22-609**

Staff report submitted by Public Works Director Ameri, dated November 1, 2022, was filed.

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

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

Resolution 22-267, "Resolution Authorizing the City Manager to Negotiate and Execute a Master Site License Agreement with East Bay Community Energy for Electric Vehicle Charging at Multiple Locations"

4. Adopt a Resolution Approving Plans and Specifications, and Calling for Bids for the Municipal Parking Lots No. 8 Improvement Project No. 05740 **CONS 22-610**

Staff report submitted by Public Works Director Ameri, dated November 1, 2022, was filed.

It was moved by Council Member Márquez, seconded by Council Member Zermelo, and carried by the following roll call vote, to adopt the resolution.

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

Resolution 22-268, "Resolution Approving Plans and Specifications and Call for Bids for Municipal Parking lot no. 8 Improvement Project, Project no. 05740"

5. Adopt a Resolution: (1) Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners and Other Affiliated Entities for Transfer of Specified City Owned Properties within Parcel Group 3 and Amendments to Exhibits Attached Thereto Including the Restrictive Use Covenant Agreement; and (2) Approving Modifications to the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594) **CONS 22-618**

Staff report submitted by Assistant City Manager Ott, dated November 1, 2022, was filed.

It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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



CITY COUNCIL MEETING

777 B Street, Hayward, CA 94541

Hybrid (Council Chamber) Virtual Platform (Zoom)

<https://hayward.zoom.us/j/85407475291?pwd=MzZiVDdBWjNjSTV0dFkrOTYwVnhLUT09>

Tuesday, November 1, 2022, 7:00 p.m.

Resolution 22-270, "Resolution Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Eden Housing, Pacific West Communities, and Strategic Growth Partners and Other Affiliated Entities for Transfer of Specified City Owned Properties Within Parcel Group 3 and Amendments to Exhibits Attached Thereto Including the Restrictive use Covenant Agreement; and Approving Modifications to the Parcel Group 3 Affordable Housing Plan (Planning Application #202001594)"

6. Adoption of a Resolution Supporting Public Bank East Bay and Authorizing a Letter of Support to the Alameda County Board of Supervisors **CONS 22-624**

Staff report submitted by Finance Director Claussen, dated November 1, 2022, was filed.

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

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

Resolution 22-269, "Resolution Approving the Support of Public Bank East Bay and Letter of Support to Alameda County Board of Supervisors Fully Supporting its Participation in Public Bank East Bay"

Council Member Andrews rejoined the Zoom meeting.

PUBLIC HEARING

7. Building and Fire Code Updates: Introduction of Ordinances and Adoption of Resolutions Adopting the California Code of Regulations 2022 Edition of Title 24, Including the 2022 Building, Fire, Plumbing, Mechanical, Electrical, Energy and Green Building Codes, and Related Amendments (Report from Assistant City Manager/Development Services Director Ott and Fire Chief Contreras) **PH 22-056**

Staff report submitted by Assistant City Manager/Development Services Director Ott and Fire Chief Contreras, dated November 1, 2022, was filed.

Assistant City Manager/Development Services Director Ott introduced City Building Official Noorzad who provided a synopsis of the staff report.

In response to Council Member Andrews' inquiry if Green Building requirements made it easier to get Leadership in Energy and Environmental Design (LEED) certified, City Building Official Noorzad responded that LEED was a part of the building process, it guides the design of the building, and provides the industry with a sustainable tool kit.

There being no public speakers, Mayor Halliday opened and closed the public hearing at 8:01 p.m.

Council Member Salinas made a motion per staff's recommendation and Council Member Zermeño seconded the motion.

Council Member Lamnin asked if the motion maker and seconder were amenable to removing gender specific language in the Fire Code.

City Manager McAdoo noted that Council Member Lamnin had pointed out that her suggestion to remove gender specific pronouns was to be consistent with the changes made to the Hayward City Charter.

Council Member Salinas and Council Member Zermeño accepted the friendly amendment.

It was moved by Council Member Salinas, seconded by Council Member Zermeño, including a friendly amendment to remove gender specific pronouns in the Fire Code, and carried by the following roll call vote, to adopt the resolutions.

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

Resolution 22-271, "Resolution Finding and Determining the Need for Changes or Modifications to the 2022 California Building Code"

Resolution 22-272, "Resolution Finding and Determining the Need for Changes or Modification to the California Fire Code, 2022 Edition"

Ordinance 22-09, "An Ordinance Establishing a Building Code for the City of Hayward; Regulating the Construction, Alteration, Repair, and Maintenance of Structures; Providing for the Issuance of Permits and Collection of Fees; Repealing Chapter 9 Article 1, and All Amendments Thereto"



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<https://hayward.zoom.us/j/85407475291?pwd=MzZiVDdBWjNjSTV0dFkrOTYwVnhLUT09>

Tuesday, November 1, 2022, 7:00 p.m.

Ordinance 22-10, "An Ordinance Establishing a Fire Prevention Code for the City of Hayward; Adopting the California Fire code, 2022 Edition, Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion; Providing for the issuance of Permits and Collection of Fees; Providing for Penalties for Violation, and Repealing Ordinance no. 19-20, as Amended, and all Other Ordinances and Parts of Ordinances in Conflict Therewith"

8. Reach Code: Introduction of Reach Code Ordinance: 1) Addressing New Building Electrification; 2) Addressing Electric Vehicle Charging Requirements; and 3) Repealing Current Reach Code (Ordinance 20-05) (Report from Public Works Director Ameri) **PH 22-058**

Staff report submitted by Public Works Director Ameri, dated November 1, 2022, was filed.

Environmental Services Manager Pearson provided a synopsis of the staff report and acknowledged that the East Bay Community Energy (EBCE) submitted a letter of support for the proposed all electric reach codes for the City of Hayward.

Members of the City Council thanked City staff for the presentation, community meetings and outreach.

In response to Council Member Andrews' interest for accomplishing undergrounding utilities as a part of the electrification requirement for buildings, Environmental Services Manager Pearson indicated he believed undergrounding utilities was more of an engineering standard and staff could further explore this request.

In response to Council Member Márquez 's request for staff to elaborate on a 100% gas ban, staff's preparedness in receiving applications from life science developments, and tax incentives or state funding to offset the cost of building infrastructure for electric vehicle (EV) stations, Environmental Services Manager Pearson noted that by not requiring a 100% gas ban for some industrial uses Hayward would give the industry time to adapt and with sufficient notification a ban could be accomplished by January 2026. As to applications from life science developments, Mr. Pearson stated staff did not anticipate any challenges and if a gas ban was enacted, staff would evaluate how other cities were addressing this and staff was not aware of any incentives for EV charging stations.

In response to Mayor Halliday's inquiry as to why the cost of the high power (40-amp) Level 2 charger with two plugs was more than double the cost of a single charger, Environmental Services Manager Pearson conjectured that the cost could be due to the double charger allowing two vehicles to charge at the same time, noting there could be extra equipment

modulating the power going to each vehicle.

In response to Mayor Halliday's inquiry as to another benefit of a tankless water heater, Environmental Services Manager Pearson said that the distance that the tankless water heater is from the faucet can also contribute to the time it takes to receive hot water.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:23 p.m.

Mayor Halliday, also Chair of the Council Sustainability Committee, made a motion to move staff's recommendation.

Council Member Zermeño, also member of the Council Sustainability Committee, seconded the motion and staff's recommendation to achieve a zero-carbon footprint in the future.

Council Member Lamnin emphasized that individual electric meters be used for newer construction; supported the ban on gas infrastructure as recommended by staff for environmental reasons; appreciated the information on technology advancements given the location of the city and the Hayward fault line; and encouraged staff to continue to think strategically about new technologies, industry needs, and grid infrastructure.

Mayor Halliday noted that the Council Sustainability Committee evaluated the proposed policy thoroughly and acknowledged that Council Member Márquez served on the committee.

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

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

Resolution 22-273, "Resolution Finding and Determining the Need for Adoption of Modifications to the 2022 California Building Standards Code"

Ordinance 22-11, "An Ordinance Establishing Reach Codes for the City of Hayward; Repealing Ordinance 20-05; Adopting Chapter 9, Article 8 of the Hayward Municipal Code to Amend Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations); and Amending the City's Off-street Parking Regulations (Chapter 10, Article 2) of the hayward municipal code"



CITY COUNCIL MEETING

777 B Street, Hayward, CA 94541

Hybrid (Council Chamber) Virtual Platform (Zoom)

<https://hayward.zoom.us/j/85407475291?pwd=MzZiVDdBWjNJSTV0dFkrOTYwVnhLUT09>

Tuesday, November 1, 2022, 7:00 p.m.

INFORMATIONAL ITEM

9. Informational Report Describing the Appointment and/or Special Election Process for City Council Vacancy

Staff report submitted by City Manager McAdoo, City Attorney Lawson, and City Clerk Lens, dated November 1, 2022, was filed.

The item was presented as general information for Council and the public; there was no action taken or requests to speak on the item.

Council Member Márquez stated that during the 2014 appointment process, there was a threshold that had to be met where four or five Council members' support was needed to advance a qualifying applicant, and requested that this be confirmed.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Salinas thanked Library and Maintenance staff for hosting and helping organize a successful Trunk or Treat event on October 29, 2022.

Council Member Andrews echoed Council Member Salinas' comments and thanked Library and Maintenance staff for their help with the Trunk or Treat event; acknowledged all Halloween events occurring over the weekend; and emphasized the importance of having events at night to give youth alternatives.

Council Member Márquez reported that on October 24, 2022 an invasive mosquito called *Aedes Aegypti* was located in a nearby landfill in Milpitas and encouraged the public to subscribe to news updates and press releases from the Alameda County Mosquito Abatement District; acknowledged all of the family-friendly Halloween events that were held over the weekend; attended the event hosted by Glad Tidings Church; and agreed with comments expressed by Council Member Andrews to have more evening events that were free for people of all ages.

Council Member Salinas expressed that it was a pleasure for him to work with Mayor Halliday over the years, noted they had developed a great professional relationship as colleagues, and underscored his respect for the work done by her during her tenure.

Mayor Halliday appreciated the comments made by Council Member Salinas expressing that Hayward would be in good hands; noted she enjoyed the Trunk or Treat event at the Heritage Plaza; and shared a poem written by Poet Laureate Bruce Roberts.

Council Member Andrews stated there were increased activities with theft of catalytic converters; shared the Etch and Protect program started by Bay Area cities to identify information on catalytic converters; and noted she would be working on a Council referral.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 8:43 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 22-140

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve the City Council Minutes of the City Council Meeting on November 15, 2022

RECOMMENDATION

That the Council approves the City Council meeting minutes of November 15, 2022.

SUMMARY

The City Council held a meeting on November 15, 2022.

ATTACHMENTS

Attachment I Draft Minutes of November 15, 2022



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNz09>

Tuesday, November 15, 2022, 7:000 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 in Council Chambers and virtually via Zoom.

Pledge of Allegiance: Mayor Halliday

Roll Call

Present

Council Chamber: Council Members Lamnin, Zermeño
Mayor Halliday

Virtual Platform (Zoom): Council Members Andrews, Márquez, Salinas, Wahab

Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:00 p.m., with all members present and no public comments, regarding three items: 1) public employment pursuant to Government Code section 54957 regarding the upcoming performance evaluation for City Manager, City Attorney and City Clerk; 2) conference with legal counsel pursuant to Government Code sections 54956.9(d)(2) and 54956.9(e)(1) regarding one anticipated litigation; and 3) conference with property negotiators pursuant to Government Code section 54956.8 regarding Caltrans Parcel Group 5 - Maitland Drive, Bunker Hill Court, Bunker Hill Boulevard and Central Boulevard, APNs: 445-0250-041-01, 445-0260-084-03, 445-0260-018-04, 445-0270-054-02, 445-0250-060-00, 445-0250-059-01, 445-0260-109-04, 445-0260-018-03, 445-0260-109-03, 445-0260-002-00. City Attorney Lawson reported that the Council discussed Item 1 and unanimously approved, with Mayor Halliday moving and Council Member Márquez seconding, selection of Pivotal Group as the consultant to perform a 360 assessment of the Council-appointed officers in an amount not to exceed \$21,500, plus additional options in an amount not to exceed \$5,350, and authorized Assistant City Manager Youngblood to execute an agreement with said consultant; regarding Item 2, the Council discussed one case of anticipated litigation in consultation with City Attorney Lawson and took no reportable action; and regarding Item 3, the Council discussed property transactions, specifically Caltrans Route 238 Parcel Group 5 ('Bunker Hill'), and took no reportable action, but public action was anticipated on Consent Item No. 13. The closed session adjourned at 6:25 p.m.

PUBLIC COMMENTS

Ms. TJ, Hayward Concerned Citizens representative, shared that it had been three years since the homicide of Hayward resident John Creech Jr. and the family was requesting to contact the Police Department with any information about the case.

Mr. Gabriel Altamirano, South Hayward Now/Ahora representative, urged the City to implement enforcement of street vendors selling without proper permits within the South Hayward neighborhoods and expressed health concerns about the food being served by street vendors and the streets and sidewalks being blocked.

Mr. Nate Rizvi shared that activities related to street vendor operations were widespread from the corner of Tennyson Road down to Huntwood Avenue Thursdays through Sundays, noted there was a flea market type of environment, and asked if there was a designated area in the city for street vendors to operate.

Ms. Savana echoed prior comments and expressed concern about people double parking to purchase food from street vendors and getting sick due to poor sanitation; and suggested the City provide a space for street vendors.

CITY MANAGER ANNOUNCEMENTS

City Manager McAdoo noted that timeline on sidewalk vending and community engagement was shared with the City Council in preparation of recommendations for City regulations consistent with Senate Bill (SB) 946; spoke about SB 946; indicated that an informal listening session would be held at the end of December, continue the community outreach through January, present preliminary work sessions to the Council Economic Development Committee and the City Council in February, and propose adoption of the ordinance at the end of spring; and noted that if the public had concerns about a vendor operating unsafely or without a health permit, to contact Code Enforcement staff during business hours and HPD after hours.

City Manager McAdoo announced that City Hall and other non-emergency services would observe a business closure the week of November 21, 2022; and the Light Up the Season event was scheduled for December 3, 2022

CONSENT

1. Approve the City Council Minutes of the City Council Meeting on October 25, 2022 **MIN 22-128**

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried unanimously, to approve the minutes of the City Council Meeting on October 25, 2022.

2. Adopt a Resolution Approving the Appropriation of \$150,000 for the Golden Oaks II - Tract 8058 Improvement Project No. 08058, and Authorizing Staff to Increase the Construction Contract with Golden Bay Construction, Inc., Contract No. 22132, by the Same Amount for a Total Not-To-Exceed Amount of \$1,093,733 **CONS 22-623**

Staff report submitted by Director of Public Works, Ameri, and City Attorney Michael Lawson dated November 15, 2022 was filed.



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNz09>

Tuesday, November 15, 2022, 7:000 p.m.

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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

Resolution 22-274, "Resolution Approving the Appropriation of \$150,000 for the Golden Oaks II Tract 8058 Improvement Project No. 08058 and Authorizing Staff to Increase the Construction Contract to a Total Amount not Exceeding \$1,093,733"

3. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with ESRI for a Small Municipal and County Government Enterprise Agreement (SGEA) in an Amount not to Exceed \$303,000 **CONS 22-630**

Staff report submitted by Information Technology Director Kostrzak, dated November 15, 2022, was filed.

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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

Resolution 22-275, "Resolution Approving the Dissolution of the South Hayward Bay Area Rapid Transit Station Access Authority; and Authorizing the City Manager to Negotiate and Execute an Intergovernmental Agreement Pertaining to Parking and Access near the South Hayward BART Station"

4. Adopt an Ordinance Establishing a Building Code for the City of Hayward; Regulating the Construction, Alteration, Repair, and Maintenance of Structures; Providing for the Issuance of Permits and Collection of Fees; Repealing Chapter 9 Article 1, and All Amendments Thereto **CONS 22-632**

Staff report submitted by City Clerk Lens, dated November 15, 2022,
was filed.

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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

Ordinance 22-09, "Ordinance Establishing a Building Code for the City of Hayward; Regulating the Construction, Alteration, Repair, and Maintenance of Structures; Providing for the Issuance of Permits and Collection of Fees; Repealing Chapter 9 Article 1, and All Amendments Thereto"

5. Adopt an Ordinance Establishing a Fire Prevention Code for the City of Hayward, Adopting the California Fire Code, 2022 Edition, Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion, Providing for the Issuance of Permits and Collection of Fees, Providing for Penalties for Violation, and Repealing Ordinance No. 19-20, As Amended, and All Other Ordinances and Parts of Ordinances in Conflict Therewith **CONS 22-633**

Staff report submitted by City Clerk Lens, dated November 15, 2022,
was filed.

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNz09>

Tuesday, November 15, 2022, 7:000 p.m.

Ordinance 22-10, "Ordinance Establishing a Fire Prevention Code for the City of Hayward, Adopting the California Fire Code, 2022 Edition, Prescribing Regulations Governing Conditions Hazardous to Life and Property from Fire or Explosion, Providing for the Issuance of Permits and Collection of Fees, Providing for Penalties for Violation, and Repealing Ordinance No. 19-20, As Amended, and All Other Ordinances and Parts of Ordinances in Conflict Therewith"

6. Adopt an Ordinance Establishing Reach Codes for the City of Hayward, Repealing Ordinance 20-05, Adopting Chapter 9, Article 8 of the Hayward Municipal Code to Amend Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations), and Amending the City's Off-Street Parking Regulations (Chapter 10, Article 2) of the Hayward Municipal Code **CONS 22-634**

Staff report submitted by City Clerk Lens, dated November 15, 2022, was filed.

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

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

Ordinance 22-11, "Ordinance Establishing Reach Codes for the City of Hayward, Repealing Ordinance 20-05, Adopting Chapter 9, Article 8 of the Hayward Municipal Code to Amend Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations), and Amending the City's Off-Street Parking Regulations (Chapter 10, Article 2) of the Hayward Municipal Code"

7. Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361 **CONS 22-635**

Staff report submitted by City Clerk Lens, dated November 15, 2022, was filed.

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

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

Resolution 22-276, "Resolution Making the Required Findings Pursuant to Ab 361 to Continue to Hold Teleconferenced Public Meetings During the Covid 19 State of Emergency"

8. Adopt a Resolution Approving a Side Letter of Agreement Amending the Memorandum of Understanding (MOU) Between the City of Hayward and the Hayward Police Officers' Association (HPOA) to Revise Scheduled Salary Increases **CONS 22-641**

Staff report submitted by Assistant City Manager and Interim Human Resources Director, Youngblood, dated November 15, 2022, was filed.

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

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

Resolution 22-277, "Resolution Approving a Side Letter of Agreement Amending the Memorandum of Understanding (MOU) Between the City of Hayward and the Hayward Police Officers' Association (HPOA) to Revise Scheduled Salary Increases"

9. Adopt a Resolution Approving the Amended Fiscal Year 2023 Salary Plan That Designates Classifications and Corresponding Salary Ranges **CONS 22-636**

Staff report submitted by Assistant City Manager and Interim Human Resources Director, Youngblood, dated November 15, 2022, was filed.

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



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNG9vdz09>

Tuesday, November 15, 2022, 7:000 p.m.

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

Resolution 22-278, "Resolution Approving the Amended Fiscal Year 2023 Salary Plan Designating Positions of Employment in the City of Hayward and Salary Ranges; and Superseding Resolution No. 22-265 and All Amendments Thereto"

10. Adopt a Resolution Authorizing the City Manager to Amend an Agreement with Tiburcio Vasquez Health Center for Mobile Integrated Health Unit Services for Fiscal Year 2022-2023 **CONS 22-637**

Staff report submitted by City Manager McAdoo, dated November 15, 2022, was filed.

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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

Resolution 22-279, "Resolution Authorizing the City Manager to Amend the Professional Services Agreement with Tiburcio Vasquez Health Center to Increase the Contract Amount by \$126,000 for a Total Amount Not-To-Exceed \$200,000 for the Mobile Integrated Health Unit"

11. Adopt a Resolution Accepting the Resignation of Ms. Elena Lepe from the Community Services Commission, Effective Immediately **CONS 22-638**

Staff report submitted by City Clerk Lens, dated November 15, 2022, was filed.

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

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

Resolution 22-280, "Resolution Accepting the Resignation of Ms. Elena Lepe from the Community Services Commission"

12. Adopt a Resolution: (1) Approving the Dissolution of the South Hayward Bay Area Rapid Transit Station Access Authority; and (2) Authorizing the City Manager to Negotiate and Execute an Intergovernmental Agreement Pertaining to Parking and Access Near the South Hayward BART Station **CONS 22-639**

Staff report submitted by Assistant City Manager Ott, dated November 15, 2022, was filed.

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

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

Resolution 22-281, "Resolution Approving the Dissolution of the South Hayward Bay Area Rapid Transit Station Access Authority; and Authorizing the City Manager to Negotiate and Execute an Intergovernmental Agreement Pertaining to Parking and Access near the South Hayward BART Station"

13. Adopt a Resolution Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Trumark Properties, LLC to Allow Deferral of the Excess Purchase Price Above the Caltrans Base Purchase Price Until Issuance of Certificates of Occupancy for the Transfer of Parcel Group 5, Bunker Hill **CONS 22-642**

Staff report submitted by Assistant City Manager/Development Services Director Ott, dated November 15, 2022, was filed.



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNG9vdz09>

Tuesday, November 15, 2022, 7:000 p.m.

It was moved by Council Member Zermeno, seconded by Council Member Lamnin, and carried by the following roll call vote, to adopt the resolution.

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

Resolution 22-282, "Resolution Authorizing the City Manager to Negotiate and Execute the First Amendment to the Disposition and Development Agreement with Trumark Properties, LLC to Allow Deferral of the Excess Purchase Price above the Caltrans Base Purchase Price until Issuance of Certificate of Occupancy for the Transfer of Parcel Group 5, Bunker Hill"

WORK SESSION

14. Dispatch Needs Assessment and Capacity Improvement: Presentation of Consultant Evaluation and Recommendations (Report from City Manager McAdoo, Fire Chief Contreras, and Acting Police Chief Matthews) **WS 22-037**

Staff report submitted by City Manager McAdoo, dated November 15, 2022, was filed.

City Manager McAdoo announced the item, introduced team members of Federal Engineering Consulting, City and Hayward Police Department (HPD) staff, who provided a summary of the work done around the City of Hayward Communications Center, assessment, and strategy implementation plan report, and Hayward Evaluation and Response Teams HEART program data analysis recommendations.

Mayor Halliday opened the public comment period at 8:10 p.m.

Ms. TJ, Hayward Concerned Citizens member, appreciated the work done around the training and staffing recommendations, however, she did not agree that the policy innovation workshop priority recommended last year had morphed into another consulting firm to come to the conclusion that the organization's dispatch staffing, leadership, governance, and operations facility is not sustainable; and asked how dispatch operations workers feel about the prospect of moving to an independent communications center in isolation from those they serve.

Ms. Suzanne Luther, Hayward Concerned Citizens member, agreed with TJ and wished that the City had not spent funds as it was forced to do in response to defunding the police when the funds could be better spent where needed.

Mayor Halliday closed the public comment period at 8:15 p.m.

Discussion ensued among members of the City Council, City Manager McAdoo, Acting Police Chief Matthews, Fire Chief Contreras and Federal Engineering Consultant team (Cindy Sparrow, Tracy Ward, Scott Strom, and Erik Perry) regarding: budget for the Hayward Call Center (HCC) housed under the Police budget; the locker facility was being constructed outside HPD's building and it may not be able to accommodate a second story; training for dispatch would consist of a combination of training performed by Peace Office Standards Training (POST) program, professional organizations, and an in-house academy; there will be software purchases necessary for protocol implementation that will be embedded into the existing consoles; staff was considering adding two dispatchers and four call takers and Measure C identified as a potential fund source; aspirational goals to bring a behavioral health specialist into the communications center to perform onsite diversion and bring a clinician to triage calls; noted that HIPPA presented barriers for sharing data across disciplines and industries; translation/interpretation assistance available in many languages for communications center services; training current staffing and hiring laterals while stabilizing staffing levels and making sure pay is aligned with current industry standards; not having all calls go through dispatch and creating opportunities to bring staff from other departments or police and fire personnel on light duty to ease workload in dispatch center; there would be an item on a future agenda with updates on the ambulance response time and alternate models that were being explored in Alameda County; best practice for staff to have space away from the work to regulate in between calls or provide an opportunity to reset such as through a fitness center, quiet room, yoga room, television, massage room, or meditation room; 988 Suicide and Crisis Lifeline phone number was a new solution to reduce calls for service and staff could report on data collected in the future; exploring alternative information lines, such as 311, could be a long-term goal once core emergency staffing issues are addressed; and GIS data was used as a tool for resource deployment and hotspot mapping.

Members of the City Council offered the following recommendations and thoughts: consider having a separate budget line item for the Hayward Call Center since additional new positions were being considered as well as a new site; consider contacting Chabot College for potential use of its old library for an interim, temporary or new branch of the City's dispatch center (HCC); hoped that additional staffing could be filled soon and potentially promote within and continue to have planned career progression; urged that hiring Hayward residents be considered; consider having implementation measurements in place reported regularly indicating trends in the community for call types which would enable staff to perform data analysis on call types and inform Council to address findings; as data analyst is sought, work with IT Department related to data storage and retention; explore hosting a testing fair day, potentially multi-lingual at a school/college site, dedicated to recruiting and engaging professionals to perform background checks and psychological assessments; consider adding new positions during the development of the annual budget process as opposed to at mid-year; it is a priority to keep current employees healthy and sound and find creative ways to



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNG9vdz09>

Tuesday, November 15, 2022, 7:000 p.m.

retain them; consider separating the communications center to be its own department understanding this to be a longer-term goal; it is important to have a shared responsibility and vision in responding to the public but also keeping the public safe; hoped the collaboration with community partners continue to evolve to be more responsive to the public and minimize the response from armed officers when unnecessary; explore a hotline to field non-emergency calls for frequent inquiries and publicize the information in the Stack newsletter on appropriate departments to contact, having pre-recorded messages in an effort to decrease unnecessary phone calls; consider having a mobile testing at community events to expand recruitment efforts; consider recruitment efforts such as via popup events at Southland Mall or a tent outside of Target; consider commercial space available in shopping malls for a location for a call center; evaluate Access Hayward, how this is handled and explore if a different model might work better; review data on the work of Hayward Mobile Emergency Team (HMET) and Mobile Integrated Health Unit (MIHU) and the outcomes so far; and evaluate current hours of HMET responses as these did not appear to be in line with when mental health emergencies may happen.

Members of the City Council were pleased with the analysis and presentation; collaboration among departments; thanked dispatch center personnel; supported the goals of the Hayward Evaluation and Response Teams (HEART) program for its collaboration between the Police and Fire departments; supported software updates that would assist staff in performing their jobs in an effective manner; and appreciated the comprehensive analysis provided by Federal Engineering Consulting which would serve to have the information documented and readily available to the public.

PUBLIC HEARING

15. Retiree Hiring Exception: Adopt a Resolution Approving an Exception to the 180-Day Waiting Period Requirement for Up to Six (6) Retired CalPERS Annuitants to Work as City of Hayward Communications Operators **PH 22-062**

Staff report submitted by Bryan Matthews, Acting Chief of Police and Regina Youngblood, Assistant City Manager/Interim Director of HR, dated November 15, 2022, was filed.

City Manager McAdoo announced the item and introduced Acting Police Chief Matthews who provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing period at 9:15 p.m.

It was moved by Council Member Márquez, seconded by Council Members Zermelo and Wahab, and carried by the following roll call vote, to adopt the resolution.

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

Resolution 22-283, "Resolution Authorizing the Exception to the 180-Day Waiting Period Requirement for up to Six (6) Retired CalPERS Annuitants to Work as City of Hayward Communications Operators"

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Márquez shared information on her attendance at the fourth annual Let's Talk Housing Seminar brought to the community by A-1 Community Housing Services and separately reminded residents to take advantage of bulky pickup services provided through Alameda County Waste Management.

Mayor Halliday shared information on her attendance at the launch of Bay Area Housing Finance Authority (BAHFA) on November 10, 2022 in San Francisco; thanked American Legion Post 68, La Familia and Silicon Valley Lions Club for a food delivery event they held on November 11, 2022 at the Hayward Veterans Memorial Hall; and announced City Hall would be observing a business closure the week of November 21, 2022, and the next meeting would be held on December 6, 2022. Mayor Halliday added that on December 13, 2022, the newly elected members of the City Council would be sworn-in and congratulated Mayor-Elect Salinas.

COUNCIL REFERRALS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:23 p.m.



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

<https://hayward.zoom.us/j/82183737191?pwd=Vi8yNHkwQklTWnpCN3lPRlRBNG9vdz09>

Tuesday, November 15, 2022, 7:000 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 22-659

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

RECOMMENDATION

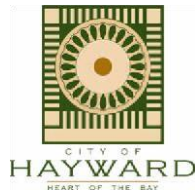
That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

SUMMARY

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Exhibit to Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Manager
City Clerk

SUBJECT: Adopt a Resolution Allowing the City Council and Appointed Commissions/Task Forces and Council Committees to Hold Continued Teleconferenced Public Meetings Pursuant to AB 361

RECOMMENDATION

That the Council adopts a resolution (Attachment II) pursuant to AB 361 making specific findings to allow the Council and appointed commissions/task forces and Council committees (Exhibit A to Attachment II) to continue holding teleconferenced public meetings during the COVID 19 state of emergency.

SUMMARY

On September 16, 2021, the Governor signed AB 361 that amended provisions of the Brown Act to allow local governments to conduct virtual meetings during a state of emergency proclaimed by the Governor, subject to complying with specific requirements, including providing public access and participation via call-in or internet-based platforms. While AB 361 does not require legislative bodies to take any specific actions to hold an initial teleconferenced meeting during a state of emergency, a legislative body must act in order to continue holding subsequent teleconferenced meetings while the state of emergency remains in effect. Specifically, no later than 30 days after the initial AB 361 teleconferenced meeting, and every 30 days thereafter, a legislative body must make findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist: the state of emergency continues to directly impact the ability of the members to meet safely in person; or, state or local officials continue to impose or recommend measures to promote social distancing.

BACKGROUND

In general, the Brown Act allows legislative bodies to use teleconferencing during a public meeting as long as certain requirements are met, such as:

- Identification of any remote location from which a member of the legislative body is participating via teleconference;
- Posting of agendas at all remote locations from which members of the legislative body are participating;
- Public accessibility to the remote location and the technological means for allowing the public to participate in the meeting from the location; and
- A quorum of the members must be participating from a location within the jurisdiction of the legislative body.

In response to the COVID 19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements.

With the expiration of Executive Order N-29-20, AB 361 amends the Brown Act to allow virtual public meetings during a state of emergency proclaimed by the Governor. A local agency may hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body.

AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency. However, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings that the body has reconsidered the circumstances of the state of emergency and that either of the following conditions exist:

- The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- State or local officials continue to impose or recommend measures to promote social distancing.

DISCUSSION

On February 25, 2022, the Governor issued Executive Order N-04-22 repealing many of his prior Executive Orders imposing various mandates intended to address the impact of COVID 19. However, the Governor did not lift the State of Emergency related to COVID 19 that he initially proclaimed on March 4, 2020. As of the date of this report, the State of Emergency proclaimed by the Governor remains in effect.

Current guidance and orders of the Alameda County Health Official satisfy both conditions necessary for the AB 361 findings described above:

- Order No. 20-06t, originally issued April 3, 2020 and most recently amended on August 24, 2022, imposes a mandate that all individuals diagnosed with COVID 19 must isolate themselves and follow requirements further specified in the Order. The Order further aligns with current California Department of Public Health Guidance on Isolation and Quarantine of the General Public, specifically that individuals who are exposed/close contacts of infected individuals need not isolate if they are asymptomatic and are recommended to test and wear masks as specified in the Order and Department of Public Health guidance.
- On June 24, 2022, the Alameda County Health Officer issued Order No. 22-03 rescinding the general mask mandate imposed by Order No. 22-02. Current Alameda County Health Officer guidelines require all individuals in Alameda County, regardless of vaccination status or prior history of COVID illness, to wear face coverings in the following situations:
 - Indoors when required by business, government offices, youth-serving facilities, and workplace settings.
 - When required by trains, buses, ferries, taxis, and rideshare operators.
 - Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
 - Healthcare settings.
 - Long-term care settings and adult and senior care facilities.
 - Persons exposed to someone with COVID-19 should wear a mask for 10 days.
 - Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.
 - Correctional facilities and detention centers located within Alameda County.
 - Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
- With the exception of the situations described above, effective September 23, 2022, the California Department of Public Health and Alameda County Public Health Department guidance on use of face masks for the general population shifts from strong recommendation in all indoor settings at all times to use of Centers for Disease Control Community Levels to help inform masking recommendations.
- Current CDC COVID 19 Community Levels for Alameda County are Low. Consequently, the general public may mask based on personal preference, informed by their own personal level of risk. Vulnerable people are encouraged to wear a mask in crowded indoor public places. Vulnerable people include the unvaccinated, people who are immunocompromised, people with certain disabilities or underlying health conditions, or those at risk of severe illness or death if infected with COVID-19.

- Workplaces must comply with Cal/OSHA safety standards.

The following current guidance from the California Department of Public Health satisfies the AB 361 findings:

- Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
- Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
- Workplaces must comply with Cal/OSHA safety standards.
- Local jurisdictions may implement additional requirements that go beyond statewide guidance.
- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged.

Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

Currently, the Council is holding hybrid Council meetings that allow for virtual participation via the Zoom platform as well as in-person participation. This format also allows for real-time public comments, in compliance with AB 361. All City commissions, task forces, and Council committees continue meeting entirely virtually over the Zoom platform.

Based on the above, staff recommends that the Council adopts the attached resolution making the necessary findings to allow the Council and the appointed boards and commissions identified in Exhibit A to the resolution to continue holding teleconferenced meetings pursuant to AB 361.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

NEXT STEPS

Adoption of the resolution will allow the Council and specified appointed committees and commissions to hold a subsequent teleconferenced meeting pursuant to the provisions of AB 361. Additional resolutions must be adopted every thirty days during the existence of the state of emergency in order to continue holding teleconferenced meetings.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO AB 361 TO
CONTINUE TO HOLD TELECONFERENCED PUBLIC MEETINGS DURING THE
COVID 19 STATE OF EMERGENCY

WHEREAS, the Brown Act (Government Code section 54950 et seq.) allows for public meetings of a legislative body to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction; and

WHEREAS, in response to the COVID-19 state of emergency, the Governor temporarily suspended the rules described above when he issued Executive Order N-29-20 on March 17, 2020 and authorized local legislative bodies to hold virtual public meetings subject to specific public accessibility and noticing requirements; and

WHEREAS, the Governor signed AB 361 prior to the expiration of Order N-29-20; and

WHEREAS, AB 361 amends the Brown Act to the legislative body of a local agency to hold a teleconferenced meeting during a state of emergency without complying with the normal teleconferencing requirements described above if it meets requirements related to providing notice of the meeting, public access and participation via call-in or internet-based service options, real-time public comments, and conduct of the meeting in a manner that protects statutory and constitutional rights of any parties and the public appearing before the legislative body; and

WHEREAS, AB 361 does not require legislative bodies to take any specific action prior to holding an initial teleconferenced meeting during a state of emergency, however, to hold a subsequent teleconferenced meeting a legislative body must act no later than 30 days after the initial teleconferenced meeting, and every 30 days thereafter, by making findings specified in the statute justifying the continued use of teleconferenced public meetings; and

WHEREAS, it shall be the policy of the City that the appointed boards and commissions of the City will hold teleconferenced public meetings in compliance with the provisions of AB 361 during the COVID-19 state of emergency; and

WHEREAS, the COVID-19 state of emergency declared by the Governor remains active; and

WHEREAS, public meetings involve many people in shared indoors spaces for hours, when the number of people present does not always allow for a minimum six-foot distance between persons, and close contacts raise the risk of the spread of COVID-19; and

WHEREAS, the Alameda County Health Officer has issued Order No. 20-06t (originally issued April 3, 2020 and most recently amended on August 24, 2022) imposing a mandate that all individuals diagnosed with COVID-19 must isolate themselves and follow requirements further specified in the Order; and

WHEREAS, Order No. 20-06t also aligns with California Department of Public Health Guidance on Isolation and Quarantine of the General Public, specifically that individuals having close contacts/exposure to infected persons are not required to quarantine as long as they remain asymptomatic but are recommended to test and wear a mask as specified by the Order and California Department of Public Health guidance; and

WHEREAS, the Alameda County Health Officer has issued Order No. 22-03 (effective on June 25, 2022), rescinding the general mask mandate imposed by Order No. 22-02; and

WHEREAS, the Alameda County Public Health Department currently requires face coverings in the following situations:

- Indoors when required by businesses, government offices, youth-serving facilities, and workplace settings.
- When required by trains, buses, ferries, taxis and rideshare operators.
- Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
- Healthcare settings.
- Long-term care settings and adult and senior care facilities.
- Correctional facilities and detention centers.
- Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
- Persons exposed to someone with COVID-19 should wear a mask for 10 days.
- Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.

WHEREAS, with the exception of the situations described above, effective September 23, 2022, the California Department of Public Health and Alameda County Public Health Department guidance on use of face masks for the general population shifts from strong recommendation in all indoor settings at all times to use of Centers for Disease Control Community Levels to help inform masking recommendations; and

WHEREAS, current CDC COVID 19 Community Levels for Alameda County are Low. Consequently, the general public may mask based on personal preference, informed by their own personal level of risk. Vulnerable people are encouraged to wear a mask in crowded indoor public places. Vulnerable people include the unvaccinated, people who are immunocompromised, people with certain disabilities or underlying health conditions, or those at risk of severe illness or death if infected with COVID-19.; and

WHEREAS, workplaces must comply with Cal/OSHA safety standards; and

WHEREAS, the California Department of Public Health has issued the following current guidance:

- Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
- Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
- Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
- Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
- Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged; and

WHEREAS, Alameda County Health Order No. 21- 04 (effective November 1, 2021), which allows a stable group of fully vaccinated individuals to remove masks in certain indoor situations, is not applicable to the City's public meetings because they do not necessarily involve a stable group of vaccinated individuals.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward makes the following findings pursuant to AB 361 to continue holding teleconferenced public meetings during the COVID-19 state of emergency:

- The City Council has reconsidered the circumstances of the state of emergency.
- The COVID 19 state of emergency declared by the Governor remains active and continues to directly impact the ability of Councilmembers to meet safely in-person.
- State and local officials continue to recommend or impose measures to promote social distancing.

- The Alameda County Health Officer has issued orders imposing measures to promote social distancing via isolation and quarantine of individuals infected or likely infected with COVID-19 and individuals with close contact to persons infected with COVID-19.
- The Alameda County Health Officer requires face coverings to be worn in the following settings:
 - Indoors when required by businesses, government offices, youth-serving facilities, and workplace settings.
 - When required by trains, buses, ferries, taxis and rideshare operators.
 - Indoors in transportation hubs like bus terminals, train stations, marines, seaports or other ports, subway stations, or any other area that provides transportation, when required by transit systems.
 - Healthcare settings.
 - Long-term care settings and adult and senior care facilities.
 - Local correctional facilities and detention centers.
 - Clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters, and cooling/heating centers, or any locations within those facilities where healthcare is being delivered.
 - Persons exposed to someone with COVID-19 should wear a mask for 10 days.
 - Persons with COVID-19 should wear a mask for 10 days when with others, even if able to leave isolation before then.
- The California Department of Public Health has issued the following guidance:
 - Face masks are required in healthcare settings, long term care settings, adult and senior care facilities, and all clinical areas, including isolation and quarantine areas, of homeless shelters, emergency shelters and cooling/heating centers, and state and local correctional facilities or detention centers, or any locations within those facilities where healthcare is being delivered.
 - Businesses and venue operators, including K-12 school and childcare settings must allow any individual to wear a mask if they desire to.
 - Persons with COVID-19 symptoms or who test positive for COVID-19 are required to isolate.
 - Persons working or housed in specified high-risk settings are required to isolate and quarantine in the event of an exposure to someone infected with COVID-19.
 - Members of the general public, regardless of vaccination status, are not required to isolate if they are asymptomatic after exposure to a person infected with COVID-19. Testing and masking are recommended, and vaccination/boosting is strongly encouraged.
- Workplaces must comply with Cal/OSHA safety standards.

BE IT FURTHER RESOLVED that in the interest of public health and safety, based on the findings contained herein, the City Council of the City of Hayward and the appointed boards and commissions identified in Exhibit A of this Resolution shall continue to hold teleconferenced public meetings pursuant to AB 361.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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

- Community Services Commission
- Keep Hayward Clean and Green Task Force
- Library Commission
- Personnel Commission
- Planning Commission
- Council Airport Committee
- Council Budget and Finance Committee
- Council Economic Development Committee
- Council Infrastructure Committee
- Council Homelessness-Housing Task Force
- Council Sustainability Committee
- Hayward Youth Commission
- Hayward Police Department Community Advisory Panel



CITY OF HAYWARD

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

File #: CONS 22-674

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Accepting the Resignation of Ms. Gordean Lum-Villiados from the Keep Hayward Clean and Green Task Force, Effective Immediately

That Council adopts a resolution (Attachment II) accepting the resignation of Ms. Gordean Lum-Villiados from the Keep Hayward Clean and Green Task Force, effective immediately.

SUMMARY

Ms. Gordean Lum-Villiados was appointed to the Keep Hayward Clean and Green Task Force on September 20, 2022. Ms. Villiados' resignation becomes effective immediately per her resignation letter dated November 17, 2022 (Attachment III).

Ms. Villiados' vacated position will be filled as part of the annual appointment process for the City's appointed officials to Commissions and Keep Hayward Clean and Green Task Force.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resignation Letter



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT Adopt a Resolution Accepting the Resignation of Ms. Gordean Lum-Villiados from the Keep Hayward Clean and Green Task Force, Effective Immediately

RECOMMENDATION

That Council adopts a resolution (Attachment II) accepting the resignation of Ms. Gordean Lum-Villiados from the Keep Hayward Clean and Green Task Force, effective immediately.

SUMMARY AND DISCUSSION

Ms. Gordean Lum-Villiados was appointed to the Keep Hayward Clean and Green Task Force on September 20, 2022. Ms. Villiados' resignation becomes effective immediately per her resignation letter dated November 17, 2022 (Attachment III). Ms. Villiados' vacated position will be filled as part of the annual appointment process for the City's appointed officials to Commissions and Keep Hayward Clean and Green Task Force.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 22-_____

Introduced by Council Member _____

RESOLUTION ACCEPTING THE RESIGNATION OF MS. GORDEAN LUM-VILLIADOS FROM THE KEEP HAYWARD CLEAN AND GREEN TASK FORCE

WHEREAS, Ms. Gordean Lum-Villiados was appointed to the Keep Hayward Clean and Green Task Force on September 20, 2022; and

WHEREAS, Ms. Gordean Lum-Villiados submitted a resignation letter on November 17, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of Ms. Gordean Lum-Villiados; and commends her for her civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA, _____

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

From: Deanie Villiados <>
Sent: Thursday, November 17, 2022 12:18 PM
To: Colleen Kamai <Colleen.Kamai@hayward-ca.gov>
Cc: Todd Rullman <Todd.Rullman@hayward-ca.gov>; Rodney Affonso, JR.
<Rodney.AffonsoJR@hayward-ca.gov>; Elizabeth Scott <Elizabeth.Scott@hayward-ca.gov>
Subject: Re: REVISED Agenda RE: KHCG Agenda Packet 11/17/22

Aloha Colleen and City of Hayward,

I recently applied for a position there with the City of Hayward and they appointed me to join the "Keep Hayward Clean and Green" Taskforce. However, I am so sorry to say that I wasn't aware of the time commitment and unfortunately, I am unable to continue and have to resign. I am so sorry to be a problem. Please let me know if you have any questions or concerns.

Mahalo nui,
Deanie Villiados

==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+==+

Deanie Lum-Villiados, President
Kumu Hula Association of Northern California
HP: <https://www.kumuhulaassociation.com/>



CITY OF HAYWARD

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

File #: CONS 22-672

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Accepting the Resignation of Ms. Arti Garg from the Community Services Commission, Effective Immediately

RECOMMENDATION

That the Council adopts a resolution (Attachment II) accepting the resignation of Ms. Arti Garg from the Community Services Commission, effective immediately.

SUMMARY

Ms. Arti Garg was appointed to the Community Services Commission on September 18, 2018 and reappointed on September 20, 2022. Ms. Arti Garg's resignation becomes effective immediately, per her resignation letter (Attachment III).

Ms. Garg's vacated position will be filled as part of the annual appointment process for the City's appointed officials to Commissions and Keep Hayward Clean and Green Task Force.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resignation Letter



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT Adopt a Resolution Accepting the Resignation of Ms. Arti Garg from the Community Services Commission, Effective Immediately

RECOMMENDATION

That the Council adopts a resolution (Attachment II) accepting the resignation of Ms. Arti Garg from the Community Services Commission, effective immediately.

SUMMARY AND DISCUSSION

Ms. Arti Garg was appointed to the Community Services Commission on September 18, 2018 and reappointed on September 20, 2022. Ms. Arti Garg's resignation becomes effective immediately, per her resignation letter (Attachment III).

Ms. Garg's vacated position will be filled as part of the annual appointment process for the City's appointed officials to Commissions and Keep Hayward Clean and Green Task Force.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

The agenda item is a routine operational item and does not relate directly to the Council's Strategic Roadmap.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 22-_____

Introduced by Council Member _____

RESOLUTION ACCEPTING THE RESIGNATION OF MS. ARTI GARG FROM THE
COMMUNITY SERVICES COMMISSION

WHEREAS, Ms. Arti Garg was appointed to the Community Services Commission on September 18, 2018; and

WHEREAS, Ms. Arti Garg was reappointed to the Community Services Commission on September 20, 2022; and

WHEREAS, Ms. Arti Garg submitted a resignation letter on November 21, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of Ms. Arti Garg; and commends her for her civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA, _____ 2022.

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

ATTACHMENT III

From: Arti Garg < >

Sent: Monday, November 21, 2022 2:21 PM

To: Jessica Lobedan <Jessica.Lobedan@hayward-ca.gov>; Miriam Lens <Miriam.Lens@hayward-ca.gov>

Subject: Resignation from Community Services Commission

Dear Jessica and Miriam,

I am writing this email to provide notice of my decision to resign from the Community Services Commission effective immediately. I have greatly enjoyed my time serving on the CSC and found it to be extremely rewarding. This resignation is out of my desire to continue to serve the City of Hayward in a different way.

Best,
Arti



CITY OF HAYWARD

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

File #: CONS 22-661

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Accepting the Resignation of Mr. Zachariah Oquenda from the Planning Commission, Effective Immediately

RECOMMENDATION

That the Council adopts a resolution (Attachment II) accepting the resignation of Mr. Zachariah Oquenda from the Planning Commission, effective immediately.

SUMMARY

Mr. Zachariah Oquenda was appointed to the Planning Commission on January 26, 2021. Mr. Zachariah Oquenda's resignation becomes effective immediately, per his resignation letter (Attachment III). The Council will take a separate action to consider appointing Planning Commission alternate, Arti Garg, to fill the remaining term of Mr. Oquenda.

In anticipation of additional unscheduled Commission vacancies, staff will conduct a special Planning Commission recruitment beginning December 9, 2022. Staff will issue a press release announcing the vacancy and will use all available social media and traditional methods to disseminate the information to the public at large and individuals who applied during the annual recruitment. As it was done with the 2015 recruitment, individuals who applied during the annual recruitment will not need to reapply and staff will utilize their prior application if they express interest. The application period is expected to close on January 14, 2023. Copies of applications will be forwarded to the Council for review and will be available for public review upon request in the Office of the City Clerk. Staff is recommending that if the City receives more than ten applications, each Council Member could select up to five applicants and individually notify the City Clerk of their selections by noon on Monday, January 16, 2023. Interviews are tentatively scheduled for Tuesday, January 17, 2023.

File #: CONS 22-661

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resignation Letter



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT Adopt a Resolution Accepting the Resignation of Mr. Zachariah Oquenda from the Planning Commission, Effective Immediately

RECOMMENDATION

That the Council adopts a resolution (Attachment II) accepting the resignation of Mr. Zachariah Oquenda from the Planning Commission, effective immediately.

SUMMARY AND DISCUSSION

Mr. Zachariah Oquenda was appointed to the Planning Commission on January 26, 2021. Mr. Zachariah Oquenda's resignation becomes effective immediately, per his resignation letter (Attachment III). The Council will take a separate action to consider appointing Planning Commission alternate, Arti Garg, to fill the remaining term of Mr. Oquenda.

In anticipation of additional unscheduled Commission vacancies, staff will conduct a special Planning Commission recruitment beginning December 9, 2022. Staff will issue a press release announcing the vacancy and will use all available social media and traditional methods to disseminate the information to the public at large and individuals who applied during the annual recruitment. As it was done with the 2015 recruitment, individuals who applied during the annual recruitment will not need to reapply and staff will utilize their prior application if they express interest. The application period is expected to close on January 14, 2023. Copies of applications will be forwarded to the Council for review and will be available for public review upon request in the Office of the City Clerk. Staff is recommending that if the City receives more than ten applications, each Council Member could select up to five applicants and individually notify the City Clerk of their selections by noon on Monday, January 16, 2023. Interviews are tentatively scheduled for Tuesday, January 17, 2023.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

The agenda item is a routine operational item and does not relate directly to the Council's Strategic Roadmap.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 22-_____

Introduced by Council Member _____

RESOLUTION ACCEPTING THE RESIGNATION OF MR. ZACHARIAH
OQUENDA FROM THE PLANNING COMMISSION

WHEREAS, Mr. Zachariah Oquenda was appointed to the Planning Commission on January 26, 2021;

WHEREAS, Mr. Zachariah Oquenda submitted a resignation letter on November 14, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of Mr. Zachariah Oquenda; and commends him for his civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA, _____ 2022.

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

From: Zachariah Oquenda < >
Sent: Monday, November 14, 2022 8:00 AM
To: Miriam Lens <Miriam.Lens@hayward-ca.gov>
Subject: Resignation from PC

Hello Miriam,

Hope you are well. I'm having some challenging health issues. I must resign from the Planning Commission, effective immediately, and prioritize getting healthy.

When I'm better, I hope to find ways to return to service.

Thank you,
Zachariah

--

Zachariah Oquenda, Esq., M.P.P.
he/him/his

[California Policy Attorney](#)

Root & Rebound | www.rootandrebounds.org

Planning Commissioner,

Hayward Planning Commission

Community Advisor,

Hayward Community Advisory Panel to the Chief of Police



CITY OF HAYWARD

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

File #: CONS 22-662

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adopt a Resolution Appointing Ms. Arti Garg to the Planning Commission to Fill the Unexpired Term of Mr. Zachariah Oquenda

RECOMMENDATION

That the Council adopts a resolution (Attachment II) appointing Ms. Arti Garg to the Planning Commission to fill the unexpired term of Mr. Zachariah Oquenda, which will expire on September 30, 2026.

SUMMARY

The Council, during its September 20, 2022 Council meeting, confirmed the list of 2022 alternates as follows: Ms. Elena Lepe (Community Services Commission); Ms. Elaine Alvite (Community Services Commission); and Ms. Arti Garg (Planning Commission). On November 14, 2022, Mr. Zachariah Oquenda, now former member of the Planning Commission, submitted a letter of resignation, which created an unexpected vacancy on the Planning Commission. Ms. Arti Garg, who is a Planning Commission alternate, was contacted to confirm her eligibility status and her interest in serving on the Planning Commission. If appointed to the Planning Commission, Ms. Arti Garg's term would be effective immediately and would end on September 30, 2026.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adopt a Resolution Appointing Ms. Arti Garg to the Planning Commission to Fill the Unexpired Term of Mr. Zachariah Oquenda

RECOMMENDATION

That the Council adopts a resolution (Attachment II) appointing Ms. Arti Garg to the Planning Commission to fill the unexpired term of Mr. Zachariah Oquenda, which will expire on September 30, 2026.

SUMMARY AND DISCUSSION

The Council, during its September 20, 2022¹ Council meeting, confirmed the list of 2022 alternates as follows: Ms. Elena Lepe (Community Services Commission); Ms. Elaine Alvite (Community Services Commission); and Ms. Arti Garg (Planning Commission). On November 14, 2022, Mr. Zachariah Oquenda, now former member of the Planning Commission, submitted a letter of resignation, which created an unexpected vacancy on the Planning Commission. Ms. Arti Garg, who is a Planning Commission alternate, was contacted to confirm her eligibility status and her interest in serving on the Planning Commission. If appointed to the Planning Commission, Ms. Arti Garg's term would be effective immediately and would end on September 30, 2026.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

¹ September 20, 2022 Council Meeting - <https://hayward.legistar.com/LegislationDetail.aspx?ID=5844303&GUID=FE76B8E2-8EF5-4E37-9DB5-5D2E33887DBD&Options=&Search=>

NEXT STEPS

Following Council's action, the oath of affirmation will be administered to Ms. Arti Garg prior to her first Planning Commission meeting.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 22-_____

Introduced by Council Member _____

RESOLUTION APPOINTING MS. ARTI GARG TO THE PLANNING COMMISSION
TO FILL THE UNEXPIRED TERM OF MR. ZACHARAI OQUENDA

WHEREAS, the City Council conducted its annual recruitment for City commissions and the Keep Hayward Clean and Green Task Force from April 5, 2022 through June 16, 2022; and

WHEREAS, on September 20, 2022, the City Council established an alternate list comprising eligible applicants who would be appointed to serve as vacancies occurred during 2022; and

WHEREAS, Ms. Arti Garg was selected as the alternate for the Planning Commission; and

WHEREAS, Planning Commissioner Zacharai Oquenda resigned, effective November 14, 2022, which created a vacancy on the Planning Commission.

THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Ms. Arti Garg is selected from the alternate list and appointed to fill Mr. Zacharai Oquenda unexpired term, which will expire on September 30, 2026.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022.

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 22-648

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Attorney

SUBJECT

Adopt a Resolution Rescinding a Portion of the Previously Adopted Resolution 20-065, Regarding Approval of a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorization of the City Manager to Execute Purchase Option Agreements with the California Community Housing Agency

RECOMMENDATION

That Council adopts a resolution (Attachment II) rescinding a portion of Resolution 20-065 adopted May 26, 2020 regarding approval of a financing model that supports development of middle-income affordable housing and authorization of the City Manager to execute purchase option agreements with the California Community Housing Agency (CalCHA).

SUMMARY

On May 26, 2020, City of Hayward adopted Resolution 20-065 that approved a financing model to fund the acquisition and/or development of affordable housing for middle income households. Staff is now recommending an amendment to the previously adopted resolution by rescinding some of the language in the final paragraph.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Attorney

SUBJECT: Adopt a Resolution Rescinding a Portion of the Previously Adopted Resolution 20-065, Regarding Approval of a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorization of the City Manager to Execute Purchase Option Agreements with the California Community Housing Agency

RECOMMENDATION

That Council adopts a resolution (Attachment II) rescinding a portion of Resolution 20-065 adopted May 26, 2020 regarding approval of a financing model that supports development of middle-income affordable housing and authorization of the City Manager to execute purchase option agreements with the California Community Housing Agency (CalCHA).

SUMMARY

On May 26, 2020, City of Hayward adopted Resolution 20-065¹ that approved a financing model to fund the acquisition and/or development of affordable housing for middle income households. Staff is now recommending an amendment to the previously adopted resolution by rescinding some of the language in the final paragraph.

BACKGROUND

On May 26, 2020, the City of Hayward adopted Resolution 20-065 that approved a financing model to fund the acquisition and/or development of affordable housing for middle income households. The Resolution included an authorization for the City to become a member of CalCHA, expressed support for CalCHA's issuance of tax-exempt bonds related to middle-income rental housing, and authorized the City Manager to execute a limited number of purchase option agreements with CalCHA within a 5-year period.

As a result of a prior work session on this matter, which occurred on February 25, 2020², and based on Council discussion, public comment, and community sentiment, Resolution

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4544076&GUID=17EB8C13-9BB8-46C9-BF97-00B8B200E44B>

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=4340247&GUID=D32E99E0-08C8-4913-A32E-CB20520875F6>

20-065 included language prohibiting FPI Property Management (“FPI”) from managing properties included in the project.

DISCUSSION

Resolution 20-065 stated, in part:

BE IT FURTHER RESOLVED that prior to entering into a Purchase Option Agreement, the City Manager will ensure that the Regulatory Agreement for each property contains language allowing over-income tenants to remain housed at the property and prohibits FPI Property Management from managing the properties included in the project.

The prohibition of FPI from managing project properties is unnecessary as the City is able to make decisions regarding proposed projects, including decisions based on proposed property management companies, prior to signing the Purchase Option Agreement. Based on the foregoing, staff recommends minor amendments to Resolution 20-065 as set forth in the attached resolution.

FISCAL IMPACT

There are no fiscal impacts to the City associated with this action.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect, & Produce Housing. Specifically, this item relates to the implementation of the following project(s):

Project 4, Part 4.a: Explore moderate-income financing model.

NEXT STEPS

If Council adopts the amended resolution (Attachment II), staff will continue working with existing and future users of this model pursuant to previously negotiated Purchase Option Agreements.

Prepared by: Vadim Sidelnikov, Deputy City Attorney

Recommended by: Michael S. Lawson, City Attorney
Christina Morales, Housing Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
RESCINDING A PORTION OF THE PREVIOUSLY ADOPTED RESOLUTION 20-
065, REGARDING APPROVAL OF A FINANCING MODEL THAT SUPPORTS
THE DEVELOPMENT OF MIDDLE-INCOME AFFORDABLE HOUSING AND
AUTHORIZATION OF THE CITY MANAGER TO EXECUTE PURCHASE OPTION
AGREEMENTS WITH CALCHA**

WHEREAS, on May 26, 2020, Council adopted Resolution 20-265; and

WHEREAS, Council wishes to rescind certain language of Resolution 20-265.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby rescinds the last paragraph of Resolution 20-065 and replaces it with the following language:

BE IT FURTHER RESOLVED that prior to entering into a Purchase Option Agreement, the City Manager will ensure that the Regulatory Agreement for each property contains language allowing over-income tenants to remain housed at the property.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-663

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Authorizing the City Manager to Amend the Professional Services Agreement with Brown and Caldwell to Increase the Contract Amount by \$4,800,000 to a Total Not-to-Exceed Amount of \$8,649,711 for Final Design Services for the Administration and Laboratory Building, and Primary Effluent Equalization Basin Relocation Projects, and Geotechnical Investigation Services for the Water Pollution Control Facility Improvements Phase II Project No. 07760

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to amend the Professional Services Agreement (PSA) with Brown and Caldwell to increase the contract amount by \$4,800,000 to a total not-to-exceed amount of \$8,649,711 for final design services for the Administration and Laboratory Building, and Primary Effluent Equalization Basin (EQ Basin) Relocation Projects, and geotechnical investigation services for the Water Pollution Control Facility (WPCF) Improvements Phase II Project, Project No. 07760.

SUMMARY

The WPCF core infrastructure was originally constructed in 1952 and included tanks, pumps, large pipes, industrial buildings, and complex mechanical and electrical systems. The WPCF has undergone several upgrades as Hayward population and industry has grown and now treats an average flow of approximately eleven million gallons per day (MGD) and meets current regulatory requirements for discharge of treated effluent to the deep waters of the San Francisco Bay (Bay).

In May 2019, the Regional Water Quality Control Board (Water Board) announced upcoming regulatory requirements limiting discharge of nutrients (nitrogen) to the Bay. In June 2020 the City completed a comprehensive master plan update, the WPCF Phase II Facilities Plan (Facilities Plan), to identify improvements required for the WPCF to upgrade its treatment process to incorporate nutrient reduction in the treated effluent to meet the upcoming requirements.

On July 5, 2022, Council authorized an agreement with Brown and Caldwell (B&C) in an amount not-to-exceed \$3,849,711 for preliminary design services for the Phase II Project. The preliminary design phase

builds upon the Facilities Plan to further refine the project elements including secondary treatment process selection, hydraulic analysis, EQ Basin sizing, and layout of facilities including a new Administration and Laboratory Building and relocated EQ Basin. The preliminary design effort is underway and is approximately 22% complete as of the end of October. Preliminary design for the entire project will be complete in June 2023.

The project will be split into three separate bid packages that include the Administration and Laboratory Building Project as the first bid package, the EQ Basin Relocation Project as the second bid package, and the WPCF Improvement Phase II Project as the third bid package. Preliminary design efforts for the early bid packages are targeting a completion date of February 2023 ahead of completing the preliminary design effort for the Phase II project. In order for the final design effort to begin ahead of the completion of final design for the Phase II project, the geotechnical investigation needs to be complete ideally very early in the final design process so as to confirm suitability of the underlying soils for the proposed new facilities. Therefore, early authorization of final design services is needed for the early bid packages so as to not delay the overall final design schedule.

Staff previously negotiated the scope and not-to-exceed fee for the entire project in the amount of \$24,737,324, which includes preliminary and final design services, bid period services, engineering services during construction, optional services, and design contingency for all three bid packages. On July 5, 2022, preliminary design services were authorized and are currently about 22% complete. Staff is requesting partial authorization of final design services in the amount of \$4,800,000 for the early bid packages (the Administration and Laboratory Building, and Primary Effluent EQ Basin Relocation Projects), as well as the geotechnical investigation that supports all three design packages.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Amend the Professional Services Agreement with Brown and Caldwell to Increase the Contract Amount by \$4,800,000 to a Total Not-to-Exceed Amount of \$8,649,711 for Final Design Services for the Administration and Laboratory Building, and Primary Effluent Equalization Basin Relocation Projects, and Geotechnical Investigation Services for the Water Pollution Control Facility Improvements Phase II Project No. 07760

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to amend the Professional Services Agreement (PSA) with Brown and Caldwell to increase the contract amount by \$4,800,000 to a total not-to-exceed amount of \$8,649,711 for final design services for the Administration and Laboratory Building, and Primary Effluent Equalization Basin (EQ Basin) Relocation Projects, and geotechnical investigation services for the Water Pollution Control Facility (WPCF) Improvements Phase II Project, Project No. 07760.

SUMMARY

The WPCF core infrastructure was originally constructed in 1952 and included tanks, pumps, large pipes, industrial buildings, and complex mechanical and electrical systems. The WPCF has undergone several upgrades as Hayward population and industry has grown and now treats an average flow of approximately eleven million gallons per day (MGD) and meets current regulatory requirements for discharge of treated effluent to the deep waters of the San Francisco Bay (Bay).

In May 2019, the Regional Water Quality Control Board (Water Board) announced upcoming regulatory requirements limiting discharge of nutrients (nitrogen) to the Bay. In June 2020 the City completed a comprehensive master plan update, the WPCF Phase II Facilities Plan (Facilities Plan), to identify improvements required for the WPCF to upgrade its treatment process to incorporate nutrient reduction in the treated effluent to meet the upcoming requirements.

On July 5, 2022, Council authorized an agreement with Brown and Caldwell (B&C) in an

amount not-to-exceed \$3,849,711 for preliminary design services for the Phase II Project. The preliminary design phase builds upon the Facilities Plan to further refine the project elements including secondary treatment process selection, hydraulic analysis, EQ Basin sizing, and layout of facilities including a new Administration and Laboratory Building and relocated EQ Basin. The preliminary design effort is underway and is approximately 22% complete as of the end of October. Preliminary design for the entire project will be complete in June 2023.

The project will be split into three separate bid packages that include the Administration and Laboratory Building Project as the first bid package, the EQ Basin Relocation Project as the second bid package, and the WPCF Improvement Phase II Project as the third bid package. Preliminary design efforts for the early bid packages are targeting a completion date of February 2023 ahead of completing the preliminary design effort for the Phase II project. In order for the final design effort to begin ahead of the completion of final design for the Phase II project, the geotechnical investigation needs to be complete ideally very early in the final design process so as to confirm suitability of the underlying soils for the proposed new facilities. Therefore, early authorization of final design services is needed for the early bid packages so as to not delay the overall final design schedule.

Staff previously negotiated the scope and not-to-exceed fee for the entire project in the amount of \$24,737,324, which includes preliminary and final design services, bid period services, engineering services during construction, optional services, and design contingency for all three bid packages. On July 5, 2022, preliminary design services were authorized and are currently about 22% complete. Staff is requesting partial authorization of final design services in the amount of \$4,800,000 for the early bid packages (the Administration and Laboratory Building, and Primary Effluent EQ Basin Relocation Projects), as well as the geotechnical investigation that supports all three design packages.

BACKGROUND

In 2014, the City prepared an update to the WPCF Master Plan (2014 Master Plan Update), that included a comprehensive list of near-term and long-term improvement projects for the Capital Improvement Program (CIP) to address WPCF infrastructure needs. Since the 2014 Master Plan Update was prepared, additional more stringent wastewater discharge regulations have been promulgated by the Water Board related to discharge of nutrients to the Bay. After reviewing the list of CIP projects related to nutrient reduction developed in the 2014 Master Plan Update, staff recommended initiating the Facilities Plan to review the recommendations and refine/modify the CIP plan. The primary goals of the Facilities Plan included:

- Perform a schematic design and site planning for the new Administration and Laboratory Building;
- Determine the most appropriate and cost-effective technology that meets the nitrogen removal requirements;
- Develop a strategic plan which coordinates nutrient removal and water recycling; and
- Identify project elements and costs for treatment facility upgrades to meet upcoming regulatory requirements for nutrient discharges to the Bay.

On February 27, 2018¹, Council approved execution of a PSA with Black & Veatch (B&V) to develop a Facilities Plan to identify improvements needed to meet upcoming regulatory requirements for nutrient reduction in discharges to the Bay. The Facilities Plan was completed in July 2019 and included development of a nutrient management strategy and related capital improvements.

Summary of Capital Improvement Projects

The following table presents a summary of the Administration and Laboratory building and primary effluent equalization basin CIP projects from the 2019 Facilities Plan. The complete Phase II Project includes the nutrient upgrades along with other projects recommended in the Facilities Plan and/or prior master plans prepared for the WPCF summarized in the June 5th, 2022 Preliminary Design staff report.²

Table 1 –Capital Improvement Project Approved Funds			
CIP Project Number	Project Element	FY 23 CIP	FY 24 CIP
612-07749	New Primary Equalization Basin (EQ Basin)	\$300,000	\$10,900,000
612-07786	WPCF New Administration Building and Laboratory		\$20,000,000

DISCUSSION

The main goal of the amended PSA is to authorize additional services previously negotiated with Brown and Caldwell so that they may begin final design services for the Administration and Laboratory Building and the EQ Basin Relocation Projects, and perform geotechnical investigations.

The project will be split into three separate bid packages that include the Administration and Laboratory Building in the first bid package, the EQ Basin Relocation Project in the second bid package, and the WPCF Improvements Phase II Project in the third bid package. The primary advantage of constructing the Administration and Laboratory Building as a separate project includes being able to attract building contractors who specialize in building and laboratory construction specifically bidding as the prime (general) contractor thereby avoiding subcontractor markups. In addition, by starting the building early, Operations and Maintenance staff can move into the new building early minimizing impacts to staff during construction of the Phase II Project. Preliminary design is anticipated to be completed in February 2023. Before

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=3354003&GUID=015931F3-41B1-45E5-8345-F8440FF11A26&Options=&Search=>

² <https://hayward.legistar.com/View.ashx?M=F&ID=11029209&GUID=7059C7EC-4593-483D-91F3-DC0F24CF252B>

final design can begin, the geotechnical investigation for the new building needs to be completed. Therefore, Staff are seeking authorization for both final design services and geotechnical investigation so work can begin on preparing the final design package for bids following completion of the preliminary design work.

Because most of the project improvements are in the footprint of the WPCF's current EQ Basin, a separate project to relocate the EQ Basin is included to shorten the overall duration of the Phase II project by clearing the way for construction of the new improvements ahead of the start of that project. Shortening the overall construction duration will save overall project costs. The goal is to have the new EQ Basin complete and operational prior to beginning work on the new BNR facility. Preliminary design services are currently underway to determine the size and location of the basins along with any required ancillary facilities such as pumping stations, inlet and outlet piping, and construction details required to meet Bay Area Air Quality Management District (BAAQMD) requirements. Preliminary design is anticipated to be completed in February 2023. Like the Administration and Laboratory Building, the geotechnical investigation must be complete before beginning final design services.

On March 15, 2022, staff issued a request for proposals for final design services for the Phase II Project and selected Brown and Caldwell as the best qualified firm. Staff negotiated a final scope of work and fee of \$24,737,324. On July 5, 2022, Council authorized an initial agreement with Brown and Caldwell (B&C) in an amount not-to-exceed \$3,849,711 for preliminary design services for the Phase II Project, leaving \$20,887,613 of the initial negotiated design contract to be awarded in later increments. Staff is seeking authorization to amend the PSA by \$4,800,000 for a not-to-exceed amount of \$8,649,711 that includes the previously authorized preliminary design services, and partial authorization of final design services for the two early bid packages, along with the geotechnical investigation that is needed to support the design effort for all three bid packages. In 2023, Staff will return to council to authorize additional services in the PSA with Brown and Caldwell for the Phase II Project.

The following paragraphs briefly describe the proposed scope of the tasks to be authorized.

WPCF Administration Building and Laboratory Project – Project 612-07786:

The existing Administration and Laboratory Building was originally constructed in 1970 and was subsequently expanded in 1994 to accommodate increased laboratory space requirements. Since it was last modified, the WPCF has seen increased staffing levels due to increasing regulatory requirements, and consequently the existing facilities can no longer efficiently accommodate the space needs and functional requirements of daily operations. Currently, engineering staff are housed in a temporary office trailer on the site due to lack of office space in the current building. The Facilities Plan included space planning for both the administration building and laboratory to adequately house WPCF staff and accommodate laboratory functions required in the future. The project includes construction of a two-story building to house administration, operations, engineering, and laboratory functions in a 21,000 square foot building. Preliminary design is underway to review and confirm the initial space planning needs and layout on the WPCF site, as well as building cost. Final design will begin in early 2023.

EQ Basin Relocation Project – Project No. 612-07749:

The purpose of the Primary Clarifier EQ Basin is to store primary effluent when wet weather flows exceed the secondary treatment capacity at the plant. The EQ Basin also provides flexibility to store flows when process shutdowns are needed to for maintenance purposes. Currently, flows are automatically diverted to the EQ Basin when flows exceed approximately 35 million gallons per day (mgd). Most of the secondary treatment improvements identified in the Facilities Plan are sited in the location currently occupied by the EQ Basin. Therefore, the EQ Basin must be relocated to make room for the new treatment facilities.

Geotechnical Investigation (Part of Project Number 612-07660):

A geotechnical investigation is required to determine the suitability of the subsurface soils to support the proposed facility improvements. The geotechnical investigation includes drilling exploratory borings, logging soil profiles and groundwater elevations, and sampling and testing to determine soil properties underlying proposed new facilities. The geotechnical investigation must be completed before start of final design as the investigation determines the suitability of the site for construction, the type of foundations that are required, seismic and soil bearing capacities, and other parameters that are used in the structural design of the facilities. A geotechnical report in support of the proposed design improvements, including structural foundation design, shoring, yard piping/trench design, structural backfill, dewatering, and asphalt concrete (AC) paving design will be prepared under this scope item.

ECONOMIC IMPACT

Many of the Phase II improvements were identified in the 2014 Master Plan update and funded in the adopted Capital Improvement Program. The Phase II Project includes a new biological nutrient removal facility to address the nutrient load limits in the 2nd watershed permit, as well as related projects from the City's CIP. This proactive approach will result in the City being identified as an "early actor" by the Water Board and provide protection against having to implement additional, potentially more costly improvements if the regulations change.

The total construction cost for the project is estimated to be between \$125 to \$169 million, which is a planning level estimate. The costs will be further refined during the preliminary design effort that is currently underway. It is anticipated that these improvements will affect sewer service rates and sewer connection fees. While the extent to which rates will need to be adjusted cannot be determined with certainty at this point, it is anticipated that customers could see a significant impact of 20% or more over the current rates, over the next several years.

Funding assistance for the project is included in the consultants' scope of work. Funding efforts will pursue financing under both the California Clean Water State Revolving Fund (CWSRF) loan program and the U.S. Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) program. WIFIA funding is typically at a slightly higher interest rate than SRF, however payback period is deferred by up to 5 years

after substantial completion of the project. SRF loans payback period begins one year after substantial completion. Up to 49% of the project cost is eligible under WIFIA funding, therefore staff will pursue both avenues of funding as part of this project.

In addition, because WIFIA utilizes federal funds, engineering services are included for the Consultant to provide environmental review and documentation (most likely "CEQA+") in support of the funding applications.

Note that both SRF and WIFIA financing is available for a combination of projects under a master agreement, therefore financing would be available for all three bid packages. Application for funding cannot be completed until the project is well defined, typically after the preliminary design stage has been completed to allow a more accurate estimate of the project cost to be completed, and after the completion of the necessary environmental reviews of the project. Preliminary design for the Phase II Project is anticipated to be completed by June 2023 to the extent that work can begin on SRF and WIFIA loan applications. Staff will return to Council in early 2023 for additional authorization to amend the PSA to complete funding applications and the remainder of the final design services for the Phase II Project. Staff will continue seeking grant funding opportunities to lessen the impact on the City's rate payers.

FISCAL IMPACT

On July 5, 2022, Council authorized \$3,849,711 for preliminary design services for the Phase II Project. This amendment seeks partial authorization of the final design services in the amount of \$4,800,000 for an amended not-to-exceed professional services contract amount of \$8,649,711. This authorization includes engineering contingency in the amount of 5.6% of the final design fee to account for unanticipated engineering services that may be required as the design progresses. This is part of a multi-year contract that covers design through the completion of construction including startup assistance and training with a total PSA fee of \$24,737,324. This project is anticipated to take six years to complete. The funding for this contract will be allocated from the Sewer Improvement Fund, 612-07660 (WPCF Nutrient Upgrades Design), 612-07749 (New Primary EQ Basin), and 612-07750 (New Final Clarifier).

As noted above, staff is planning to apply for a State Revolving Fund loan, and funding from WIFIA to finance the project. Both funding sources can be applied to fund multiple projects, as well as retroactively reimburse for engineering design services. As the design progresses, the estimated project cost is expected to be adjusted, especially as the project elements become better defined. Budget adjustments will be brought forward to Council through the annual budget approval process. In addition, staff will continue seeking grant opportunities.

STRATEGIC ROADMAP

This agenda item supports the various goals of Council's Strategic Roadmap. The WPCF Improvements Phase II Project will address infrastructure needs and improvements to increase the reliability of the City's treatment plant, and construct process improvements to meet more stringent nutrient limits in accordance with upcoming regulatory requirements,

while supporting the goals of the City Council. Specifically, this item relates to the implantation of the following projects:

Confront Climate Crises & Champion Environmental Justice.

Mitigate Climate Crisis Impacts through Resilient Design and Community Engagement

Project C14b: Implement Shoreline Master Plan, including mitigating sea level rise in the industrial corridor through building requirements and outreach

Invest in Infrastructure.

Invest in Water Supplies, Sanitation Infrastructure & Storm Sewers

Project N19: Update Water Pollution Control Facility Phase II Plan

SUSTAINABILITY FEATURES

The WPCF Improvement Project Phase II will help maintain and improve the biology and health of the Bay which is vital for the region and the State. The Phase II Project will also satisfy the early actor requirements specified in the Water Board's 2nd Watershed Permit to reduce nitrogen loads to the Bay.

The effects and risks of rising sea water levels will be reviewed and incorporated into the design of the new facilities.

The Administration and Laboratory Building will be reviewed by the Building Division for conformance with State and local requirements related to sustainability (i.e., California Building Code, California Energy Code, etc.) which require a minimal level of energy efficiency, resource conservation, material recycling, etc. In addition, the building will be designed and constructed to meet Leadership in Energy and Environmental Design (LEED) standards for a Silver Certification, or better.

PUBLIC CONTACT

As part of the funding process, an environmental study (CEQA and/or Initial Study and Mitigated Negative Declaration) will be posted for public review and comment. In addition, a public hearing will be held to review the environmental study.

The project will include a web page to be hosted on the City's website with periodic updates throughout the multi-year duration of the project.

NEXT STEPS

The following schedule has been developed for this project:

City Council Authorization to Award Final Design and Engineering Services During Construction for the Phase II Project	February 2023
--	---------------

Award of PSA for Third Party Construction Management including Value Engineering and Constructability Review for the Phase II Project	June 2023
Approval of Environmental Study – IS/MND or CEQA	December 2023
Approval of Plans and Specifications and Call for Bids for the Administration and Laboratory Building	December 2023
Approval of Application for WIFIA and SRF Loans	January 2024
Award of Construction Contract for the Administration and Laboratory Building Project	February 2024
Approval of Plans and Specifications and Call for Bids for the EQ Basin Relocation Project	May 2024
Award of Construction Contract for the EQ Basin Relocation Project	July 2024
Approval of Plans and Specifications and Call for Bids for the Phase II Improvements Project	July 2024
Award of Construction Contract for the Phase II Improvements Project	February 2025
Administration and Laboratory Building Project Construction Completion	December 2025
EQ Basin Relocation Project Construction Completion	June 2026
Phase II Improvements Project Construction Completion	July 2028

Prepared by: Suzan England, Senior Utilities Engineer

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BROWN AND CALDWELL TO INCREASE THE CONTRACT AMOUNT BY \$4,800,000, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$8,649,711 FOR THE FINAL DESIGN SERVICES FOR THE ADMINISTRATION AND LABORATORY BUILDING, PRIMARY EFFLUENT EQUALIZATION BASIN (EQ BASIN) RELOCATION PROJECTS, AND GEOTECHNICAL INVESTIGATION SERVICES FOR THE WATER POLLUTION CONTROL FACILITY (WPCF) IMPROVEMENTS PHASE II PROJECT, PROJECT NO. 07760

WHEREAS, the City of Hayward (City) owns and operates the Water Pollution Control Facility (WPCF), which treats an average flow of approximately eleven million gallons per day; and

WHEREAS, in 2009, the City completed the construction of the WPCF Improvement Phase I Project that improved the reliability and efficiency of the WPCF's secondary biological treatment and clarification processes; and

WHEREAS, in February 27, 2018, the City entered into an agreement with Black & Veatch Corporation to perform engineering services for the WPCF Phase II Facilities Plan. The Phase II Facilities Plan serves as a comprehensive planning document for the WPCF infrastructure needs for the next twenty-five years; and

WHEREAS, increasing nutrient loadings in the Bay is a growing concern for the Bay Area water quality community. The Water Board issued the first Nutrients Watershed Permit, adopted in 2014, that required Dischargers to evaluate the Bay's response to current and future nutrient loads and to evaluate opportunities to remove nitrogen through treatment plant improvements or optimization; and

WHEREAS, on May 8, 2019, the Water Board adopted the 2nd Nutrients Watershed Permit for managing nutrient discharges to the Bay and required further studies on the impacts of nutrients on the Bay and indicated a load-cap based nitrogen regulatory framework which will be utilized for establishing future nitrogen limits when issuing the 3rd Nutrients Watershed Permit in 2024; and

WHEREAS, the City of Hayward agreed to be an early actor with plans to substantially reduce nutrients in the 2nd Watershed Permit. The benefits of being an early actor include should the Board impose future more stringent load limits, early actors will not be required to make further reductions during the design life of capital improvements; and

WHEREAS, it is anticipated that the Water Board's issuance of the 3rd Nutrients Watershed Permit in 2024 will establish nitrogen load limits. The nitrogen levels in the WPCF's discharge will exceed the anticipated load limit by 2027. The future nitrogen limits necessitate the WPCF to upgrade the existing secondary process to reduce the nitrogen load in the wastewater discharge to the Bay; and

WHEREAS, the main goal of the Phase II Project is to construct improvements necessary for nutrient removal in compliance with the Water Board's 2nd Nutrient Watershed Permit early actor provisions; and

WHEREAS, on March 15, 2022, staff issued a request for proposals (RFP) to award a contract for design and engineering services during construction for the WPCF Improvement - Phase II (Phase II) Project; and

WHEREAS, in response to the RFP, the City received three (3) proposals and after objectively evaluating proposals, has determined that Brown and Caldwell possess the necessary experience and technical skills to perform the work; and

WHEREAS, the City and Brown and Caldwell have negotiated a not-to-exceed amount of \$24,737,324 of which \$3,849,711 is for preliminary design services for the WPCF Phase II Project; and

WHEREAS, on July 5, 2022, Council authorized preliminary design services for the Phase II project with Brown and Caldwell in a not-to-exceed amount of \$3,849,711 for the WPCF Phase II Project, and

WHEREAS, authorization of additional services are needed for final design of the early bid packages for the Administration and Laboratory Building, and Primary EQ Basin Relocation Projects, and Geotechnical Investigation Services in the amount of \$4,800,000; and

WHEREAS, the City and Brown and Caldwell will pursue financing under the California Clean Water State Revolving Fund (CWSRF) loan program and the U.S. Environmental Protection Agency (USEPA) Water Infrastructure Finance and Innovation Act (WIFIA) program; and

WHEREAS, staff will return to City Council for approval to authorize the remainder of the Professional Engineering Services in a not-to-exceed amount of \$16,087,613 for final design and engineering services including optional service tasks for the WPCF Phase II Project;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute, on behalf of the City of Hayward, an amendment to the existing professional services agreement with Brown and Caldwell for Final Design Services for the Administration and Laboratory Building, and EQ Basin Relocation Projects, and Geotechnical Investigation Services for the WPCF Phase II Project, increasing the contract by \$4,800,000 for a total not-to-exceed amount of \$8,649,711, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-665

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Supporting East Bay Municipal Utility District's (EBMUD) Grant Funding Application for the Implementation of Management Actions and Projects in the City/EBMUD Jointly Prepared East Bay Plain Subbasin Groundwater Sustainability Plan

RECOMMENDATION

That the Council adopts a resolution (Attachment II) supporting EBMUD's Grant Funding Application to the California Department of Water Resources (DWR) for Sustainable Groundwater Management Grant Program - Implementation Round 2 funds to assist with implementation of management actions and projects in the City/EBMUD jointly Prepared East Bay Plain Subbasin Groundwater Sustainability Plan (GSP).

SUMMARY

In June 2017, the State formally designated Hayward as the Groundwater Sustainability Agency (GSA) for the portion of the East Bay Plain Groundwater Subbasin (EBP Subbasin) that underlies the City. EBMUD is the GSA for the remaining portion of the Subbasin that underlies the agency's service area. As a GSA, Hayward is responsible for developing and implementing a GSP to manage groundwater within its management area. Hayward and EBMUD worked together to prepare a single GSP for the EBP Subbasin, under the terms of a Cooperating Agreement.

The governing bodies of each entity approved the GSP in December 2021, and it was submitted to the State in January 2022. In addition, in September 2022, Hayward's City Council approved entering into an Implementation Agreement to work cooperatively with EBMUD to implement the GSP management actions necessary to ensure groundwater sustainability. EBMUD staff intends to submit a grant application to DWR for the Sustainable Groundwater Management Grant Program - Implementation Round 2 on behalf of EBMUD and Hayward for funding assistance to implement actions to fill groundwater basin data gaps, advance sustainable groundwater basin management, and support implementation of the GSP.

File #: CONS 22-665

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Supporting East Bay Municipal Utility District's (EBMUD) Grant Funding Application for the Implementation of Management Actions and Projects in the City/EBMUD Jointly Prepared East Bay Plain Subbasin Groundwater Sustainability Plan

RECOMMENDATION

That the Council adopts a resolution (Attachment II) supporting EBMUD Grant Funding Application to the California Department of Water Resources (DWR) for Sustainable Groundwater Management Grant Program - Implementation Round 2 funds to assist with implementation of management actions and projects in the City/EBMUD jointly Prepared East Bay Plain Subbasin Groundwater Sustainability Plan (GSP).

SUMMARY

In June 2017, the State formally designated Hayward as the Groundwater Sustainability Agency (GSA) for the portion of the East Bay Plain Groundwater Subbasin (EBP Subbasin) that underlies the City. EBMUD is the GSA for the remaining portion of the Subbasin that underlies the agency's service area. As a GSA, Hayward is responsible for developing and implementing a GSP to manage groundwater within its management area. Hayward and EBMUD worked together to prepare a single GSP for the EBP Subbasin, under the terms of a Cooperating Agreement.

The governing bodies of each entity approved the GSP in December 2021, and it was submitted to the State in January 2022. In addition, in September 2022, Hayward's City Council approved entering into an Implementation Agreement to work cooperatively with EBMUD to implement the GSP management actions necessary to ensure groundwater sustainability. EBMUD staff intends to submit a grant application to DWR for the Sustainable Groundwater Management Grant Program - Implementation Round 2 on behalf of EBMUD and Hayward for funding assistance to implement actions to fill groundwater basin data gaps, advance sustainable groundwater basin management, and support implementation of the GSP.

BACKGROUND

Extreme drought conditions and unprecedented low-groundwater levels in California have highlighted the importance of groundwater and the need to protect this resource against unsustainable pumping and irreversible environmental impacts, such as land subsidence. These concerns prompted the development of the Sustainable Groundwater management Act (SGMA) legislation in 2014, creating a statewide framework for sustainable, local-groundwater management in the state.

As part of SGMA, local agencies in medium- and high-priority basins are required to form GSAs with authority and responsibility for developing and implementing GSPs. The EBP Subbasin, which in part underlies Hayward, was deemed a medium-priority basin and subject to SGMA requirements.

In June 2017, the State formally designated Hayward as the GSA for the portion of the EBP Subbasin that underlies the City. A primary responsibility of a GSA is to develop and implement a GSP to demonstrate the Subbasin will be sustainably managed within 20 years of Plan implementation without adverse impacts. The remainder of the EBP Subbasin underlies EBMUD's service area, and EBMUD is the GSA for that portion of the Subbasin.

The City and EBMUD entered into a Cooperating Agreement in June 2018 (subsequently amended three times) to work together to develop a single GSP for the entirety of the EBP Subbasin. This collaboration reduced duplication of technical work, improved communication with stakeholders across the entire EBP Subbasin, and resulted in a robust and effective GSP. Council and the EBMUD Board of Directors adopted the GSP for the EBP Subbasin on December 7¹ and December 14, 2021² respectively, and it was submitted to the State Department of Water Resources (DWR) on January 26, 2022.

The Cooperating Agreement anticipated the possibility of grant funding from DWR to expand on the original scope of work set forth in the Agreement. EBMUD and DWR have since entered into agreements for Proposition 1 and Proposition 68 grant funds totaling \$1,680,000 for additional monitoring and analysis, as well as developing a publicly accessible data management system. Some of this work is in progress and has not yet been completed.

Staff from both agencies developed an Implementation Agreement that was executed in November 2022 that allows for coordinated management of the EBP Subbasin and addresses the governance structure, decision-making procedures, and allocation of costs and responsibilities relative to implementing the GSP to ensure coordinated management and compliance with SGMA.

As indicated in the GSP, the GSAs are required to implement management actions to fill data gaps and advance sustainable management of the EBP Subbasin. To provide financial assistance for GSP implementation, DWR is administering the Sustainable Groundwater Management Grant Program - Implementation Round 2, using funds authorized by the California Budget Acts of 2021 and 2022.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5347830&GUID=2C82ACB9-EBCF-4AA1-B45C-65F1C3F2434B&Options=&Search=>

² <https://www.ebmud.com/water/about-your-water/water-supply/groundwater-sustainability-agencies>

DISCUSSION

As required by SGMA, Council adopted a GSP for the Subbasin on December 7, 2021. The City and EBMUD, through a Cooperating Agreement and subsequent amendments, completed and submitted the GSP to DWR on January 26, 2022. The GSP was developed in accordance with SGMA and shows the EBP Subbasin is sustainable.

The GSP commits the City and EBMUD to implement management actions within the portions of the EBP Subbasin underlying their respective service areas to maintain sustainability within the Subbasin. The management actions will fill data gaps and advance sustainable management of the Subbasin. In addition, the GSP identified proposed projects that may be pursued during implementation. The City and EBMUD executed a GSP Implementation Agreement in November 2022, that defines the responsibilities and cost-sharing for the GSAs during implementation.

Implementing monitoring actions allows for effective groundwater basin management necessary to meet GSP/SGMA requirements while significantly improving the understanding of groundwater basin conditions - including water levels, quality, and stream-aquifer interaction. The existing and potential future projects reflect the GSAs' desire to fill data gaps and let science-based decision-making drive the feasibility of future groundwater pumping.

After sufficient data collection, future projects under consideration by EBMUD may include additional phases of Bayside, irrigation with groundwater, and the use of groundwater to supplement flows into San Leandro Creek that EBMUD voluntarily releases from Chabot Dam to approximate historic leakage flows. Potential future Hayward projects may include a well conversion study and a conjunctive use study.

DWR is administering the Sustainable Groundwater Management Grant Program - Implementation Round 2 solicitation and will award a total of approximately \$230 million for applicants located within groundwater basins designated as medium-priority, high-priority, and critically overdrafted basins, for planning and implementation projects to help comply with SGMA.

As a medium-priority basin, the EBP Subbasin is an eligible basin for this grant, and grant funds could assist with implementation activities. Grant funding applications are due on December 16, 2022, and only one grant application per subbasin will be accepted. DWR has indicated awards are expected to range from \$1 million to \$20 million. The amount of the grant submission has not been determined, but it is anticipated to be an amount of up to \$3 million. EBMUD will lead the application process and serve as the grant administrator with Hayward as a supporting agency.

ECONOMIC IMPACT

SGMA provides mechanisms for GSAs to recover costs for groundwater management through water rates, pump and extraction fees, and grants. However, based on the

anticipated actions, implementation of the GSP is not expected to have significant economic impacts on the City's water customers.

FISCAL IMPACT

The Water Improvement Fund in the Capital Improvement Program (CIP) includes funds for groundwater-related activities - including preparation and implementation of the GSP. The existing allocation is sufficient to support near-term actions, such as groundwater water monitoring and preparing the annual report. Costs to implement management actions and projects included in the GSP are expected to be offset by cost sharing with EBMUD, as well as any grants that are received. There will be no impact on the General Fund.

STRATEGIC ROADMAP

This agenda item does not relate to one of the Council's six Strategic Priorities.

SUSTAINABILITY FEATURES

The City's emergency wells are currently equipped to deliver water in the event of an earthquake or other disruptions to the City's imported surface-water supplies. Implementation of the GSP ensures the groundwater beneath the City is protected and sustainably managed to increase overall water supply reliability, maximize local sources, and diversify Hayward's water supply to help the City respond to future uncertainties and the effects of climate change. This grant, if awarded, would help facilitate long-term protection of the EBP Subbasin by partially funding GSP implementation activities.

PUBLIC CONTACT

SGMA requires active stakeholder participation in GSP development and implementation to ensure common understanding and transparency. Key stakeholders in Hayward include large groundwater users and neighboring agencies, such as the Hayward Area Parks and Recreation District, Chabot College, Alameda County, and the Alameda County Water District.

The City and EBMUD developed a Stakeholder Communication and Engagement Plan that guides stakeholder outreach and incorporates a broad variety of communication methods.

Regular meetings have been conducted with stakeholders and interested parties throughout development of the GSP. Active stakeholder engagement during GSP implementation will continue, and include a Technical Advisory Committee and an Inter-Basin Working Group to share information and coordinate management actions.

NEXT STEPS

If Council concurs with the recommendation, staff will provide support for EBMUD's grant application submission for the implementation of management actions and projects in the City/EBMUD jointly prepared EBP Subbasin GSP.

Prepared by: Cheryl Muñoz, Water Resources Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION SUPPORTING EAST BAY MUNICIPAL UTILITY DISTRICT'S (EBMUD) GRANT FUNDING APPLICATION FOR THE IMPLEMENTATION OF MANAGEMENT ACTIONS AND PROJECTS IN THE CITY/EBMUD JOINTLY PREPARED EAST BAY PLAIN SUBBASIN GROUNDWATER SUSTAINABILITY PLAN

WHEREAS, the California Legislature adopted, and the Governor signed into law, the Sustainable Groundwater Management Act of 2014 (SGMA), which authorizes local agencies to ensure sustainable management of groundwater resources; and

WHEREAS, SGMA requires that by January 31, 2022, all groundwater basins designated by the California Department of Water Resources (DWR) as high- or medium-priority basins be managed under a single Groundwater Sustainability Plan (GSP), coordinated GSPs prepared by the Groundwater Sustainability Agency (GSA) or Agencies managing the basin, or an alternative plan, as provided for in Cal. Water Code Section 10720.7(a); and

WHEREAS, the East Bay Plain Subbasin 2-009.04 is subject to the provisions of SGMA; and

WHEREAS, Hayward and EBMUD are the exclusive GSAs for their respective management areas in the East Bay Plain Subbasin; and

WHEREAS, Hayward and EBMUD entered into a Cooperating Agreement on June 25, 2018, to prepare a single GSP for the East Bay Plain Subbasin, and the Cooperating Agreement was subsequently amended on March 19, 2019, December 22, 2020, and November 19, 2021; and

WHEREAS, the Hayward City Council adopted the GSP on December 7, 2021; and

WHEREAS, the Hayward City Council City authorized the City Manager to execute an Implementation Agreement with EBMUD on September 27, 2022, to work cooperatively to implement management actions and projects in the East Bay Plain Subbasin GSP; and

WHEREAS, Hayward and EBMUD desire to submit an application to the Department of Water Resources for Sustainable Groundwater Management Grant Program – Implementation Round 2 funding for GSP implementation activities; and

ATTACHMENT II

WHEREAS, EBMUD has agreed to serve as the lead agency for grant application submission, and, if successful, administering the grant; and

WHEREAS, the City is committed to providing its full support of this funding assistance opportunity.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes East Bay Municipal Utility District to submit the Sustainable Groundwater Management Grant Program – Implementation Round 2 grant application and execute the grant agreement on the City’s behalf.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

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 22-666

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Demonstrating Compliance with State Housing Laws per the Metropolitan Transportation Commission and One Bay Area Grant Funding Requirements

RECOMMENDATION

That Council adopts a resolution (Attachment II) to demonstrate compliance with State Housing Laws per the Metropolitan Transportation Commission (MTC) requirements related to One Bay Area Grant (OBAG) funding.

SUMMARY

The MTC requires local jurisdictions to adopt a resolution stating compliance with State Housing Laws to maintain funding eligibility for OBAG 2 and OBAG 3 federal monies.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Demonstrating Compliance with State Housing Laws per Metropolitan Transportation Commission and One Bay Area Grant Funding Requirements

RECOMMENDATION

That Council adopts a resolution (Attachment II) to demonstrate compliance with State Housing Laws per the Metropolitan Transportation Commission (MTC) requirements related to One Bay Area Grant (OBAG) funding.

SUMMARY

The MTC requires local jurisdictions to adopt a resolution stating compliance with State Housing Laws to maintain funding eligibility for OBAG 2 and OBAG 3 federal monies.

BACKGROUND

The MTC's OBAG program "Project Selection and Programming Policies" requires local jurisdictions to demonstrate compliance with certain State housing laws to maintain funding eligibility. The City can self-certify compliance of State housing laws related to surplus lands, accessory dwelling units, and density bonuses by adopting a resolution stating compliance with State housing laws in order to have OBAG 2 federal monies included in the Fiscal Year (FY) 2023 annual obligation plan, and to access funds in the OBAG 3 funding cycle. The City has one project receiving OBAG 2 funds: the Main Street Complete Street Project.

DISCUSSION

As required by MTC Resolution No. 4505, adopted on January 26, 2022, staff recommends that Council adopts the attached resolution to ensure the City's continued eligibility for OBAG funds. The resolution acknowledges and confirms the following:

1. The City agrees to comply with the Surplus Land Act (California Government Code § 54220, et seq.) as it exists now or may be amended in the future, including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to compile and

report annually an inventory of surplus lands to the California Department of Housing and Community Development;

2. The City agrees to comply with State laws related to Accessory Dwelling Units and Junior Accessory Dwelling Units as they exist now or may be amended in the future, including, but not limited to California Government Code §§ 65852.150, 65852.2, 65852.22, et seq., and California Health & Safety Code § 17980.12;
3. The City agrees to comply with state Density Bonus Law (California Government Code § 65915, et seq.), as it exists now or may be amended in the future; and
4. As of the adoption date of the corresponding resolution, the City warrants and represents, in its actual and present knowledge, that it is in compliance with the aforementioned State housing laws and that there are no claims, actions, suits, or proceedings pending, alleging violations of the State housing laws by the City.

ECONOMIC IMPACT

The City will maintain funding eligibility for the OBAG 2 funding which will result in completion of the Main Street Complete Street Project.

FISCAL IMPACT

Confirming compliance with State Housing laws does not have a fiscal impact. Taking no action on the local resolution to confirm compliance with State Housing laws would jeopardize the City's eligibility for up to \$1,675,000 in OBAG 2 funding. The City has been allocated \$1,675,000 in OBAG 2 funds for the Main Street Complete Street Project.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority to Invest in Infrastructure. Specifically, it relates to the following:

N1: Improve access and mobility in downtown Hayward

SUSTAINABILITY FEATURES

No sustainability features will result with this resolution.

PUBLIC CONTACT

No public contact has been made related to this resolution.

NEXT STEPS

If Council approves this request, the City will maintain funding eligibility for OBAG 2 and OBAG 3 federal monies.

Prepared by: Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
REGARDING LOCAL COMPLIANCE WITH STATE HOUSING LAWS
PURSUANT TO METROPOLITAN TRANSPORTATION COMMISSION
AND ONE BAY AREA FUNDING REQUIREMENTS

WHEREAS, the San Francisco region has the highest housing costs in the United States; and

WHEREAS, the Bay Area produced less than 30% of the need for low- and moderate-income housing units from 2007-2014, and is on track to similarly underproduce low-income units during the 2015-2023 time period; and

WHEREAS, there are limited funding sources available to secure land for the construction of low- and moderate-income housing; and

WHEREAS, public lands can play a critical role in increasing the supply of land for affordable housing;

WHEREAS, accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) provide an important option to increase the availability and affordability of housing, especially in existing, lower density neighborhoods; and

WHEREAS, density bonuses are an effective tool to increase the financial feasibility of housing and incentivize the creation of affordable housing; and

WHEREAS, the Metropolitan Transportation Commission adopted Resolution No. 4505, outlining the programming policy and project selection criteria for the One Bay Area Grant Program (OBAG 3), including certain requirements to access these funds.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hayward, State of California, as follows:

- That the City of Hayward agrees to comply with the terms of Surplus Land Act (California Government Code § 54220 et seq.), as exists now or may be amended in the future, including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development; and

- That the City of Hayward agrees to comply with state laws related to ADUs and JADUs, as it exists now or may be amended in the future, including, but not limited to California Government Code §§ 65852.150, 65852.2, 65852.22, et seq. and California Health & Safety Code §§ 17980.12; and
- That the City of Hayward agrees to comply with state Density Bonus Law (California Government Code § 65915 et seq.), as exists now or may be amended in the future; and
- That the City of Hayward warrants and represents that is in compliance with the aforementioned state housing laws and that there are no claims, actions, suits, or proceedings pending to the best of the City of Hayward's knowledge, alleging violations of the state housing laws by the City of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-676

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement with Workforce Integrity and Training Solutions, LLC for Labor Compliance Coordination Services in the Amount of \$200,000 for a Total Not-To-Exceed Amount of \$372,000 and for Extension of the Agreement to December 31, 2023

That Council adopts a resolution (Attachment II) authorizing the City Manager to execute Amendment No. 2 with Workforce Integrity and Training Solutions, LLC (WITS) in the amount of \$200,000 for a total not-to-exceed (NTE) amount of \$372,000 and for an extension of the agreement end date to December 31, 2023.

SUMMARY

Community Workforce Agreements (CWA) are common in the construction industry to assure that labor issues related to major construction projects are minimized and to help accomplish local hiring and apprenticeship goals. In April 2015, Council directed staff to negotiate and execute a CWA with the Alameda County Building Trades Council (BTC) for the 21st Century Library. In February 2016, Council directed staff to create a "Citywide" CWA that could be applied to a broader scope of projects within the community. To comply with the CWA and provide labor compliance coordination services, the City entered into an agreement with WITS in 2021. The agreement is set to expire on December 6, 2022. Staff is recommending increasing the agreement by \$200,000 and extending it through December 31, 2023 for continued oversight on major projects, including Fire Station 6/Fire Training Center, the Water Pollution Control Facility (WPCF) Headworks Rehabilitation, the annual Pavement Improvement Program (PIP), and others.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution

File #: CONS 22-676



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 2 to the Agreement with Workforce Integrity and Training Solutions, LLC for Labor Compliance Coordination Services in the Amount of \$200,000 for a Total Not-To-Exceed Amount of \$372,000 and for Extension of the Agreement to December 31, 2023

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to execute Amendment No. 2 with Workforce Integrity and Training Solutions, LLC (WITS) in the amount of \$200,000 for a total not-to-exceed (NTE) amount of \$372,000 and for an extension of the agreement end date to December 31, 2023.

SUMMARY

Community Workforce Agreements (CWA) are common in the construction industry to assure that labor issues related to major construction projects are minimized and to help accomplish local hiring and apprenticeship goals. In April 2015, Council directed staff to negotiate and execute a CWA with the Alameda County Building Trades Council (BTC) for the 21st Century Library. In February 2016, Council directed staff to create a “Citywide” CWA that could be applied to a broader scope of projects within the community. To comply with the CWA and provide labor compliance coordination services, the City entered into an agreement with WITS in 2021. The agreement is set to expire on December 6, 2022. Staff is recommending increasing the agreement by \$200,000 and extending it through December 31, 2023 for continued oversight on major projects, including Fire Station 6/Fire Training Center, the Water Pollution Control Facility (WPCF) Headworks Rehabilitation, the annual Pavement Improvement Program (PIP), and others.

BACKGROUND

In April 2015, Council directed staff to negotiate and execute a CWA with the BTC for the 21st Century Library. In February 2016, Council directed staff to create a “Citywide” CWA

that could be applied to a broader scope of projects within the community. To comply with the CWA and provide labor compliance coordinate services, the City released a Request for Proposal (RFP) and entered into an agreement with WITS in 2021 for \$72,000. In April 2022, Council adopted Resolution No. 22-081 which authorized Amendment No. 1 increasing the agreement to a NTE amount of \$172,000 and expiration date of December 6, 2022.

DISCUSSION

Administration of the CWA requires staff resources. The greatest concern is the administrative burden on the City's project managers for implementing and monitoring the agreement. While a staff position was created to implement and monitor the CWA, it remains vacant. WITS provides labor compliance coordination services and has done so since 2020. WITS has assisted with Fire Station 6/Fire Training Center, the WPCF Headworks Rehabilitation, and the FY21 PIP and is able to assist with upcoming projects, such as FY22 PIP, Safe Routes for Seniors, Linear Park, and Root Foaming of Sanitary Sewer.

Environmental Review

This item and action is statutorily exempt from environmental analysis under the California Environmental Quality Act (CEQA) since it is not a project. CEQA Guidelines, Section 15378(b)(5) states that a project does not include "organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." CEQA reviews will be completed separately for individual Public Works' projects subject to the Citywide CWA.

FISCAL IMPACT

This item will be funded through project budgets that are recommended to comply with the City's CWA. Budgets have been appropriated through the Adopted FY23 Capital Improvement Program. This item will have no impact on the General Fund.

STRATEGIC ROADMAP

This item is a routine operational item and does not directly relate to the Council's Strategic Roadmap.

SUSTAINABILITY FEATURES

This item has no sustainability features.

PUBLIC CONTACT

No public contact has been made related to this item.

NEXT STEPS

If approved, the City Manager will execute Amendment No. 2 to the agreement with WITS to increase the contract amount to a NTE amount of \$372,000 and extend the end date to December 31, 2023.

Prepared by: Manny Grewal, Management Analyst
Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE AGREEMENT WITH WORKFORCE INTEGRITY AND TRAINING SOLUTIONS, LLC FOR LABOR COMPLIANCE COORDINATION SERVICES IN THE AMOUNT OF \$200,000 FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$372,000 AND EXTENDING THE AGREEMENT TO DECEMBER 31, 2023

WHEREAS, the aforesaid parties have entered into that certain Agreement dated the 27th day of January 2021 entitled “Agreement for Professional On-Call Services Between the City of Hayward And Workforce Integrity and Training Solutions (WITS) For Consulting Services For Community Workforce Agreement Oversight” in the amount of \$72,000; and

WHEREAS, on April 19, 2022, City Council authorized Amendment No. 1 to increase the agreement by \$100,000 and extend the expiration date to December 6, 2022; and,

WHEREAS, the City and WITS desire to amend the Agreement in certain respects to provide additional services related to the administration of the citywide CWA; and,

WHEREAS, the FY23 Adopted CIP Budget has appropriated project budgets that will require this oversight.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows that the City Manager is hereby authorized to execute Amendment No. 2 with WITS for CWA administration services in an amount of \$200,000, for a total not-to-exceed amount of \$372,500, and extending the Agreement to December 31, 2023.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-678

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adopt a Resolution Amending Resolution 22-087 to Apply as Joint Applicant with EAH, Inc for the California State Department of Housing and Community Development California Housing Accelerator Limited Accelerator Project Gap Funding Program

That the Council adopts a resolution (Attachment II) amending Resolution 22-087 (Attachment III) and restating the City Manager's authorization to apply as a joint applicant with EAH, Inc. for the State of California Housing and Community Development Department (HCD) California Housing Accelerator Limited Accelerator Project Gap Funding Program (LAPG Program) and increasing the amount of funding not-to-exceed \$51 million to support the Pimentel Place development of 57 affordable housing units.

SUMMARY

In October 2022, HCD announced the availability of approximately \$45 million under the LAPG Program for the purpose of supporting previously awarded Tier 1 and Tier 2 California Housing Accelerator projects that have not yet closed on their construction loan, and which cannot proceed due to funding gaps resulting from increased costs post Accelerator award. City staff and EAH, Inc. have determined that Pimentel Place meets the eligibility requirements for the LAPG Program and could receive up to \$4.5 million in grant money to cover eligible project costs. A successful application to HCD's LAPG Program would close the funding gap for Pimentel Place and would allow the project to begin construction by spring 2023. Staff recommends that the City, as a joint applicant with EAH, Inc., apply for the LAPG Program to support the development for 57 units of affordable housing at Pimentel Place.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resolution 22-087
Attachment IV	Income and Rent Limits



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Adopt a Resolution Amending Resolution 22-087 to Apply as Joint Applicant with EAH, Inc for the California State Department of Housing and Community Development California Housing Accelerator Limited Accelerator Project Gap Funding Program

RECOMMENDATION

That the Council adopts a resolution (Attachment II) amending Resolution 22-087 (Attachment III) and restating the City Manager's authorization to apply as a joint applicant with EAH, Inc. for the State of California Housing and Community Development Department (HCD) California Housing Accelerator Limited Accelerator Project Gap Funding Program (LAPG Program) and increasing the amount of funding not-to-exceed \$51 million to support the Pimentel Place development of 57 affordable housing units.

SUMMARY

In October 2022, HCD announced the availability of approximately \$45 million under the LAPG Program for the purpose of supporting previously awarded Tier 1 and Tier 2 California Housing Accelerator projects that have not yet closed on their construction loan, and which cannot proceed due to funding gaps resulting from increased costs post Accelerator award. City staff and EAH, Inc. have determined that Pimentel Place meets the eligibility requirements for the LAPG Program and could receive up to \$4.5 million in grant money to cover eligible project costs. A successful application to HCD's LAPG Program would close the funding gap for Pimentel Place and would allow the project to begin construction by spring 2023. Staff recommends that the City, as a joint applicant with EAH, Inc., apply for the LAPG Program to support the development for 57 units of affordable housing at Pimentel Place.

BACKGROUND

On April 30, 2018, the City issued a Notice of Funding Availability (NOFA) for affordable housing development projects. EAH, Inc. submitted a proposal for Pimentel Place, formerly known as Matsya Villas, and was awarded funding from the City's NOFA. The project has since then advanced by securing funding from other available sources. On August 20, 2021, Pimentel Place received approval of planning entitlements through the streamlining provisions of SB 35.

Project Funding to Date

On October 2, 2018, the Council approved a \$2 million loan to EAH, Inc. for the development of Pimentel Place, which will provide 57 units of affordable housing to very low- and low- income households. Since the City funding approval, EAH has been proactively pursuing applicable funding, and the project has been awarded:

- Over \$5.3 million under the Measure A1 Rental Housing Development Regional Pool
- \$400,000 in HOME funds from Alameda County
- Over \$8 million from the HCD Multifamily Housing Program
- Over \$4 million from the HCD Infill Infrastructure Grant Program
- Approximately \$7 million from the HCD Housing for Healthy California Program
- Over \$46 million from the California Housing Accelerator Program – Tier 2

The project was thought to have complete funding and the ability to start construction once awarded the California Housing Accelerator funds; however, because of increased construction costs and interest rates post the Accelerator award, the project has subsequently identified a funding gap of approximately \$4.5 million, and, as a result, is unable to proceed with their construction loan closing and start construction. The funding available under the LAPG Program would close the project's financial gap and construction would start no later than 180 days from the supplemental award letter date with an anticipated completion of construction date for Fall 2024.

Limited Accelerator Project Gap Funding

There is a backlog of affordable housing developments with HCD awards that are shovel-ready and that are unable to move forward due to funding gaps resulting from the current shortfall of available bond allocations and low-income housing tax credits, especially 4% tax credits. In response to the current backlog of shovel-ready affordable housing projects and to help address the State's long-term affordable housing crisis, on September 16, 2021, the State announced availability of approximately \$1.6 billion in California Housing Accelerator Program (CHA Program) funding for eligible projects. Funding available under the CHA Program is from the Coronavirus State Fiscal Recovery Fund (CSFRF), established by the federal American Rescue Plan Act of 2021. The CHA Program's purpose is to enable eligible projects to quickly begin construction and reduce the amount of time and money spent on producing affordable housing with the overarching goal to accelerate development of new affordable housing for those most in need.

After closing the CHA Program, in October 2022, HCD announced, as a limited supplemental solicitation to the Tier 1 and Tier 2 solicitations, the availability of approximately \$45 million in supplemental funding for the purposes of supporting previously awarded Tier 1 and Tier 2 California Housing Accelerator projects which have not yet closed on their construction loan and cannot proceed due to funding gaps resulting from unprecedented increased costs accrued post Accelerator awards. Funding available under the LAPG Program is derived from a combination of the CSFRF, established by the federal ARPA and the state General Fund.

The LAPG Program is scheduled to announce awards at the end of November 2022 which would require awarded projects to construction to no later than 180 days from the

supplemental award letter date. The projects would also be required to complete permanent loan conversions no later than November 2026.

Housing Element and Regional Housing Needs Allocation Compliance

Local jurisdictions report progress annually on meeting their Regional Housing Needs Allocation (RHNA) goals which are included in the City's Housing Element. **Table 1** demonstrates progress made toward meeting Hayward's RHNA goals for the period between 2015-2023 as of the last report year (2021), which is shown in the column titled "Reported 2020." The State allows local jurisdictions to "report" the units when building permits are issued to construct the units. The "Approved" and "Pending Approval" columns provide an estimate of potential compliance by counting both entitled projects and projects going through the entitlement process.

Pimentel Place will add 57 affordable housing units to the City's housing stock, which would help the City to meet its RHNA goals for low- and very low-income households. The income targeting is expected to change based on the requirements of all the funding sources utilized to fully fund the project. The most restrictive income targeting will apply. Generally, projects with low average affordability levels are more competitive for state funding sources, which means the project may serve a lower-income population than initially proposed. Pimentel Place will help the City meet the following goals established in the City's Housing Element:

- Assist in the development of housing affordable to low- and moderate-income households;
- Promote equal housing opportunities for all persons; and
- Provide for the special housing needs of seniors, persons with disabilities, large families with children, single female-headed households, and persons who are homeless.

Table 1 - 2023 RHNA Goal Progress in the City of Hayward

Income Category	Unit Goal	Reported 2021		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal	Units	% of Goal
Very low	851	168	20%	293	34%	26	3%	487	57%	364	43%
Low	480	174	36%	226	47%	4	1%	404	84%	76	16%
Moderate	608	128	21%	60	10%	0	0%	188	31%	420	69%

As of 2020, the City already exceeded its goal for above moderate income units. If permits are issued for all projects currently in the development pipeline, the City is on track to nearly comply with the low-income category and make progress towards very low and moderate categories.

DISCUSSION

In response to the LAPG Program, EAH Inc. and staff have determined that Pimentel Place meets the eligibility requirements for the LAPG Program and could receive up to \$4.5 million in grant money to cover eligible project costs. A successful application to the LAPG Program would provide additional needed project funding to close the funding gap and quickly begin construction. A description of the LAPG Program and the assistance it will provide to the project is further described in the following sections.

Description of the Program Eligibility Criteria

The LAPG Program incorporates by reference the requirements, standards, and rules as set forth in the prior Tier 1 and Tier 2 CHA Program. Under the CHA Program, grant funds are available to eligible multifamily housing projects that have already an existing HD loan commitment from one or more sources of HCD loan programs. Pimentel Place meets these requirements as the Project has received a Tier 2 CHA Program award and received funding under three other HCD loan programs. HCD requires an authorizing resolution from the City within 30 days of the application deadline (November 14, 2022). Funding is exclusively for eligible costs categorized under the federal low-income housing tax credit program.

Project Description

Pimentel Place is located at 2nd and C Streets. The site is currently a vacant lot following the demolition of a vacant commercial building in 2019. The project will consist of 57 units of residential apartments with two non-residential spaces, 800 sf and 1600 sq. ft. in size. The project amenities include on-site laundry facilities, community room, computer learning center, indoor kids' play area, an outdoor roof deck, and an on-site resource coordinator to provide coordination of services related to health, nutrition, education, employment, transit, and other services for residents.

The project will provide approximately 56 units of affordable housing for a term of 55 years. Additionally, the project will provide at least 6% of the units affordable to low- and very low-income households in perpetuity in compliance with the City's Affordable Housing Ordinance. All units, excluding the manager's unit, will serve income eligible households earning a range from \$20,000 to \$114,240 (20% to 80% AMI levels). Attachment III provides the income limits associated with each income category for Alameda County. The project's unit mix includes: 11 one-bedroom apartments; 27 two-bedroom apartments; and 18 three-bedroom apartments; and one on-site manager's unit.

If this resolution is approved tonight and the project is awarded funds, staff will transmit the authorizing resolution to HCD, enter into a standard agreement with HCD, close loans with the developer for previously committed City funding in order to start construction in spring 2023 and have full occupancy by winter 2024.

ECONOMIC IMPACT

The proposed affordable units support housing stability and will reduce the cost burden for very low- and low-income Hayward residents for a minimum of 55 years.

FISCAL IMPACT

The \$51 million LAPG funds do not require a matching contribution. Acceptance and appropriation of the LAPG Program will completely fund Pimentel Place. There is no fiscal impact to the General Fund.

If awarded, the grant funds will reimburse costs directly to the EAH, Inc. While the City will be party to the standard agreement with HCD, EAH, Inc. will cover the costs associated with the development of Pimentel Place. Staff has requested authority to receive the grant award consistent with the template resolution provided by the State but does not anticipate the need to receive the grant funds since the City will not be paying for the project costs.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect & Produce Housing. Specifically, this item supports the implementation of the following project(s):

Project 8, Part 8b: Apply for state housing funding to support strategic partnerships and Council Priorities.

PUBLIC CONTACT

In accordance with entitlement requirements, notices for this project were sent out to all property owners within a 300-foot radius of the project site. Additionally, as a requirement of the 2018 NOFA, EAH, Inc. held public outreach meetings to introduce the organization and the proposed project to the community, and to solicit input from the community.

NEXT STEPS

If authorized, staff will transmit the authorizing resolution to HCD. If awarded grants, staff will coordinate with EAH, Inc. to draft and enter into a standard agreement and all other necessary documents for the disbursement of funds.

Prepared by: Jane Kim, Housing Development Specialist

Recommended by: Christina Morales, Housing Division Manager
 Jennifer Ott, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 22-087 AND RESTATING THE AUTHORIZATION OF THE CITY MANAGER TO: 1) APPLY FOR AN AWARD FROM THE CALIFORNIA HOUSING ACCELERATOR LIMITED ACCELERATOR PROJECT GAP FUNDING PROGRAM FROM THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY; 2) ENTER INTO A STANDARD AGREEMENT WITH THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR THE CALIFORNIA HOUSING ACCELERATOR LIMITED ACCELERATOR PROJECT GAP FUNDING PROGRAM; AND 3) ACCEPT AN AMOUNT NOT TO EXCEED \$51 MILLION TO SUPPORT THE PIMENTEL PLACE DEVELOPMENT FOR 57 UNITS OF AFFORDABLE HOUSING

WHEREAS, the California Department of Housing and Community Development ("Department"), as authorized by Chapter 6.6 (commencing with Section 50672) of Part 2 of Division 31 of the Health and Safety Code, has issued a Project Solicitation and Guidelines, dated February 28, 2022, amended May 5, 2022, amended August 31, 2022, and October 20, 2022 Memorandum, under its California Housing Accelerator Limited Accelerator Project Gap Funding Program ("Solicitation"); and

WHEREAS, City of Hayward ("Public Entity") is authorized and directed to submit an application in response to the Solicitation (the "Application") for Pimentel Place ("Project"); and

WHEREAS, the Department requires projects applying under the Solicitation to be previously awarded Tier 1 and Tier 2 California Housing Accelerator ("CHA Program") projects which have not yet closed on their construction loan and which cannot proceed due to funding gaps resulting from increased costs post Accelerator award; and

WHEREAS, in April 2022, the Public Entity, under Resolution 22-087 was authorized to apply and accepts an amount not to exceed \$50 million for the Project; and

WHEREAS, in September 2022, the Department awarded the Project approximately \$46,151,728 in CHA Program funding as a Tier 2 project; and

WHEREAS, the Public Entity and EAH, Inc. is seeking to apply under the Solicitation to complete the gap funding for the Project which would allow for construction of the Pimentel Place Development to start; and,

WHEREAS, the Department will make a conditional commitment of funds from the California Housing Accelerator Limited Accelerator Project Gap Funding Program in reliance on the representations in that Application (the "California Housing Accelerator Limited Accelerator Project Gap Funding Loan").

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby amends the authorized not to exceed amount contained in paragraph six of Resolution 22-087 by replacing it with an amount not to exceed \$51 million, with the remainder of the paragraph to remain as is.

BE IT FURTHER RESOLVED, by the City Council of the City of Hayward, that the Public Entity is hereby authorized and directed to act in connection with the Department's award of the California Housing Accelerator Limited Accelerator Project Gap Funding Loan; and

BE IT FURTHER RESOLVED, by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to submit a joint application with EAH, Inc., to the Department's Housing Accelerator Limited Accelerator Project Gap Funding Program for an award of the California Housing Accelerator Limited Accelerator Project Gap Funding Loan to support the Pimentel Place Development of 57 units of affordable housing; and

BE IT FURTHER RESOLVED, that in connection with the California Housing Accelerator Limited Accelerator Project Gap Funding Loan, the City Manager is authorized and directed to enter into, execute, and deliver a Standard Agreement in an amount not to exceed \$51 million and any and all other documents required or deemed necessary or appropriate to secure the California Housing Accelerator Limited Accelerator Project Gap Funding Loan from the Department and to participate in the California Housing Accelerator Limited Accelerator Project Gap Funding Program, and all amendments thereto (collectively, the "California Housing Accelerator Loan Documents"); and

BE IT FURTHER RESOLVED, that the Public Entity acknowledges and agrees that the City shall be subject to the terms and conditions specified in the Standard Agreement, and that the Solicitation and the Standard Agreement will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures, uses, and activities identified in the Standard Agreement; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute the Application, Standard Agreement, and the California Housing Accelerator Limited Accelerator Project Gap Funding Loan Documents on behalf of the Public Entity.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-087

Introduced by Council Member Salinas

RESOLUTION AUTHORIZING THE CITY MANAGER TO: 1) APPLY FOR AN AWARD FROM THE CALIFORNIA HOUSING ACCELERATOR PROGRAM FROM THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY HOUSING ACCELERATOR PROGRAM; 2) ENTER INTO A STANDARD AGREEMENT WITH THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CALIFORNIA HOUSING ACCELERATOR PROGRAM; AND 3) ACCEPT AN AMOUNT NOT TO EXCEED \$50 MILLION TO SUPPORT THE PIMENTEL PLACE DEVELOPMENT FOR 57 UNITS OF AFFORDABLE HOUSING

WHEREAS, the California Department of Housing and Community Development ("Department"), as authorized by Chapter 6.6 (commencing with Section 50672) of Part 2 of Division 31 of the Health and Safety Code, has issued a Project Solicitation and Guidelines, dated February 28, 2022, under its California Housing Accelerator program ("Solicitation"); and

WHEREAS, City of Hayward ("Public Entity") is authorized and directed to submit an application in response to the Solicitation (the "Application"); and

WHEREAS, the Department will make a conditional commitment of California Housing Accelerator funds in reliance on the representations in that Application (the "California Housing Accelerator Loan").

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hayward, that the Public Entity is hereby authorized and directed to act in connection with the Department's award of the California Housing Accelerator Loan; and

BE IT FURTHER RESOLVED, by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to submit a joint application with EAH, Inc., to the Department's Housing Accelerator Program for an award of the California Housing Accelerator Loan to support the Pimentel Place Development of 57 units of affordable housing; and

BE IT FURTHER RESOLVED, that in connection with the California Housing Accelerator Loan, the City Manager is authorized and directed to enter into, execute, and deliver a Standard Agreement in an amount not to exceed \$50 million and any and all other documents required or deemed necessary or appropriate to secure the California Housing Accelerator Loan from the Department and to participate in the California Housing

Accelerator program, and all amendments thereto (collectively, the "California Housing Accelerator Loan Documents"); and

BE IT FURTHER RESOLVED, that the Public Entity acknowledges and agrees that the City shall be subject to the terms and conditions specified in the Standard Agreement, and that the Solicitation and the Standard Agreement will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures, uses, and activities identified in the Standard Agreement; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute the Application, Standard Agreement, and the California Housing Accelerator Loan Documents on behalf of the Public Entity.

IN COUNCIL, HAYWARD, CALIFORNIA April 19, 2022.

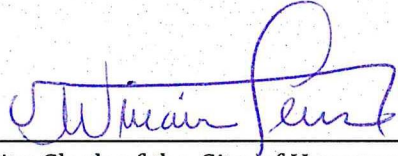
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Andrews, Lamnin, Salinas, Wahab, Zermeño
MAYOR: Halliday

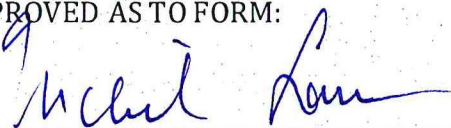
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBER: Márquez

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward

ATTACHMENT IV

City of Hayward - 2022 Income and Rent Limits Effective Date: May 13, 2022

2022 Income Limits								
Household Size	1	2	3	4	5	6	7	8
Acutely Low	15,000	17,100	19,250	21,400	23,100	24,800	26,550	28,250
Extremely Low	30,000	34,300	38,600	42,850	46,300	49,750	53,150	55,600
Very Low	50,000	57,150	64,300	71,400	77,150	82,850	88,550	94,250
Low	76,750	87,700	98,650	109,600	118,400	127,150	135,950	144,700
Median	99,950	114,250	128,500	142,800	154,200	165,650	177,050	188,500
Moderate	119,950	137,100	154,200	171,350	185,050	198,750	212,450	226,200

2022 Rent Limits					
Bedroom Size	Efficiency	1-BR	2-BR	3-BR	4-BR
Extremely Low	749.63	856.88	963.75	1,071.00	1,156.50
Very Low	1,249.38	1,428.13	1,606.25	1,785.00	1,927.50
Low	1,499.25	1,713.75	1,927.50	2,142.00	2,313.00



CITY OF HAYWARD

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

File #: CONS 22-679

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Director of Human Resources

SUBJECT

Adopt a Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System (CalPERS) for Calendar Year 2023 Pursuant to California Government Code Section 22892 of the Public Employees' Medical and Hospital Care Act

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) authorizing the implementation of the mandatory minimum employer contributions to active and retiree medical premiums for calendar year 2023.

SUMMARY

The minimum employer contribution to the medical premiums of active and retired employees has increased to \$151.00 for calendar year 2023. This contribution amount is adjusted annually by CalPERS. The City's current contribution exceeds this amount.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Director of Human Resources

SUBJECT Adopt a Resolution Establishing the City Contribution for Active and Retiree Medical Premiums Set by the California Public Employee Retirement System (CalPERS) for Calendar Year 2023 Pursuant to California Government Code Section 22892 of the Public Employees' Medical and Hospital Care Act

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) authorizing the implementation of the mandatory minimum employer contributions to active and retiree medical premiums for calendar year 2023.

SUMMARY

The minimum employer contribution to the medical premiums of active and retired employees has increased to \$151.00 for calendar year 2023. This contribution amount is adjusted annually by CalPERS. The City's current contribution exceeds this amount.

BACKGROUND AND DISCUSSION

The City contracts with CalPERS to provide quality health benefits to its active and retired employees. California Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA) establishes the minimum employer medical contribution. The CalPERS Board annually adjusts the employer contribution to reflect any change in the Medical Care Component of the Consumer Price Index, rounded to the nearest dollar. The table below shows the minimum employer contribution required by CalPERS for the last six years, and the 2023 rate:

Calendar Year	Employer Contribution
2017	\$128.00
2018	\$133.00
2019	\$136.00
2020	\$139.00
2021	\$143.00
2022	\$149.00
2023	\$151.00

The governing body must adopt a resolution agreeing to the minimum contribution amount established by CalPERS.

The City currently contributes to medical premiums in accordance with the terms of the existing agreements between each of the bargaining units, based on the health plan and family status employees elect and for which they are eligible. For both retirees and active employees, the total amount the City contributes towards medical benefit premiums exceeds the statutory minimum contribution required by CalPERS.

FISCAL IMPACT

This action is for administrative purposes only. There is no fiscal impact associated with this report because the City's current contribution toward employee medical premiums as provided for in applicable Memoranda of Understanding has already been established, and this action does not increase the current total City contribution towards medical premiums.

STRATEGIC INITIATIVES

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

NEXT STEPS

The change in the PEMHCA minimum will be reflected in the City's Benefits Summary effective January 1, 2023.

Prepared by: Cheryl Vance, Human Resources Analyst II

Recommended by: Regina Youngblood, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-____

Introduced by Council Member _____

RESOLUTION AGREEING TO MEET THE MINIMUM EMPLOYER CONTRIBUTION TOWARD MEDICAL COST AS SET BY CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM IN THE AMOUNT OF ONE HUNDRED FIFTY-ONE DOLLARS (\$151) PER MONTH FOR CALENDAR YEAR 2023

WHEREAS, the City of Hayward provides medical coverage for its employees and their eligible dependents and to qualified retirees; and

WHEREAS, Government Code 22892 of the Public Employees' Medical and Hospital Care Act (PEHMCA) states that a local agency must provide a minimum health premium contribution for their participating active members; and

WHEREAS, the California Public Employees Retirement System Board adjusts the minimum contribution rate annually based on changes to the Consumer Price Index.

NOW, THEREFORE, BE IT RESOLVED, that effective January 1, 2023, the employer's contribution towards the cost of employee and retiree health benefits shall be a minimum of \$151 per month as required by CalPERS.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-680

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adopt a Resolution Authorizing the City Manager to Accept \$8,558,902 in State Library Grant Funds for Construction of the Stack Center and to Execute Associated Grant Agreements

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept \$8,558,902 in State Library grant funds for construction of the Stack Center and to execute the grant agreement and associated documents from the State of California.

SUMMARY

The City has received four grants for the construction of the Stack Center. Council accepted the first grant for \$1,000,000 from the State's General Fund in January 2022; the second grant for \$2,647,000 from the CalTran's Clean California funding in May 2022; the third grant for \$1,500,000 from the U.S. Department of Housing and Urban Development Community Project funding in October 2022; and recently, the City was awarded \$8,558,000 from the State Library's Building Forward Grant. Staff recommends that the Council authorize the City Manager to accept and appropriate these grant funds for the Stack Center.

ATTACHMENTS

Attachment I Staff Report
Attachment I Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Adopt a Resolution Authorizing the City Manager to Accept \$8,558,902 in State Library Grant Funds for Construction of the Stack Center and to Execute Associated Grant Agreements

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept \$8,558,902 in State Library grant funds for construction of the Stack Center and to execute the grant agreement and associated documents from the State of California.

SUMMARY

The City has received four grants for the construction of the Stack Center. Council accepted the first grant for \$1,000,000 from the State's General Fund in January 2022; the second grant for \$2,647,000 from the CalTran's Clean California funding in May 2022; the third grant for \$1,500,000 from the U.S. Department of Housing and Urban Development Community Project funding in October 2022; and recently, the City was awarded \$8,558,000 from the State Library's Building Forward Grant. Staff recommends that the Council authorize the City Manager to accept and appropriate these grant funds for the Stack Center.

BACKGROUND AND DISCUSSION

Community members and elected officials have long held the dream of building a new South Hayward Youth and Family Center at the corner of Tennyson and Ruus Roads, often referred to as the Stack Center. For the past seven years, the city and its partners have worked to make this dream a reality.

To date, Council has accepted three grants totaling \$5,147,000. The State Library's Building Forward Grant provides an additional \$8,558,000 towards the Stack Center construction. To accept these grant funds, staff is requesting Council adopt a resolution to accept these grant funds, appropriate them towards the project, and authorize the City Manager to execute any agreements related to this grant.

FISCAL IMPACT

This item will have no impact to the General Fund. The project has sufficient funds in the Adopted FY23 CIP Budget to contribute the City's 50% local match requirement in accepting these funds. Currently, the City has enough funds to complete the first phase of construction, which is roughly \$8.4 million. There is still a funding gap of approximately \$14 million for the second phase of construction, which is roughly \$36 million.

STRATEGIC ROADMAP

This agenda item is part of the City's Strategic Roadmap Priority "Invest in Infrastructure:"

- N13: Oversee the rebuilding of the South Hayward Youth and Family Center (the Stack).

SUSTAINABILITY FEATURES

The construction this item supports will incorporate all City green building ordinances, including the zero-net-energy requirement for new construction.

NEXT STEPS

If approved, the City Manager will be authorized to execute the grant agreement, accept grant funds, and appropriate them to the Stack Center.

Prepared by: Manny Grewal, Management Analyst

Recommended by: Jennifer Ott, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION OF THE CITY OF HAYWARD AUTHORIZING THE GRANT
ACCEPTANCE AND EXECUTION OF THE GRANT FUNDS FROM THE STATE OF
CALIFORNIA BUDGET ACT OF 2021 (SB 129) AND APPROPRIATING THEM TO
THE SOUTH HAYWARD YOUTH AND FAMILY CENTER PROJECT

WHEREAS, the legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the California State Library has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the California State Library require a resolution certifying the approval by the potential grantee's governing board either before submission of said application(s) to the State or prior to the execution of the grant agreement; and

WHEREAS, the Applicant/Grantee, if selected, will enter into an agreement with the State of California to carry out the project; and

WHEREAS, the City of Hayward proposes to implement the South Hayward Youth and Family Center (STACK) Project; and

WHEREAS, the City of Hayward has the legal authority and is authorized to enter into a funding agreement with the State of California; and

WHEREAS, the City of Hayward applied for grant funding from the California State Library for the STACK Project; and

WHEREAS, the City of Hayward was notified of the award in October 2022.

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

1. That pursuant and subject to all of the terms and provisions of the California Budget Act of 2021, the City of Hayward's City Manager, or designee, is hereby authorized and directed to execute the funding agreement with the California State Library and any amendments thereto.

2. The City of Hayward's City Manager, or designee, is hereby authorized and directed to submit any required documents, funding requests, and reports required to obtain grant funding.
3. Certifies that the project will comply with any laws and regulations including, but not limited to, the California Environmental Quality Act (CEQA), legal requirements for building codes, health and safety codes, the California Labor Code, disabled access laws, and, that prior to the commencement of the project, all applicable permits will have been obtained.
4. The City of Hayward's City Manager, or designee, is hereby authorized to accept and appropriate these grant funds for the specified project.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-681

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Lease Agreement with the Alameda County Deputy Sheriffs' Activities League to Expand the Commercial Kitchen at the Matt Jimenez Community Center and Operate the Commercial Kitchen Incubator Program

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute a lease agreement with the Alameda County Deputy Sheriffs' Activities League (DSAL) to expand the commercial kitchen at the Matt Jimenez Community Center and operate the Commercial Kitchen Incubator Program once the renovation is complete.

SUMMARY

The commercial kitchen at the Matt Jimenez Community Center (MJCC) on Ruus Road has been underutilized for many years. In August 2022, Alameda County Supervisor Brown's Office and DSAL approached the City with a proposal to provide funding to expand and remodel the MJCC kitchen and then lease the space as part of Dig Deep Farm's Kitchen Incubator Program. Staff is seeking authorization from Council to negotiate and execute a lease agreement with DSAL that would include the kitchen expansion and a five-year operational lease with the option for an additional five-years upon agreement by all parties. The renovation will occur concurrently with the Phase I construction of the Stack Center and the commercial kitchen program will be integrated into the Stack Center campus.

ATTACHMENTS

Attachment I Staff Report
Attachment II Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Adopt a Resolution Authorizing the City Manager to Negotiate and Execute a Lease Agreement with the Alameda County Deputy Sheriffs' Activities League to Expand the Commercial Kitchen at the Matt Jimenez Community Center and Operate the Commercial Kitchen Incubator Program

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to negotiate and execute a lease agreement with the Alameda County Deputy Sheriffs' Activities League (DSAL) to expand the commercial kitchen at the Matt Jimenez Community Center and operate the Commercial Kitchen Incubator Program once the renovation is complete.

SUMMARY

The commercial kitchen at the Matt Jimenez Community Center (MJCC) on Ruus Road has been underutilized for many years. In August 2022, Alameda County Supervisor Brown's Office and DSAL approached the City with a proposal to provide funding to expand and remodel the MJCC kitchen and then lease the space as part of Dig Deep Farm's Kitchen Incubator Program. Staff is seeking authorization from Council to negotiate and execute a lease agreement with DSAL that would include the kitchen expansion and a five-year operational lease with the option for an additional five-years upon agreement by all parties. The renovation will occur concurrently with the Phase I construction of the Stack Center and the commercial kitchen program will be integrated into the Stack Center campus.

BACKGROUND

Stack Center Phase I Construction

Community members and elected officials have long held the dream of building a new South Hayward Youth and Family Center at the corner of Tennyson and Ruus Roads, referred to as the Stack Center. For the past seven years, the City and its partners have worked to make this dream a reality. The City will be going to bid for Phase I construction in early 2023. Phase I of the Stack Center is expected to break ground in early spring of 2023 and be completed no later than June 2024.

Phase I includes:

- The renovation of the classroom and office spaces inside the MJCC to house a

childcare center, which will be operated by Kidango

- The reconfiguration of the parking lots, with EV charging stations
- The construction of tot play areas on the north and south sides of the MJCC
- The creation of a community event plaza on the east side of the MJCC
- Reconfiguring the entrance to the gymnasium to be facing Tennyson Park

In 2019 and 2020, the City Council authorized the City Manager to execute contracts with RossDrulisCusenbery, Inc. (RDC) for master planning, design, and construction documents for the Stack Youth and Family Center. The documents are nearing completion. At the same time, staff has been working to identify funding for construction. The City has received four grants and now has sufficient funding for a Phase I construction.

Partnership with ALL IN Eats

On October 19, 2021, Council adopted a resolution to join Alameda County's ALL IN Eats partnership. Since joining, staff from the City Manager's Office has been attending the monthly steering committee and working group meetings.

One of the primary initiatives of ALL IN Eats has been to map out and identify opportunities to create a circular food economy in Alameda County. The circular economy concept¹ is to grow, process, recover, and distribute food locally in a virtuous cycle that keeps local money in the local economy and promotes environmental sustainability. At the January 2022 Strategic Roadmap Planning session, Council ranked the project to "explore funding opportunities to increase the circular food economy in Hayward" as one of its highest priority items.

DISCUSSION

The County's ALL IN and ALL IN Eats initiatives were originally spearheaded by Alameda County Supervisor Wilma Chan. When Supervisor Chan died suddenly in November 2021, her Chief of Staff, Dave Brown, was appointed to serve her remaining term. In the past year, Supervisor Brown's Office has created transition plans to keep the ALL IN initiatives active once his term ends this month. ALL IN, which is a broad anti-poverty initiative, was transferred to the Alameda County Social Services Agency in June 2022. At the same time, the operation for ALL IN Eats transitioned to DSAL.

All in Eats Operations: A Business Plan for Countywide Food Hubs

In 2020, DSAL's Dig Deep Farms launched the County's first Food Hub on 2700 Fairmont Drive in unincorporated Alameda County as part of the ALL IN Eats Initiative. The purpose of the Food Hub is: 1) to receive food from farms and recovered food from producers; 2) to process and package that food for distribution through the Food is Medicine and other programs; and 3) to operate a Commercial Kitchen Incubator Program to support local food entrepreneurs.

Due to high demand, the Food Hub quickly outgrew its capacity. As a result, DSAL and Supervisor Chan's Office created a business plan that identified possible locations for satellite food hubs throughout Alameda County. The commercial kitchen at Hayward's

¹ ALL IN Eats Circular Economy for Food - Pathway for Growth: <https://allineats.com/wp-content/uploads/2021/05/ALL-IN-Eats-Circular-Economy-for-Food-Pathway-for-Growth-LR.pdf>

MJCC was identified as a possible location to expand the Kitchen Incubator Program.

Dig Deep Farm's (DSAL's) Commercial Kitchen Incubator Program

The mission of Dig Deep Farm's Commercial Kitchen Incubator Program is to successfully develop, launch, and support the operation of small food businesses. The program opened with the Food Hub in 2020. Through the program, commercial kitchen space is available to rent at below market rates to small, local businesses. The space can be rented on a monthly or single-use basis for food production or events. There are currently eight stations and four prep tables in San Leandro. The program is at capacity with a waiting list.

In addition to space, the program offers one-on-one assistance to help businesses obtain permits, develop marketing, plan events, and grow their businesses. It also offers monthly Food Hub entrepreneur meetings for peer-to-peer support.

Proposal for Food Hub at MJCC

In August 2022, Supervisor Brown's Office and DSAL approached the City with a proposal to provide funding to expand and remodel the MJCC kitchen and then lease the kitchen to operate it as part of Dig Deep Farm's Incubator Program. The kitchen, shown below in lime green, would be a satellite site with space for two to three businesses at a time, and the businesses located here would have the same one-on-one assistance and peer-to-peer support group as at the main Food Hub.



Lease Terms

Staff is seeking authorization from Council to negotiate and execute a lease agreement with DSAL to build the kitchen expansion and operate the incubator program. La Familia and Eden Youth and Family Center, the future operators of the Stack Center, are supportive of these terms. The Hayward Area Recreation and Park District (HARD), which operates the adjoining gymnasium, is also supportive.

The following are proposed lease terms:

- DSAL will provide \$150,000 in capital funding for the kitchen expansion. The City's will match these funds with funding that is already part of the Phase I Stack Center Budget.
- DSAL and the City will work together to coordinate the expansion and kitchen upgrades during Phase I of the Stack Center Construction, which will be completed no later than June of 2024.
- Upon completion of the renovation, DSAL will have a five-year operational lease, with the option to extend for an additional five years upon agreement of all parties.
- Hayward-based businesses would be prioritized for the Incubator program at the Stack Center.
- DSAL will block out 10 hours monthly for community programming, such as cooking or nutrition classes.
- DSAL will contribute \$30,000 in annual rental payments to the Stack Center.
- The entrance to the kitchen will be on Panjon with a timed access code for users. The kitchen users will not have access to the childcare center or gymnasium.
- DSAL will be responsible for all program costs and maintenance of the space. There would be no ongoing fiscal impact to the City.
- The lease will be transferable, so it can be transferred to La Familia/Eden Youth and Family Center once the Stack Center opens.

ECONOMIC IMPACT

This project will have a positive impact on small food businesses in Hayward. Currently, there is limited commercial kitchen space to rent in Hayward, and the space that is available is cost-prohibitive for many small businesses. The Kitchen Incubator program will allow these businesses to conveniently access a commercial kitchen and one-on-one assistance to grow their operations.

FISCAL IMPACT

This lease agreement will have no fiscal impact to the City's operating budget. DSAL will contribute \$150,000 towards the kitchen expansion and remodel. The City will contribute \$150,000 of funding through existing grant and outside sources that are part of the Stack Center Phase I budget. DSAL will be responsible for all ongoing program and maintenance costs.

STRATEGIC ROADMAP

This agenda item is part of the City's Strategic Roadmap Priority "Invest in Infrastructure:"

- N13: Oversee the rebuilding of the South Hayward Youth and Family Center (the Stack)

It is also part of "Confront Climate Crisis & Champion Environmental Justice:"

- C13: Explore funding opportunities to increase the circular food economy in Hayward as part of the Alameda County All in Eats Initiative

In addition, it is related to the following "Grow the Economy" projects:

- E6: Sidewalk Vendor Ordinance
- E8: Strengthen workforce development pipelines
- E13: Explore an outdoor marketplace that allows for a variety of vendors

NEXT STEPS

Upon approval by Council, staff will finalize and execute the lease agreement with DSAL and work with project architects to begin plans for the kitchen expansion and remodel.

Prepared by: Mary Thomas, Assistant to the City Manager

Recommended by: Jennifer Ott, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH THE ALAMEDA COUNTY DEPUTY SHERIFFS' ACTIVITY LEAGUE TO EXPAND THE COMMERCIAL KITCHEN AT THE MATT JIMENEZ COMMUNITY CENTER AND OPERATE A COMMERCIAL KITCHEN INCUBATOR PROGRAM

WHEREAS, The City Council and Hayward community members have long desired a business incubation program in South Hayward for small food businesses; and

WHEREAS, The Alameda County Deputy Sheriffs' Activity League (DSAL) operates a successful Commercial Kitchen Incubator Program and seeks to expand that program to Hayward at the Matt Jimenez Community Center (MJCC); and

WHEREAS, DSAL is able to provide \$150,000 towards renovating the kitchen and \$30,000 annually towards rent.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward authorizes the City Manager to negotiate and execute a lease agreement with DSAL to expand the commercial kitchen at the MJCC and operate a Commercial Kitchen Incubator Program in accordance with the lease terms outlined in the corresponding staff report.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-682

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adopt Resolutions Authorizing the City Manager to: (1) Accept and Appropriate Funds Awarded by the California State Legislature under Assembly Bill 179 in an Amount up to \$5.4 Million for the City's Scattered Site Housing Program, and Negotiate and Execute Documents and Any Subsequent Amendments, Modifications, or Documents Thereto with the California State Department of Housing and Community Development; and (2) Negotiate and Execute Loan Documents between the City of Hayward and Bay Area Community Services in an Amount Not-to-Exceed \$5.4 Million to Acquire and Rehabilitate a Minimum of Three Single-Family Homes for the City's Scattered Site Housing Program, for which the California Environmental Quality Act Does Not Apply

RECOMMENDATION

That the Council adopts two resolutions authorizing the City Manager to:

1. Accept and appropriate funds awarded by the California State Legislature under Assembly Bill (AB) 179 in an amount up to \$5.4 million for the City's Scattered Site Housing program, and negotiate and execute documents and any subsequent amendments, modifications, or other documents thereto with the California State Department of Housing and Community Development (HCD) regarding acceptance of the funds (Attachment II); and
2. Negotiate and execute loan documents between the City of Hayward and Bay Area Community Services (BACS) in an amount not-to-exceed \$5.4 million for the City's Scattered Site Housing program (Attachment III).

SUMMARY

On January 25, 2022, Council adopted Resolution 22-030 authorizing a joint application with BACS for the State Homekey Program to fund the City's Scattered Site Housing program. The program converts single family homes to supportive shared housing, bringing housing for those experiencing chronic homelessness into existing residential communities with proximity to services, transport, and social connections. Acquisition of at least three homes will provide long term, affordable housing with access to

supportive services for approximately 20 adults experiencing chronic homelessness. The City's Homekey Round 2 application was denied for not meeting the threshold requirement of having site control and property appraisals at the time of application and staff have since worked with HCD to identify ways to make future applications more competitive.

On June 30, 2022, the Governor approved AB 179, the Budget Act of 2022, which included an award to the City of Hayward in the amount of \$5.4 million for the City's new Scattered Site Housing program, despite the Homekey denial. Since the award was made to the City to fund the Scattered Site Housing program, the Council must authorize acceptance of the funds and allocation of the funds to the project. The California Environmental Quality Act (CEQA) does not apply to the Scattered Site Housing Program, as the program is a ministerial project.

Additionally, staff recommends that Council authorize the City Manager to negotiate a loan agreement with BACS to use the recently awarded State funds for the City's Scattered Site program to make down payments on a minimum of three single-family properties. Staff proposes making a loan to BACS for the program, instead of a grant, to allow for the possibility that the City may be successful at obtaining future Homekey funds for the program and therefore, be able to establish a revolving loan fund to acquire additional homes for the program.

In sum, staff recommends that Council adopt resolutions authorizing the City Manager to: (1) accept and appropriate the funds, and negotiate and execute any executing documents with HCD for up to \$5.4 million in funds awarded through AB 179 for the City's Scattered Site program; and (2) execute a loan agreement of up to \$5.4 million to BACS to acquire and rehabilitate a minimum of three single-family homes for the program consistent with AB 179.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution to Accept and Appropriate Funds
Attachment III	Resolution to Negotiate and Execute Loan



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Adopt Resolutions Authorizing the City Manager to: (1) Accept and Appropriate Funds Awarded by the California State Legislature under Assembly Bill 179 in an Amount up to \$5.4 Million for the City's Scattered Site Housing Program, and Negotiate and Execute Documents and Any Subsequent Amendments, Modifications, or Documents Thereto with the California State Department of Housing and Community Development; and (2) Negotiate and Execute Loan Documents between the City of Hayward and Bay Area Community Services in an Amount Not-to-Exceed \$5.4 Million to Acquire and Rehabilitate a Minimum of Three Single-Family Homes for the City's Scattered Site Housing Program, for which the California Environmental Quality Act Does Not Apply

RECOMMENDATION

That the Council adopts two resolutions authorizing the City Manager to:

1. Accept and appropriate funds awarded by the California State Legislature under Assembly Bill (AB) 179 in an amount up to \$5.4 million for the City's Scattered Site Housing program, and negotiate and execute documents and any subsequent amendments, modifications, or other documents thereto with the California State Department of Housing and Community Development (HCD) regarding acceptance of the funds (Attachment II); and
2. Negotiate and execute loan documents between the City of Hayward and Bay Area Community Services (BACS) in an amount not-to-exceed \$5.4 million for the City's Scattered Site Housing program (Attachment III).

SUMMARY

On January 25, 2022, Council adopted Resolution 22-030 authorizing a joint application with BACS for the State Homekey Program to fund the City's Scattered Site Housing program. The program converts single family homes to supportive shared housing, bringing housing for those experiencing chronic homelessness into existing residential communities with proximity to services, transport, and social connections. Acquisition of at least three homes will provide long

term, affordable housing with access to supportive services for approximately 20 adults experiencing chronic homelessness. The City's Homekey Round 2 application was denied for not meeting the threshold requirement of having site control and property appraisals at the time of application and staff have since worked with HCD to identify ways to make future applications more competitive.

On June 30, 2022, the Governor approved AB 179, the Budget Act of 2022, which included an award to the City of Hayward in the amount of \$5.4 million for the City's new Scattered Site Housing program, despite the Homekey denial. Since the award was made to the City to fund the Scattered Site Housing program, the Council must authorize acceptance of the funds and allocation of the funds to the project. The California Environmental Quality Act (CEQA) does not apply to the Scattered Site Housing Program, as the program is a ministerial project.

Additionally, staff recommends that Council authorize the City Manager to negotiate a loan agreement with BACS to use the recently awarded State funds for the City's Scattered Site program to make down payments on a minimum of three single-family properties. Staff proposes making a loan to BACS for the program, instead of a grant, to allow for the possibility that the City may be successful at obtaining future Homekey funds for the program and therefore, be able to establish a revolving loan fund to acquire additional homes for the program.

In sum, staff recommends that Council adopt resolutions authorizing the City Manager to: (1) accept and appropriate the funds, and negotiate and execute any executing documents with HCD for up to \$5.4 million in funds awarded through AB 179 for the City's Scattered Site program; and (2) execute a loan agreement of up to \$5.4 million to BACS to acquire and rehabilitate a minimum of three single-family homes for the program consistent with AB 179.

BACKGROUND

On January 25, 2022, Council adopted Resolution 22-030 authorizing a joint application with BACS for the State Homekey Program to fund the City's Scattered Site Housing program. The Scattered Site Program is a shared housing model that creates deeply affordable housing by preserving single family homes in Hayward neighborhoods. Residents get their own locking bedroom door and share co-living spaces like the kitchen, living room, and yard. Homes are purchased in proximity to essential services like grocery stores and pharmacies and residents have access to a full suite of supportive services from BACS and other non-profit partner agencies. The model is cost-effective, as the homes are owned and maintained by BACS and do not require extensive construction or long-term operating costs. Each home provides permanent affordable housing to four to six individuals. Acquisition of at least three homes will provide long term, affordable housing with access to supportive services for approximately 20 adults experiencing chronic homelessness.

The City's Homekey Round 2 application was denied for not meeting the threshold requirement of having site control and property appraisals at the time of application. Since then, staff have been working with HCD to make recommendations for revising guidelines for Homekey Round 3 that reduce the risk applicants must take for scattered site applications by making substantial

capital commitments without guarantee of reimbursement. HCD will not release the Round 3 Notice of Funding Availability (NOFA) until Spring 2023, so it is currently unclear if the requirements that currently limit scattered site applications will still be in effect for Round 3. Presuming the requirements will still apply, staff has been working with HCD and BACS to identify ways to make the application more competitive, which includes acquiring properties in advance of applying to Homekey.

On June 30, 2022, the Governor approved AB 179, the Budget Act of 2022, which included an award to the City of Hayward in the amount of \$5.4 million for the Scattered Site Housing program, despite the Homekey denial. The City will work with HCD to execute any executing documents to receive the funds and allocate them to the program.

DISCUSSION

Staff recommends utilizing the \$5.4 million approved under AB 179 to fund the acquisition of the City's first three homes under the proposed Scattered Site program, in partnership with BACS, and consistent with the previous Homekey application. The funds awarded to the City under AB 179 will be used as down payment or acquisition loans to BACS to help them acquire a minimum of three single family homes. The AB 179 funds will be loaned to BACS (as opposed to granted) because there is the potential for the City to receive funds for this program from future Homekey rounds that could be used to repay the loan to BACS. By acquiring the homes in advance of Homekey Round 3, the City will also be able to demonstrate site control on the application to ensure compliance with threshold requirements and increase the strength of a future Homekey application.

Should the City receive a future Homekey Round 3 award, the funds could be used to create a revolving loan fund and repay the City for the AB 179 down payment/acquisition funds, which then could be used to fund additional Scattered Site program home acquisitions. Should the City not receive a Homekey Round 3 award for the program, the loan could be converted to a long-term deferred loan payable when the property is sold or no longer used for the intended purposes. Additionally, any remaining funds could be provided as a grant to be used as an operating reserve to support the long-term viability of the project by covering the difference between the operating costs and tenant paid affordable rent.

Staff recommends that Council adopt the attached resolutions authorizing the City Manager to:

- Accept and appropriate \$5.4 million awarded through AB 179, and execute any executing documents with HCD for up to \$5.4 million awarded through AB 179 for the City's Scattered Site Housing Program; and
- Negotiate and execute loan documents between the City and BACS in an amount not-to-exceed \$5.4 million to acquire a minimum of three single family homes.

ECONOMIC IMPACT

The City and local community experienced adverse economic impacts related to the COVID-19 crisis, particularly relating to housing costs, homelessness, and housing instability. National data indicate increases in risk factors that lead to homelessness, including increased food insecurity and the inability to pay rent or mortgage. There is a positive economic impact from reducing homelessness and severe housing cost burden, which would be achieved through leveraging the \$5.4 million in AB 179 funds for the Scattered Site program.

FISCAL IMPACT

This item has no General Fund impact. The anticipated \$5.4 million in AB 179 funds do not require a matching contribution. Additionally, staff anticipates that the Homekey Round 3 award could cover the full cost of acquisition and rehabilitation for the homes purchased with AB 179 funds and create the opportunity to establish a revolving loan fund. Should the City not receive a Homekey Round 3 award, AB 179 funds will be available to cover the full cost of acquisition and rehabilitation.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Preserve, Protect & Produce Housing. Specifically, this item supports the implementation of the following project(s):

- 2b. Implement the Homelessness Reduction Strategic Plan
- 8b. Apply for state housing funding to support strategic partnerships and Council Priorities.

PUBLIC CONTACT

Pursuing Homekey funding to support innovative, dedicated homeless housing projects was identified as a priority project in the Let's House Hayward (LHH) plan. The LHH plan was developed through best-practices research and community engagement with a lens for racial equity and empowering individuals and families experiencing homelessness. It creates a strategic framework that better positions the City to address homelessness and seek funding for projects identified and prioritized through this process. The LHH plan was intentionally created to identify a pipeline of community-informed policies and programs for the City to embark upon, particularly those with expedited timelines.

Staff presented on the Scattered Site program in two public meetings as part of the Homekey application process.^{1,2} Additionally, the Homekey application requires detailed community outreach narrative. Staff will work closely with BACS to conduct targeted community outreach once properties are identified for the scattered site program.

NEXT STEPS

If authorized, the City will execute any documents with HCD to receive then accept and appropriate the AB 179 award. Following receipt of funds, the City Manager will negotiate and execute a loan agreement for down payment/acquisition with BACS. BACS will then enter into purchase agreements for a minimum of three properties and the City will fund the loans. Concurrently, the City and BACS will prepare an application for Homekey Round 3, which is anticipated to be due in Spring 2023. Staff will return to Council to provide a status update and request authorization to submit the Homekey Round 3 application in Spring 2023.

Prepared by: Amy Cole-Bloom, Management Analyst

Recommended by: Jennifer Ott, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

¹ December 16, 2021, Homelessness-Housing Task Force Staff Report and Materials:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5360310&GUID=71CA4C4F-CC27-410E-AEDE-27F03B400C19&Options=&Search=>

² January 25, 2022, City Council Staff Report and Materials:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5390892&GUID=B276DA40-2A6A-46C1-A313-28235E575135&Options=&Search=>

HAYWARD CITY COUNCIL

RESOLUTION NO. ____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND APPROPRIATE FUNDS AWARDED BY THE CALIFORNIA STATE LEGISLATURE UNDER ASSEMBLY BILL 179 IN THE AMOUNT UP TO \$5.4 MILLION FOR THE CITY'S SCATTERED SITE HOUSING PROGRAM, AND NEGOTIATE AND EXECUTE ANY DOCUMENTS AND ANY SUBSEQUENT AMENDMENTS, MODIFICATIONS, OR OTHER DOCUMENTS THERETO WITH THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING ACCEPTANCE OF THE FUNDS

WHEREAS, the City of Hayward, a municipal corporation, (the "City") is authorized to do business in the State of California; and

WHEREAS, on September 6, 2022, the Governor of California approved Assembly Bill 179 ("AB 179") under the State Budget Act of 2022; and

WHEREAS, Section 19.56 of AB 179 lists all member priority projects, award amounts, and state agencies responsible for administering the funds; and

WHEREAS, Section 19.56 of AB 179 includes an appropriation of \$5.4 million to the City for its Scattered Site Housing Program (the "Program").

NOW, THEREFORE, BE IT RESOLVED that the City Manager is hereby authorized to negotiate and execute any executing documents for funds awarded to the City under AB 179 and any subsequent amendments, modifications, or documents thereto with the Department, on behalf of the City in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to accept and appropriate up to \$5.4 million pursuant to AB 179 to the City's Scattered Site Housing Program; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 22

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE LOAN DOCUMENTS BETWEEN THE CITY OF HAYWARD AND BAY AREA COMMUNITY SERVICES IN AN AMOUNT NOT TO EXCEED \$5.4 MILLION FOR THE CITY'S SCATTERED SITE HOUSING PROGRAM

WHEREAS, the City of Hayward, a municipal corporation, (the "City") is authorized to do business in the State of California; and

WHEREAS, on September 6, 2022, the Governor of California approved Assembly Bill 179 ("AB 179") under the State Budget Act of 2022; and

WHEREAS, Section 19.56 of AB 179 lists all member priority projects, award amounts, and state agencies responsible for administering the funds; and

WHEREAS, Section 19.56 of AB 179 includes an appropriation of \$5.4 million to the City for its Scattered Site Housing Program (the "Program"); and

WHEREAS, on December 6, 2022, the City Council authorized the City Manager to 1) negotiate and execute any executing documents and any subsequent amendments, modifications, or documents thereto with the California State Department of Housing and Community Development and 2) accept and appropriate funds awarded by the California State legislature under AB 179 in the amount up to \$5.4 million for the Program; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.; "CEQA"), the Program is a ministerial project and is therefore exempt from review pursuant to Public Resource Code Section 21080(b)(1), which states the general rule that CEQA does not apply to ministerial projects; and

WHEREAS, the City wishes to allocate up to \$5.4 million of the awarded funds and enter into a loan agreement with Bay Area Community Services (BACS) to implement the Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines that the Recitals above are true and correct and by this reference makes them a part hereof; and

ATTACHMENT III

BE IT FURTHER RESOLVED, that the City Council hereby approves allocation in the amount of up to \$5.4 million to the Program and authorizes the City Manager to negotiate and enter into a loan agreement with BACS to support the implementation of the Program; and

BE IT FURTHER RESOLVED that the City hereby authorizes the City Manager to conduct, negotiate, execute documents, and administer the loan, extend or modify the repayment terms, and take any other action with respect to the loan and the Program consistent with this Resolution and its basic purpose; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-684

DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Adopt a Resolution Authorizing the City Manager to (1) Negotiate and Execute an Agreement with Eden Health District (EHD) for the Award of \$250,000 to the City for the Acquisition of the St. Regis Retirement Center; (2) Accept and Appropriate the Funds Awarded by EHD; and (3) Negotiate and Execute an Agreement for Transfer of the \$250,000 in Funds from the City to Bay Area Community Services for Down Payment Assistance to Acquire the St. Regis Retirement Center

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to: (1) negotiate and execute an agreement with EHD for the award of \$250,000 to the City for assistance to acquire the St. Regis Retirement Center; (2) accept and appropriate the funds awarded by EHD; and (3) negotiate and execute an agreement for transfer of the \$250,000 in funds from the City to Bay Area Community Services (BACS) for down payment assistance to acquire St. Regis Retirement Center.

SUMMARY

In January 2022, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) announced a joint Request for Applications (RFA) to expand the State's behavioral health infrastructure and address historic gaps in the long-term care continuum serving seniors, people with disabilities, and people with behavioral health needs.

Through the joint RFA, BACS applied for Behavioral Health Continuum Infrastructure Program (BHCIP) and Community Care Expansion Program (CCE) funding to acquire the St. Regis Retirement Center and develop a holistic campus of behavioral health treatment, crisis services, and supportive housing. While BACS was awarded a \$19.41 million grant through CCE, they were not awarded BHCIP funding for this program. However, BACS intends to apply for BHCIP Round 5 funding.

As BACS did not receive BHCIP funding for this project, there was a gap of \$8.45 million needed to cover the full acquisition and rehabilitation costs for the St. Regis property. In August 2022, the Council authorized \$627,544 in Community Development Block Grant (CDBG) funds to BACS to support closing costs, and additionally approved a \$2 million loan to support BACS while they wait for the State to

allocate the awarded CCE funds. BACS will repay this loan by March 1st, 2023. Additionally, the County of Alameda committed \$7.5 million to support the project's closing gap.

In addition to City and County support of the St. Regis project, staff worked with EHD to allocate a \$250,000 grant towards BACS' closing gap. Staff and BACS presented to the EHD Board of Directors on November 16th, 2022 and the EHD Board approved awarding the City a \$250,000 grant for the St. Regis project to be passed through to BACS via the City.

ATTACHMENTS

Attachment I Staff Report

Attachment II Resolution



DATE: December 6, 2022

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Adopt a Resolution Authorizing the City Manager to (1) Negotiate and Execute an Agreement with Eden Health District (EHD) for the Award of \$250,000 to the City for the Acquisition of the St. Regis Retirement Center; (2) Accept and Appropriate the Funds Awarded by EHD; and (3) Negotiate and Execute an Agreement for Transfer of the \$250,000 in Funds from the City to Bay Area Community Services for Down Payment Assistance to Acquire the St. Regis Retirement Center

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to: (1) negotiate and execute an agreement with EHD for the award of \$250,000 to the City for assistance to acquire the St. Regis Retirement Center; (2) accept and appropriate the funds awarded by EHD; and (3) negotiate and execute an agreement for transfer of the \$250,000 in funds from the City to Bay Area Community Services (BACS) for down payment assistance to acquire St. Regis Retirement Center

SUMMARY

In January 2022, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) announced a joint Request for Applications (RFA) to expand the State's behavioral health infrastructure and address historic gaps in the long-term care continuum serving seniors, people with disabilities, and people with behavioral health needs.

Through the joint RFA, BACS applied for Behavioral Health Continuum Infrastructure Program (BHCIP) and Community Care Expansion Program (CCE) funding to acquire the St. Regis Retirement Center and develop a holistic campus of behavioral health treatment, crisis services, and supportive housing. While BACS was awarded a \$19.41 million grant through CCE, they were not awarded BHCIP funding for this program. However, BACS intends to apply for BHCIP Round 5 funding.

As BACS did not receive BHCIP funding for this project, there was a gap of \$8.45 million needed to cover the full acquisition and rehabilitation costs for the St. Regis property. In

August 2022, the Council authorized \$627,544 in Community Development Block Grant (CDBG) funds to BACS to support closing costs, and additionally approved a \$2 million loan to support BACS while they wait for the State to allocate the awarded CCE funds. BACS will repay this loan by March 1st, 2023. Additionally, the County of Alameda committed \$7.5 million to support the project's closing gap.

In addition to City and County support of the St. Regis project, staff worked with EHD to allocate a \$250,000 grant towards BACS' closing gap. Staff and BACS presented to the EHD Board of Directors on November 16th, 2022 and the EHD Board approved awarding the City a \$250,000 grant for the St. Regis project to be passed through to BACS via the City.

BACKGROUND AND DISCUSSION

In January 2022, DHCS and CDSS announced a joint RFA to expand the State's behavioral health infrastructure and address historic gaps in the long-term care continuum serving seniors, people with disabilities, and people with behavioral health needs. Under this joint RFA, the State made available just over \$1 billion through the BHCIP and CCE. Additional information on these funding opportunities can be found in the August 9th, 2022 Council report.¹

BACS applied for both BHCIP and CCE funding to acquire the St. Regis Retirement Center and develop a holistic campus of behavioral health treatment, crisis services, and supportive housing. While BACS was awarded a \$19.41 million grant through CCE, they were not awarded BHCIP funding for this program. As a result, BACS will apply for BHCIP Round 5 funding.

This St. Regis project supports and aligns with existing programs and infrastructure in Hayward as well as recommendations in the Let's House Hayward! Homelessness reduction strategic plan. The project will increase the Countywide inventory of behavioral health services, including potential drop-off crisis services for the Hayward Police Department and Hayward Fire Department. Additionally, the St. Regis project will increase the inventory of Permanent Supportive Housing (PSH) beds in Alameda County for medically fragile and aging individuals.

As BACS did not receive BHCIP funding for this project, there was a gap of \$8.45 million needed to acquire the St. Regis property. In August 2022, the Council authorized a CDBG award of \$630,000 to BACS to support rehabilitation costs and also approved a \$2 million loan to support BACS while they wait for the State to allocate the awarded CCE funds.² BACS

¹ Meeting materials of the August 9th, 2022 Hayward City Council meeting
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5749367&GUID=8C5E6C88-47DD-4226-8472-DFEA8CC27167&Options=&Search=>

² Meeting materials of the August 9th, 2022 Hayward City Council meeting
<https://hayward.legistar.com/LegislationDetail.aspx?ID=5749367&GUID=8C5E6C88-47DD-4226-8472-DFEA8CC27167&Options=&Search=>

will repay the City's loan by March 1st, 2023. The County of Alameda also committed \$7.5 million to support the project's closing gap.

In addition to City and County support of the St. Regis project, staff worked with EHD to allocate a \$250,000 grant towards the closing gap. Staff and BACS presented to the EHD Board of Directors on November 16th, 2022, and the Board approved awarding the St. Regis project a \$250,000 grant for the St. Regis project to be passed through to BACS via the City. Table 1 below summarizes the current funding sources used for acquisition and rehabilitation of the St. Regis property, excluding potential BHCIP funds that BACS will apply for in the next round of funding.

Table 1. St. Regis Acquisition and Rehabilitation Funding Sources

Funding Source	Funding Agency	Funding Amount
CCE Award ³	State CDSS	\$19,410,000
CDBG Award	City of Hayward	\$627,544
EHD Award	Eden Health District	\$250,000
County Award	County of Alameda	\$7,500,000
Total Funding		\$27,787,544

Staff recommends that the Council adopt a resolution authorizing the City Manager to:

1. Negotiate and execute an agreement with EHD for the award of \$250,000 for the St. Regis project;
2. Accept and appropriate funds awarded by EHD in an amount up to \$250,000; and
3. Negotiate and execute an agreement for transfer of the \$250,000 in funds from the City to BACS for down payment assistance to acquire St. Regis Retirement Center.

Additionally, BACS intends to reapply for the next round of BHCIP funding to develop a Mental Health Rehabilitation Center, Adult Residential Transitional Housing, and potentially a crisis stabilization unit in a separate facility on the property. The CCE funding that was already awarded to BACS, along with the other funding listed in Table 1, allows BACS to demonstrate site control on its upcoming BHCIP application. Based on an analysis of projects awarded BHCIP funding in the previous round, staff and BACS anticipate that demonstrating site control of the St. Regis property will likely make BACS more competitive for the next round of BHCIP funding.

ECONOMIC IMPACT

There is a positive economic impact associated with providing services for low-income individuals with complex behavioral, medical, and social needs. Creating long-term housing options with targeted supportive services can reduce the prevalence of "high utilizers" of emergency services, ultimately reducing local crisis response costs. Furthermore, upgrading

³ Anticipating delays in receipt of CDSS funds, BACS requested a \$2M loan from the City of Hayward to cover up front acquisition costs incurred before the State could allocate the awarded CCE funds; therefore, that loan is not reflected in the funding summary table. BACS will repay this loan by March 1, 2023.

and expanding the use of the current facility will create additional job opportunities for individuals with a wide range of certifications and experience.

FISCAL IMPACT

This item has no impact on the General Fund.

STRATEGIC ROADMAP

This item supports Strategic Roadmap item H2, to implement the Let's House Hayward! Homelessness reduction strategic plan. Within the Let's House Hayward! Plan, this item supports:

- **Strategy 2.4:** Increase Diversity and Availability of Holistic Supportive Services
- **Strategy 3.2:** Prioritize the Development of Housing Targeted to People Experiencing Homelessness

PUBLIC CONTACT

This item is related to the Let's House Hayward (LHH) Strategic Plan, under Strategy 2.1, to Expand Housing-Focused Shelter Capacity through continued oversight and management of the Hayward Navigation Center. Through the LHH process, Homebase, City staff, and partners throughout the Hayward community worked together to engage a diverse set of stakeholders to inform the plan's goals, strategies, and specific activities for achieving its goals.⁴

Prepared by: Jessica Lobedan, Community Services Manager
Amy Cole-Bloom, Management Analyst II

Recommended by: Jennifer Ott, Assistant City Manager

Approved by:



Kelly McAdoo, City Manager

⁴ For more information on the Let's House Hayward! Strategic Plan process, please visit <https://www.haywardca.gov/lets-house-hayward>

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO: 1) NEGOTIATE AND EXECUTE AN AGREEMENT WITH EDEN HEALTH DISTRICT; 2) ACCEPT AND APPROPRIATE FUNDS AWARDED BY EHD IN AN AMOUNT UP TO \$250,000; AND 3) NEGOTIATE AND EXECUTE AN AGREEMENT BETWEEN THE CITY OF HAYWARD AND BAY AREA COMMUNITY SERVICES (BACS) FOR DOWN PAYMENT ASSISTANCE TO ACQUIRE ST. REGIS RETIREMENT CENTER IN AN AMOUNT NOT-TO-EXCEED \$250,000

WHEREAS, in January 2022, the California Department of Health Care Services (DHCS) and the California Department of Social Services (CDSS) announced a joint Request for Applications (RFA) to expand the State's behavioral health infrastructure and address historic gaps in the long-term care continuum serving seniors, people with disabilities, and people with behavioral health needs; and

WHEREAS, under this joint RFA, the State made available \$518.5 million for launch ready behavioral health infrastructure projects through the Behavioral Health Continuum Infrastructure Program (BHCIP); and

WHEREAS, under this joint RFA, the State made available \$570 million to preserve and expand adult and senior care facilities through the Community Care Expansion (CCE) program; and

WHEREAS, through this joint RDA, BACS applied for both BHCIP and CCE funding to acquire the St. Regis retirement center located at 23950 Mission Boulevard and develop a holistic campus of behavioral health treatment and crisis services and supportive housing; and

WHEREAS, BACS did not receive BHCIP funding which left a \$8.45 million needed to cover the full acquisition and rehabilitation costs for the St. Regis property; and

WHEREAS, Hayward City Council awarded \$627,544 in Community Development Block Grant (CDBG) funds to grant to this project for rehabilitation expenses; and

WHEREAS, the County of Alameda has committed \$7.5 million to contribute to this closing gap; and

WHEREAS, Eden Health District (EHD) has identified \$250,000 to grant towards this closing gap; and

WHEREAS, on November 16th, 2022, EHD Board of Directors approved awarding the St. Regis project a \$250,000 through the City of Hayward.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Hayward authorizes the City Manager to negotiate and execute an agreement with EHD; and accept and appropriate funds awarded by EHD in an amount up to \$250,000; and

BE IT FURTHER RESOLVED that the City Council of the City of Hayward authorizes the City Manager to negotiate and execute an agreement with BACS for down payment assistance to acquire the St. Regis Retirement Center for an amount not-to-exceed \$250,000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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 22-686

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

Adopt a Resolution Accepting the Fiscal Year 2023 Statement of Investment Policy and Delegation of Authority

RECOMMENDATION

That the Council adopts a resolution (Attachment II) reaffirming the updated Fiscal Year 2023 Statement of Investment Policy and Delegation of Authority.

SUMMARY

There are changes to California Government Code Section 53601 (Code) that will go in effect on January 1, 2023. To address these changes, staff recommends the City add the new Code language to Policy Section X: Investment Instruments, as shown in the attached marked-up Policy (Attachment IV).

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Statement of Investment Policy Review Memorandum
Attachment IV	FY 2023 Statement of Investment Policy



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Adopt a Resolution Accepting the Fiscal Year 2023 Statement of Investment Policy and Delegation of Authority

RECOMMENDATION

That the Council adopts a resolution (Attachment II) reaffirming the updated Fiscal Year 2023 Statement of Investment Policy and Delegation of Authority.

SUMMARY

There are changes to California Government Code Section 53601 (Code) that will go in effect on January 1, 2023. To address these changes, staff recommends the City add the new Code language to Policy Section X: Investment Instruments, as shown in the attached marked-up Policy (Attachment IV).

BACKGROUND

The City's Statement of Investment Policy (Policy) requires that staff submit to the Council for approval any recommended changes to the Policy. In addition, the State statutes that govern investment activity require the Council to annually affirm the Policy and to annually confirm the delegation of investment authority, which in the City of Hayward, is to the Director of Finance. This year's Policy has recommended changes under Policy Section X: Investment Instruments, to address recent California Government Code ("Code") changes that will go into effect on January 1, 2023, following the passage of Senate Bill 1489 ("SB 1489") in September 2022. A detailed summary of the proposed changes is available in Attachment III. Staff worked in conjunction with the City's portfolio manager, PFM Asset Management, to review the policy.

DISCUSSION

As part of the overview of the FY 2022 year-end investment portfolio, staff reviewed and evaluated the need for any changes to the Policy. PFM, the City's portfolio manager, has also reviewed the Policy and prepared a memorandum (Attachment III) recommending the City add the new Code language. to Policy X: Investments Instructions.

Senate Bill 1489, also known as the Local Government Omnibus Act of 2022, made several changes to Code, including several that impact the investment of public funds and the

reporting practices of public agencies. Changes were made to Code Section 53601, the section of Code that governs the investment of public funds, including language stating that an investment's term or remaining maturity shall be measured from the settlement date to final maturity, and that a security purchased in accordance with Code Section 53601 shall not have a forward settlement date exceeding 45 days from the time of investment.

Previously, the Code was silent on these items. To address these Code changes, staff recommends new Code language to Policy Section X: Investment Instruments, as indicated in the PFM Investment Policy Review Memorandum (Attachment III). In conjunction with the City's portfolio manager, staff recommends that the Council approve the FY 2023 Policy with the recommended edits (Attachment IV).

Staff and PFM presented these changes to the Council Budget and Finance Committee on November 16, 2022 and the Committee recommended that the Council adopt the changes.

STRATEGIC ROADMAP

This is a routine operational item and does not relate to any of the priorities outlined in the Council's Strategic Roadmap.

FISCAL IMPACT

There is no fiscal impact.

PUBLIC CONTACT

The recommended changes to the Policy (Attachment IV) were discussed by the Investment Advisory Committee during its quarterly meeting on November 14, 2022, and presented to Council Budget and Finance Committee on November 16, 2022.

Prepared and Recommended by: Nicole Gonzales, Deputy Director of Finance
Dustin Claussen, Director of Finance

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22 - _____

Introduced by Council Member _____

RESOLUTION REAFFIRMING THE STATEMENT OF INVESTMENT POLICY AND
RENEWING THE DELEGATION OF AUTHORITY TO MAKE INVESTMENTS TO
THE DIRECTOR OF FINANCE

WHEREAS, by Resolution No. 21-235, dated December 7, 2021, the City Council adopted a Statement of Investment Policy for the City of Hayward; and

WHEREAS, under section 53607 of the California Government Code, the authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a periodic report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the FY 2023 Statement of Investment Policy is hereby reaffirmed as amended, and that the authority of the Director of Finance, or his or her designee, to make investments pursuant to the Policy is hereby renewed.

BE IT FURTHER RESOLVED that the Director of Finance and his/her successors in office is authorized to order the deposit or withdrawal of money in the accounts of the City of Hayward, the Public Financing Authority, the Successor Agency of the Redevelopment Agency of the City of Hayward, and the Housing Authority within the Local Agency Investment Fund of the State of California for the purpose of investment in accordance with the provisions of Section 16429.1 of the California Government Code; and further authorized to delegate responsibility for daily deposits or withdrawals of money in the above referenced accounts as required to ensure proper functioning of the fiscal operations of the City and these agencies.

IN COUNCIL, HAYWARD, CALIFORNIA _____ 2022.

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

November 8, 2022

Memorandum

To: Dustin Claussen, Director of Finance
City of Hayward

From: Monique Spyke, Managing Director
Allison Kaune, Senior Analyst
PFM Asset Management LLC

Re: Investment Policy Review

We have completed our review of the City of Hayward's (the "City") FY 2022 Investment Policy (the "Policy"). This year we are recommending Policy changes in response to changes to California Government Code ("Code") that will go into effect on January 1, 2023, following the passage of Senate Bill 1489 ("SB 1489") in September 2022. We have summarized our changes below and have attached a marked-up version of the Policy to illustrate our recommendations.

Senate Bill 1489, also known as the Local Government Omnibus Act of 2022, made a number of changes to Code, including several that impact the investment of public funds and the reporting practices of public agencies. Changes made to Code section 53601, the section of Code that governs the investment of public funds, include language stating that an investment's term or remaining maturity shall be measured from the settlement date to final maturity, and, that a security purchased in accordance with Code section 53601 shall not have a forward settlement date exceeding 45 days from the time of investment. Previously, Code was silent on both items. To address these Code changes, we recommend the City add the new Code language to Policy section X. Investment Instruments, as shown in the attached marked-up Policy.

SB 1489 also modified Code section 53646 and its quarterly reporting requirements. Per Code, producing a quarterly report is optional for public agencies. However, should an agency choose to produce a quarterly report, certain requirements must be met. One of those requirements was to produce the quarterly report within thirty (30) days following the end of the quarter. With SB 1489 that time has been extended to forty-five (45) days. The City's Policy does not explicitly require a quarterly report and contains no language regarding the due date of such reporting. As such, no Policy changes are needed to address this Code change.

Please let us know if you have any questions. Thank you.



FY ~~2022~~2023

Statement of Investment Policy

Finance Department
Director of Finance, Dustin Claussen
Policy last amended: Dec 6, 2022~~Jan 26, 2021~~

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I. Introduction

The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities. Activities that comprise good cash management include accurate cash projections, the expeditious collection of revenue, the control of disbursements, cost-effective banking relations, and arranging for a short-term borrowing program that coordinates working capital requirements and investment opportunities.

- A. Included** – Funds included in this Statement of Investment Policy are described in the City's annual financial report, and include: General Fund, Special Revenue Funds, Capital Projects Funds, Enterprise Funds, Internal Service Funds, Fiduciary Funds, Housing Finance Agency Funds, Successor Hayward Housing Authority funds, and Hayward Redevelopment Agency Successor Agency funds. The Statement of Investment Policy applies to all transactions involving the financial assets and related activity of the foregoing funds.
- B. Excluded** – The following funds are excluded from the Statement of Investment Policy: Deferred Compensation Fund assets and monies held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of the City, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements may be invested in accordance with the ordinance, resolution, indenture or agreement approved by the City Council which govern the issuance of those bonds, or lease installment sale, or other agreement, rather than this Statement of Investment Policy.

II. Statement of Objectives

It is the policy of the City of Hayward to invest public funds not required for immediate day-to-day operations in safe and liquid investments with maturities under five years, in conformance with the California state statutes governing the investment of public funds. Investments are intended to achieve a reasonable rate of return while minimizing the potential for capital losses arising from market changes or issuer default.

In managing the City of Hayward's Investment Portfolio, the City's primary objectives are safety, liquidity, and yield.

1. **Safety** – Safety of principal is the foremost objective of the City, followed by liquidity and yield. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they are from securities defaults or erosion of market value.
2. **Liquidity** – The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements that might be reasonably anticipated.
3. **Yield** – The City may establish a performance benchmark based on current investment objectives and constraints. The investment portfolio shall be managed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City's policy constraints and cash flow requirements. The City should not take undue risk to obtain above-market rates of return.
4. **Diversification** – The City's investment portfolio will be diversified to avoid concentrating investments in specific security types or in individual financial institutions.

While the City will not make investments for the purpose of trading or speculation as the dominant criterion, the Director of Finance shall seek to enhance total portfolio return by means of active portfolio management.

III. Use of State Investment Guidelines

Government Code Sections 53601, 53607, and 53646 of the State of California regulate investment practices. It is the policy of the City of Hayward to use the State's provisions for local government investments as the base for developing and implementing the City's investment policies and practices.

IV. Delegation of Authority

The responsibility for conducting the City's investment program is hereby delegated to the Director of Finance, who has established written procedures for the operation of the investment program, consistent with this Statement of Investment Policy. The Finance Director has further authority, with consent of the City Council, to engage the services of one or more external investment managers to assist in the management of the City's investment portfolio in a manner consistent with the City's Statement of Investment Policy. Such managers must be registered under the Investment Advisors Act of 1940.

V. Investment Advisory Committee

The City Manager will appoint an Investment Advisory Committee (IAC). The IAC shall, at minimum, consist of the Assistant City Manager, Director of Finance or Deputy Director of Finance, City Attorney or Assistant City Attorney, one department head, and a minimum of one non-City employee that possesses financial skills to be chosen by the City Manager as available.

The IAC shall meet at least quarterly for the purpose of overseeing the implementation of the City's investment program and assuring it is consistent with the Statement of Investment Policy as approved by the Council. The committee shall include in its discussions such topics as economic outlook, portfolio diversification and maturity structure, potential risks to the City's funds, approval of authorized financial institutions, and the performance of the investment portfolio. Written investment procedures must be approved by the IAC.

VI. Ethics and Conflict of Interest

Officers and employees involved in the investment process shall refrain from personal business activities that could conflict with proper execution of the investment program or impair their ability to make impartial decisions.

All members of the City's IAC shall annually file Statements of Economic Interests (SEIs or Form 700) with the California Fair Political Practices Commission.

VII. Investment Policy Adoption

The City's Statement of Investment Policy shall be annually reviewed and approved by the Investment Advisory Committee and thereafter shall be reviewed and approved by the City Council at a public meeting.

VIII. Standard of Prudence

All participants in the investment process shall act responsibly as custodians of the public trust. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. Nevertheless, in a diversified portfolio, it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

The standard of prudence to be used by investment officials shall be the "prudent investor standard," which states:

"When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a

like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.”

Investment officers acting in accordance with written procedures and the Statement of Investment Policy, and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this Policy.

IX. Reporting

The following investment activity reports will be completed.

A. Monthly

The Director of Finance shall post a monthly investment and transaction summary to the City's public website that will be available to the City Manager, Investment Advisory Committee, City Council Budget & Finance Committee, City Council, and the general public. Code section 53607 requires agencies to make a monthly report of transactions available to the legislative body.

The investment summary will list investment transactions executed during the month, and will report key aspects of the investment portfolio, including the following information about each investment instrument: issuer, par amount, purchase price, sales price, realized gains and losses, maturity dates, credit ratings, and the percentage of the portfolio by each type of investment.

B. Periodic

While there is no legislative requirement for quarterly investment activity reporting, the Director of Finance shall submit periodic investment reports to the City Manager, Investment Advisory Committee, City Council Budget & Finance Committee, and City Council.

A periodic report shall include all components of the City's monthly report, highlight key aspects of information contained in the investment reports, and inform readers of economic conditions affecting the portfolio. The report will present recent investment performance and future investment strategy; disclose any perceived threats to portfolio quality, security or liquidity; compare the portfolio performance to that of the City's established performance benchmark, state compliance with the Investment Policy and include a statement denoting the ability to meet expenditure requirements for the next six months.

C. Annual

While there is no legislative requirement for submission of an annual investment report, the Director of Finance shall present a comprehensive annual report on the investment program and investment activity no later than 180 days following the end of the fiscal year. This report shall be presented to the Investment Advisory Committee. The annual report shall include a performance summary, shall suggest policies and improvements

that might enhance the investment program, and include an investment plan for the ensuing fiscal year. In conjunction with its review of the annual investment report, the Investment Advisory Committee shall review and reaffirm the Statement of Investment Policy of the City, whether or not specific policy modifications are suggested.

Following the annual review of the Statement of Investment Policy by the Investment Advisory Committee, the Investment Policy shall be submitted to the City Council, together with any changes recommended by the Investment Advisory Committee. The City Council shall consider any such recommended changes and approve the Statement of Investment Policy at a public meeting of the City Council.

X. Investment Instruments

A summary and description of authorized investment instruments is below.

INVESTMENT INSTRUMENT SUMMARY				
Security Type	Maximum Maturity	Min Credit Quality	Authorized Investment Limit	Per Issuer Limit
A. US Treasury Notes/Bills	5 Years	None	100%	100%
B. US Agencies	5 Years	None	100%	40%
B. US Agencies–Mortgage-Backed	5 Years	None	20%	20%
C. Banker’s Acceptance (BA)	180 days	A-1	40%	5%
D. Commercial Paper	270 days	A-1	40%	5%
E. Negotiable Certificates of Deposit	5 Years	“A”	30%	5%
F. Repurchase Agreements	1 Year	None	20%	20%
G. Medium Term Notes (MTN)	5 Years	“A”	30%	5%
H. Money Market Fund	N/A	AAAm	20%	10%
I. Alameda County Investment Pool	None	None	10%	10%
J. Shares of beneficial interest issued by a joint powers authority	None	AAAm	100%	N/A
K. LAIF	None	None	Max amount allowed by Advisory Board	N/A
L. Collateralized Certificates of Deposit	5 Years	None	25%	20%
M. Municipal Bonds	5 Years	“A”	20%	5%
N. Supranationals	5 Years	“AA”	30%	30%
O. Asset-Backed Securities	5 Yr WAL ¹	“AA”	20%	5%

The following sections describe individual investment types. The sections specify a

¹ WAL – Weighted Average Life. See glossary for definition

percentage limitation for a particular category of investment. That percentage is applied on the date of purchase. A later increase in a percentage resulting from a change in values or assets shall not constitute a violation of the Policy restriction. For purposes of compliance with this Policy, an investment's term or remaining maturity shall be measured from the settlement date to final maturity. A security purchased in accordance with this Policy shall not have a forward settlement date exceeding 45 days from the time of investment.

Unless stated otherwise in the Policy, no more than 5% of the City's portfolio may be invested in securities issued by any one issuer.

- A. United States Treasury Notes, Bonds, Bills, or Certificates of Indebtedness**, or those for which the faith and credit of the United States are pledged for the payment of principal and interest with a final maturity not exceeding five years from the date of trade settlement.

CA Govt Code 53601(b)

- B. Federal Agency or United States Government-Sponsored Enterprise (GSE) Obligations**, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies, or United States government-sponsored enterprises with a final maturity not exceeding five years from the date of trade settlement. There is no limit to the amount of the City's portfolio that may be invested in federal agency or GSE securities, except that the aggregate investment in federal agency mortgage-backed securities shall not exceed 20% of the City's total portfolio. Furthermore, the aggregate investment in any one federal agency or GSE issuer shall not exceed 40% of the City's total portfolio.

CA Govt Code 53601(f)

- C. Banker's Acceptances**, otherwise known as bills of exchange or time drafts, that are drawn on and accepted by a commercial bank with a final maturity not exceeding 180 days from the date of trade settlement, rated at least "A-1" or the equivalent by a nationally recognized statistical-rating organization (NRSRO). The aggregate investment in banker's acceptances shall not exceed 40% of the City's total portfolio.

CA Govt Code 53601(g)

- D. Prime Commercial Paper** with the highest letter and numerical rating as provided for by a NRSRO. The entity that issues the commercial paper shall meet all of the following conditions in either paragraph 1 or paragraph 2 below:

(1) The entity meets the following criteria:

- is organized and operating in the United States as a general corporation;
- has total assets in excess of five hundred million dollars (\$500,000,000); and
- has debt other than commercial paper, if any, that is rated in a rating category of at least "A" or its equivalent by a NRSRO.

(2) The entity meets the following criteria:

- is organized within the United States as a special purpose corporation, trust, or limited liability company;
- has program wide credit enhancements including, but not limited to, over-collateralization, letters of credit, or surety bond; and
- has commercial paper that is rated "A-1" or higher, or the equivalent, by a NRSRO.

Eligible commercial paper shall have a final maturity not exceeding 270 days from the date of trade settlement. The aggregate investment in commercial paper shall not exceed 40% of the City's total portfolio. Furthermore, the City may invest no more than 5% of its total investment assets in the commercial paper and the medium-term notes of any single issuer.

CA Govt Code 53601(h)

E. Negotiable Certificates of Deposit issued by a nationally- or state-chartered bank, a savings association or a federal association as defined by Section 5102 of the California Financial Code, a state or federal credit union, or by a federally-licensed or state-licensed branch of a foreign bank with a final maturity not exceeding five years from the date of trade settlement. Deposits are limited to institutions which have long-term debt rating in a rating category of at least "A" or the equivalent by a NRSRO. The aggregate investment in negotiable certificates of deposit shall not exceed 30% of the City's total portfolio.

CA Govt Code 53601(i)

F. Repurchase Agreements with a final termination date not exceeding 360 days from the date of trade settlement collateralized solely by United States Treasury, federal agency, or United States government sponsored enterprises permitted by this Statement of Investment Policy. The purchased securities (the "collateral") shall have a minimum market value of 102% of the dollar value of the funds invested. The market value of the collateral securities shall be marked-to-the-market daily and the value shall be adjusted no less frequently than weekly. No substitution of collateral shall be allowed without the prior approval of the Finance Director. All collateral securing repurchase agreements must be delivered to the City's custodian bank or handled under a tri-party repurchase agreement. The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to repurchase agreement.

Approved repurchase agreement counterparties shall have a repurchase agreement counterparty credit rating of at least "A-1" or the equivalent and a long-term credit rating of at least "A" or the equivalent by a NRSRO. Repurchase agreement counterparties shall execute a City approved master repurchase agreement with the City. No more than 20% of the City's total portfolio shall be invested in repurchase agreements.

CA Govt Code 53601 (j)

- G. Medium-Term Notes** issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States, with a final maturity not exceeding five years from the trade settlement, and rated in a rating category of at least “A” or the equivalent by a NRSRO at the time of purchase. The aggregate investment in medium-term notes shall not exceed 30% of the City’s total portfolio. Furthermore, the City shall invest no more than 5% of its total investment assets in the commercial paper and the medium-term notes of any single issuer.

CA Govt Code 53601 (k)

- H. Money Market Funds.** Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1, et seq.). To be eligible for investment pursuant to this subdivision these companies shall either:

- (1) attain the highest ranking letter or numerical rating provided by not less than two of the three largest NRSROs, or
- (2) have an investment advisor registered or exempt from registration with the Securities and Exchange Commission with not less than five years of experience managing money market mutual funds and with assets under management in excess of \$1,000,000,000.

The purchase price of shares shall not exceed 20% of the City’s total portfolio and shall not include any commission that the companies may charge. Furthermore, no more than 10% of the City’s total portfolio may be invested in any one money market fund.

CA Govt Code 53601 (l)

- I. Alameda County Investment Pool.** The City’s maximum investment in the Alameda County pool is limited to 10% of the City’s total aggregate portfolio.

CA Govt Code 53684

- J. Other Investment Pools.** Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (r), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

- 1) The adviser is registered or exempt from registration with the Securities and

Exchange Commission.

- 2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.
- 3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

CA Govt Code 53601 (p)

K. State of California's Local Agency Investment Fund (LAIF). The City's participation in LAIF shall conform to State Regulation. The City maintains a total of two LAIF investment accounts and may invest the maximum amount permitted by LAIF's Local Investment Advisory Board. In general, it is the City's intention to use investment in LAIF as a temporary repository for short-term funds needed for liquidity purposes. The Finance Director shall maintain appropriate information concerning LAIF's current investment policies, practices and performance on file. The Finance Director shall also maintain files on LAIF's requirements for participation, including, but not limited to, limitations on deposits or withdrawals and the composition of the portfolio.

CA Govt Code 16429.1

L. Collateralized Certificates of Deposit in FDIC-insured financial institutions located in California with a maximum maturity no longer than five years from the date of deposit. Deposits are limited to banks who have a long-term debt rating in a rating category of at least "A" or the equivalent and a short-term debt rating of at least "A-1" or the equivalent by a NRSRO. The City may waive collateral for any portion of its deposit that is covered by federal deposit insurance.

Money shall not be deposited in any state or federal credit union if a member of the legislative body of the City, or any person with investment decision making authority of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the City, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

The amount on deposit shall not exceed the total paid-up capital (to include capital notes and debentures) and surplus of any depository bank, or the total of the net worth of any savings and loan association. However, deposits in collateralized certificates of deposit shall not exceed 25% of the City's total portfolio, nor shall the City deposit more than 20% of its total portfolio in the collateralized certificates of deposit of any one bank.

CA Govt Code 53649

M. Municipal Bonds issued by the state of California and any local agency within the state, including bonds payable solely out of revenues from a revenue-producing

property owned, controlled, or operated by the state or any local agency, or by a department, board, agency or authority of the state or any local agency.

Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.

The aggregate investment in municipal bonds may not exceed 20% of the City's total portfolio.

CA Govt Code 53601(c), CA Govt Code 53601(d), and CA Govt Code 53601(e)

- N. Supranationals** defined as United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a final maturity not exceeding five years from the trade settlement, and eligible for purchase and sale within the United States. Supranationals shall be rated in a rating category of at least "AA" or the equivalent by a NRSRO at the time of purchase.

The aggregate investment in supranationals may not exceed 30% of the City's total portfolio.

CA Govt Code 53601(q)

- O. Asset-Backed Securities** defined as all mortgage pass-through securities, collateralized mortgage obligations, mortgage-backed or other pay-through bonds, equipment lease-backed certificates, consumer receivable pass-through certificates, and consumer receivable-backed bonds, with a final maturity not exceeding five years from the trade settlement.

Asset-backed securities shall be rated in a rating category of at least "AA" or the equivalent by a NRSRO at the time of purchase and have a maximum remaining maturity of five years or less.

The aggregate investment in asset-backed securities may not exceed 20% of the City's total portfolio.

CA Govt Code 53601(o)

XI. Prohibited Investments

Investments not specifically approved by this Statement of Investment Policy are prohibited, including inverse floaters, range notes, mortgage derived interest-only strips, and securities that could result in zero interest accrual if held to maturity, except as provided in the subsequent paragraph.

Notwithstanding the prohibitions stated in the above paragraph, effective January 1, 2021, the City may invest in securities issued by, or backed by, the United States government that could result in zero- or negative-interest accrual if held to maturity, in the event of, and for the duration of, a period of negative market interest rates. The City may hold these instruments until their maturity dates. Securities described in this paragraph shall remain in effect only until January 1, 2026, and as of that date is repealed.

XII. Credit Downgrade

The minimum rating criteria for particular investment categories is applied on the date of purchase. The City may from time to time be invested in a security whose rating is downgraded. In the event a rating drops below the minimum allowed rating category for that given investment type, the securities shall be reviewed and a plan of action shall be recommended by the Director of Finance or investment manager. The Director of Finance may consult the Investment Advisory Committee on the action to be taken and shall advise its Chairman and Members of the final disposition of the matter either by e-mail or fax.

If an investment advisor is used, the investment advisor will immediately notify the Director of Finance if a purchased security has been downgraded below accepted minimums specified herein, or if the security is placed on negative credit watch, where downgrade could result in a rate drop below acceptable levels of that fact. The course of action to be followed will then be decided on a case-by-case basis, considering such factors as the reason for the rate drop, prognosis for recovery or further drop, and market price of the security. The City Council will be advised of the situation and intended course of action by e-mail or fax.

XIII. Maturity and Diversification

Maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled to permit the City to meet all projected obligations.

The City may not invest in a security that exceeds five years from the date of purchase unless City Council has granted express authority to make that investment no less than three months prior to the investment.

XIV. Internal Controls

The Finance Director shall establish a system of internal controls. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the City. Controls deemed most important include:

- **Clearly delegating authority to subordinate staff members.** Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control

structure that is contingent on the various staff positions and their respective responsibilities.

- **Separating transaction authority from accounting and record keeping.** By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- **Delivery versus payment.** All trades where applicable will be executed by delivery vs. payment (DVP). This ensures that securities are deposited in the eligible financial institution before the release of funds. A third party custodian as evidenced by safekeeping receipts will hold securities.
- **Avoiding physical delivery securities.** Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
- **Confirming telephone transactions for investments and wire transfers in writing.** Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
- **Developing wire transfer agreements with the lead bank or third party custodian.** This agreement should outline the various controls and security provisions, and delineate responsibilities of each party making and receiving wire transfers.

XV. Banks and Security Dealer Selection

The Investment Advisory Committee shall approve all financial institutions from which securities are purchased or sold.

In selecting financial institutions for the deposit or investment of City funds, the Finance Director shall consider the creditworthiness of institutions. The Finance Director shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which City funds are deposited or invested.

Only primary government securities dealers that report to the New York Federal Reserve shall be used for the purchase of repurchase agreements. (It is acknowledged that inclusion on the primary dealer listing of the Federal Reserve Bank of New York is not a guarantee of creditworthiness.)

Effective October 14, 1987, the City shall be prohibited from investing funds with any person who is knowingly or intentionally engaged in the development or production of nuclear weapons. Person is defined as any person, private corporation, institution or other entity, which is within the jurisdiction of the City of Hayward.

If a third-party investment advisor is authorized to conduct investment transactions on the City's behalf, the investment advisor may use its own list of approved broker/dealers and financial institutions for investment purposes.

XVI. Risk Tolerance

The City recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. Investment managers are expected to display prudence in the selection of securities as a way to minimize default risk. No individual investment transaction shall be undertaken that jeopardizes the total capital position of the overall portfolio.

The Director of Finance shall periodically establish guidelines and strategies to control risks of default, market price changes and illiquidity. All investment reports shall specifically address whether current investment results have been affected by any of the foregoing risks, and shall explain what actions investment officials have taken to control or correct for such risks.

A thorough investigation of any money market fund or investment pool, including LAIF and the Alameda County Pool, is required prior to investing, as well as on an ongoing basis. The following information should be obtained and analyzed:

- I. A description of eligible investment securities
- II. A written statement of investment policies and objectives
- III. A description of interest calculation and their distribution, and the treatment of gains and losses
- IV. A description of how the securities are safeguarded and how often the

- securities are priced and the program audited
- V. Information about the size and frequency of deposits and withdrawals allowed, and how much notice is needed for withdrawals
- VI. A schedule for receiving statements and portfolio listings
- VII. A fee schedule, as well as how and when the fees are assessed
- VIII. The rating of the pool/fund
- IX. Information about investment advisers, including registration with the Securities and Exchange Commission, length of experience and total assets under management

In addition to these general policy considerations, the following specific policies will be strictly observed:

1. All investment funds will be placed directly with qualified financial institutions. The City will not deposit or invest funds through third parties or money brokers.
2. A competitive bid process, utilizing financial institutions approved by the Investment Advisory Committee, will be used to place investment purchases. Based on annual evaluation, securities dealers, banks, and other financial institutions will be dropped or continued on the eligibility list. The following criteria will be used in the evaluation:
 - a. Number of transactions competitively won
 - b. Prompt and accurate confirmation of transactions
 - c. Efficient securities delivery
 - d. Accurate market information account servicing

If a third party investment advisor is authorized to conduct investment transactions on the City's behalf, the investment advisor may rely on its review process and use its own list of approved broker/dealers for investment purposes.

3. The Finance Director may designate an official to manage investments and designate a second official to perform investment management during absences of the primary designee. The Finance Director shall ensure that competent investment management is maintained and shall ensure that, if both designated investment officials are replaced or are simultaneously absent, any temporary replacement(s) shall be closely supervised, indoctrinated in the requirements of this Statement of Investment Policy, and given written investment procedures regulating the authority to invest in maturities beyond six months by means of appropriate controls and restraining requirements.
4. In order to assist in identifying "qualified financial institutions," the Finance Director shall forward copies of the City's Statement of Investment Policy to those financial institutions with which the City is interested in doing business and require written acknowledgement of the policy.

XVII. Safekeeping and Custody

To protect against potential fraud and embezzlement, the assets of the City shall be secured through third-party custody and safekeeping procedures.

The investment official shall be bonded to protect the public against possible embezzlement and malfeasance. An independent auditor shall review safekeeping procedures annually. The auditor may conduct surprise audits of safekeeping and custodial procedures.

All cash and securities in the City's portfolio shall be held in safekeeping in the City's name by a third party bank trust department, acting as agent for the City under the terms of a custody agreement executed by the bank and the City.

All securities will be received and delivered using standard delivery versus payment (DVP) procedures; the City's safekeeping agent will only release payment for a security after the security has been properly delivered. The only exception to the foregoing shall be depository accounts and securities purchases made with: (i) local government investment pools, and (ii) money market funds, since the purchased securities are not deliverable.

Appendix A**Comparison and Interpretation of Credit Ratings¹****Long-Term Debt Ratings**

Rating Interpretation	Moody's	Standard & Poor's	Fitch
Best Quality Grade	Aaa	AAA	AAA
High Quality Grade	Aa1 Aa2 Aa3	AA+ AA AA-	AA+ AA AA-
Upper Medium Grade	A1 A2 A3	A+ A A-	A+ A A-
Medium Grade	Baa1 Baa2 Baa3	BBB+ BBB BBB-	BBB+ BBB BBB-
Speculative Grade	Ba1 Ba2 Ba3	BB+ BB BB-	BB+ BB BB-
Low Grade	B1 B2 B3	B+ B B-	B+ B B-
Poor Grade to Default	Caa	CCC+	CCC
In Poor Standing	- -	CCC CCC-	- -
Highly Speculative Default	Ca C	CC -	CC -
Default	- - -	- - D	DDD DD D

Short-Term/Commercial Paper Investment Grade Ratings

Rating Interpretation	Moody's	Standard & Poor's	Fitch
Superior Capacity	P-1	A-1+/A-1	F1+/F1
Strong Capacity	P-2	A-2	F2
Acceptable Capacity	P-3	A-3	F3

¹ These are general credit rating guidelines and are for information only.

Appendix B

Glossary

ASK PRICE: The price at which a seller offers to sell a security to a buyer.

ASSET-BACKED SECURITIES: Bonds created from various types of consumer debt. Returns on these securities come from customer payments on their outstanding loans. The primary types of asset-backed securities are mortgages, home equity loans, auto loans, leases, credit card receivables and student loans.

BANKERS' ACCEPTANCE: A letter of credit issued in a foreign trade transaction which allows exporters to receive payment prior to importation of their goods. Banks provide short-term financing to facilitate the transaction and may sell the obligation to a third party. Bankers' Acceptances are secured by the issuer of the bill, while the underlying goods also serve as collateral.

BANK DEPOSITS: Collateral in the form of currency that may be in the form of demand accounts (checking) or investments in accounts that have a fixed term and negotiated rate of interest.

BENCHMARK: A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.

BID PRICE: The price at which a buyer offers to purchase a security from the seller.

BOND: A debt investment in which an investor loans money to an entity (corporate or governmental) that borrows the funds for a defined period of time at a fixed interest rate called a coupon payment. Bonds are used by companies, municipalities, states and the U.S. government to finance a variety of projects and operating activities.

BROKER: A broker aligns buyers and sellers of securities and receives a commission when a sale occurs. Brokers generally do not hold inventory or make a market for securities.

CALIFORNIA LOCAL AGENCY OBLIGATIONS: Bonds that are issued by a California county, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.

CD (CERTIFICATE OF DEPOSIT): Time deposits issued by a bank, savings or federal credit union, or state-licensed branch of a foreign bank. Negotiable Certificates of Deposits rely on the credit rating of the issuing entity.

COLLATERAL: Securities, evidence of deposit, or other property that a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank

to secure deposits of public monies.

COLLATERALIZATION: Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.

COMMERCIAL PAPER: Short-term unsecured promissory note issued by a company or financial institution. Commercial paper is issued at a discount and matures at face value. Usually a maximum maturity of 270 days, and given a short-term debt rating by one or more NRSROs.

COUNTY POOLED INVESTMENT FUNDS: The aggregate of all funds from public agencies placed in the custody of the county treasurer or chief finance officer for investment and reinvestment.

COUPON: The annual rate of interest that a bond's issuer promises to pay the bondholder, expressed as a percentage of the bond's face value.

CREDIT RISK: Credit risk is the likelihood that an issuer will be unable to make scheduled payments of interest or principal on an outstanding obligation.

CUSTODIAN: An agent such as a broker or a bank that stores a customer's investments for safekeeping. The custodian does not have fiduciary responsibilities.

DEALER: A dealer, as opposed to a broker, acts as a principal in security transactions, selling securities from, and buying securities for his/her own position.

DEFAULT: To default is to fail to repay principal or make timely interest payments on a bond or other debt investment security, or failure to fulfill the terms of a note or contract.

DELIVERY VERSUS PAYMENT (DVP): A securities industry procedure whereby payment for a security must be made at the time the security is delivered to the purchaser's agent.

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

DURATION: The weighted average time to maturity of a bond where the weights are the present values of future cash flows. Duration measures the price sensitivity of a bond to changes in interest rates.

FIDUCIARY: An individual who holds something in trust for another and bears liability for its safekeeping.

FLOATING RATE INVESTMENTS: Notes whose interest rate is adjusted according to the interest rates of other financial instruments. These instruments provide protection against rising or falling interest rates, but may pay lower yield than fixed rate notes.

FUTURES: Commodities, which are sold in the present time and are to be delivered at a future date.

INTEREST ONLY STRIPS: Securities with cash flow based entirely on the monthly interest payments received from a mortgage, Treasury, or bond payment. No principal is included in these types of securities.

INVERSE FLOATING RATE INVESTMENTS: Variable-rate notes (such as inverse floating rate notes) whose coupon and value increase as interest rates decrease.

INVESTMENT PROGRAM: The process of modern portfolio management. The process includes establishing investment policy, analysis of the economic and capital markets environment, portfolio monitoring and rebalancing, and measuring performance.

LIQUIDITY: The ease with which investments can be converted to cash at their present market value. Liquidity is significantly affected by the number of buyers and sellers trading a given security and the number of units of the security available for trading.

LOCAL AGENCY BONDS: These bonds are issued by a county, city, city and county, including a chartered city or county, school district, community college district, public district, county board of education, county superintendent of schools, or any public or municipal corporation.

LOCAL AGENCY INVESTMENT FUND (LAIF): A voluntary investment fund open to state and local government entities and certain non-profit organizations in California in which organization pools their funds for investment. LAIF is managed by the State Treasurer's Office.

MARKET RISK: Market risk is the risk that investments will change in value based on changes in general market prices.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract which includes provisions specific to the governmental agency that is signed by an authorized officer with each counterparty. A master agreement will often specify details to the nature of transactions, the relationship of the parties to the agreement, parameters pertaining to the ownership and custody of collateral, and remedies in the event of default by either party.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MEDIUM TERM NOTES (MTN): Unsecured, investment-grade senior debt securities of major corporations that are sold either on a continuous or an intermittent basis. MTNs are highly flexible debt instruments that can be structured to respond to

market opportunities or to investor preferences.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

MORTGAGE-BACKED SECURITIES: A debt instrument with a pool of real estate loans as the underlying collateral. The mortgage payments of the real estate assets are used to pay interest and principal on the bonds.

MORTGAGE PASS-THROUGH SECURITIES: A securitized participation in the interest and principal cash flows from a specified pool of mortgages. Principal and interest payments made on the mortgages are passed through to the holder of the security.

MUTUAL FUNDS: An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments.

Money market mutual funds invest exclusively in short-term (1-day to 1-year) debt obligations such as Treasury bills, certificates of deposit, and commercial paper. The principal objective is the preservation of capital and generation of current income.

NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO):

The formal term to describe a credit rating agency that is registered with the U.S. securities and exchange commission's office of credit ratings. Ratings provided by NRSROs are used frequently by investors and are used as benchmarks by federal and state agencies. Examples include Moody's, Standard and Poor's, and Fitch.

OFFER: The price asked by a seller of securities. See Ask Price and Bid Price.

OPTION: A contract that provides the right or obligation, depending on the buyer or seller's position within the contract, to buy or to sell a specific amount of a specific security within a predetermined time period at a specified price. A call option provides the right to buy the underlying security. A put option provides the right to sell the underlying security. The seller of the contracts is called the writer.

PORTFOLIO: A collection of securities held by an investor.

PRIMARY DEALER: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

PRINCIPAL ONLY STRIPS: Securities with cash flow based entirely on the principal payments received from an obligation.

RANGE NOTES: A range note is a bond that pays interest if a specified interest rate remains above or below a certain level and/or remains within a certain range.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or

its current market price.

REPURCHASE AGREEMENT (RP, Repo): A contractual transaction between an investor and an issuing financial institution (bank or securities dealer). The investor exchanges cash for temporary ownership or control of collateral securities, with an agreement between the parties that on a future date, the financial institution will repurchase the securities.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held by the bank in the customer's name.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SECURITIES AND EXCHANGE COMMISSION (SEC): A federal government agency comprised of five commissioners appointed by the President and approved by the Senate. The SEC was established to protect the individual investor from fraud and malpractice in the marketplace. The Commission oversees and regulates the activities of registered investment advisers, stock and bond markets, broker/dealers, and mutual funds.

STATE OBLIGATIONS: Registered treasury notes or bonds of the 50 United States, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the 50 United States.

STRIPS: Bonds, usually issued by the U.S. Treasury, whose two components, interest and repayment of principal, are separated and sold individually as zero-coupon bonds. Strips are an acronym for Separate Trading of Registered Interest and Principal of Securities.

SUPRANATIONALS: International financial institutions that are generally established by agreements among nations, with member nations contributing capital and participating in management. Supranational bonds finance economic and infrastructure development and support environmental protection, poverty reduction, and renewable energy around the globe.

TRUSTEE: An individual or organization, which holds or manages and invests assets for the benefit of another. The trustee is legally obliged to make all trust-related decisions with the trustee's interests in mind, and may be liable for damages in the event of not doing so.

U.S. AGENCY OBLIGATIONS: Federal agency or United States government-sponsored enterprise obligations (GSEs), participations, or other instruments. The obligations are issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. Issuers include: Fannie Mae, Farmer Mac, Federal Farm Credit Banks, Freddie Mac, Federal Home

Loan Banks, Financing Corporation, Tennessee Valley Authority, Resolution Trust Funding Corporation, World Bank, Inter-American Development Bank, and PEFCO.

U.S. TREASURY OBLIGATIONS (TREASURIES): Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk and are the benchmark for interest rates on all other securities in the U.S. and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.

Treasury Bills: All securities issued with initial maturities of one year or less are issued as discounted instruments, and are called Treasury Bills (T-bills). The Treasury currently issues 3-month and 6-month T-bills at regular weekly auctions. It also issues "cash management" bills as needed to smooth cash flows.

Treasury Notes: All securities issued with initial maturities of 2- to 10-years are called Treasury Notes (T-notes), and pay interest semi-annually.

Treasury Bonds: All securities issued with initial maturities greater than 10-years are called Treasury Bonds (T-bonds). Like Treasury Notes, they pay interest semi-annually.

WAL: Weighted Average Life: Is the weighted average time for principal repayment, that is, the average time it takes for every dollar of principal to be repaid. The time weights are based on the principal payments, i.e., the years with more principal payments will have a higher weight..

YIELD: The rate of annual income return on an investment, expressed as a percentage. Yield does not include capital gains.

Income Yield is obtained by dividing the current dollar income by the current market price for the security.

Net Yield or **Yield to Maturity** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

ZERO-COUPON BOND: A bond on which interest is not payable until maturity (or earlier redemption), but compounds periodically to accumulate to a stated maturity amount. Zero-coupon bonds are typically issued at a discount and repaid at par upon maturity.



CITY OF HAYWARD

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

File #: CONS 22-687

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

Adopt a Resolution Accepting Transmittal of the Annual Mitigation Fee Act Report (AB1600)

RECOMMENDATION

That Council adopts a resolution (Attachment II) accepting the annual Mitigation Fee Act (AB 1600) report prepared to satisfy Government Code Subsection 66006(b)(1).

SUMMARY

The AB 1600 (Cortese) portion of the Mitigation Fee Act applies to fees charged in connection with the approval of development projects to defray the cost of public facilities. AB 1600 was enacted by the State Legislature in 1987, and applies to developer fees established, increased, or imposed on or after January 1, 1989. This legislation requires an annual report on the status of all eligible fees pursuant to the Mitigation Act to satisfy Government Code Subsection 66006(b)(1) requirements. This staff report includes four primary requirements that the City must satisfy in order to comply with the Mitigation Fee Act, and the City's response for each requirement for the prior fiscal year.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Annual Report of Development Fees



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Adopt a Resolution Accepting Transmittal of the Annual Mitigation Fee Act Report (AB1600)

RECOMMENDATION

That Council adopts a resolution (Attachment II) accepting the annual Mitigation Fee Act (AB 1600) report prepared to satisfy Government Code Subsection 66006(b)(1).

SUMMARY

The AB 1600 (Cortese) portion of the Mitigation Fee Act applies to fees charged in connection with the approval of development projects to defray the cost of public facilities. AB 1600 was enacted by the State Legislature in 1987, and applies to developer fees established, increased, or imposed on or after January 1, 1989. This legislation requires an annual report on the status of all eligible fees pursuant to the Mitigation Act to satisfy Government Code Subsection 66006(b)(1) requirements. This staff report includes four primary requirements that the City must satisfy in order to comply with the Mitigation Fee Act, and the City's response for each requirement for the prior fiscal year.

BACKGROUND

It is common for local agencies to charge fees on new development to fund construction of capital facilities that will serve the development. The AB 1600 (Cortese) portion of the Mitigation Fee Act applies to fees charged in connection with the approval of development projects to defray the cost of public facilities. AB 1600 was enacted by the State Legislature in 1987, and applies to developer fees established, increased, or imposed on or after January 1, 1989. This legislation also requires an annual report on the status of all eligible fees pursuant to the Mitigation Act.

DISCUSSION

Below are the four primary requirements that the City must satisfy in order to comply with the Mitigation Fee Act, and the City's response for each requirement for the prior fiscal year.

1. Requirement: Make certain determinations regarding the purpose and use of a fee and establish a “nexus” or connection between a development project (or class of projects) and the public improvement being financed with the fee.

Response: For all projects requiring development fees subject to AB 1600, the City complies with this requirement by establishing a connection between the development and public improvements to be financed. This is accomplished through the established fee structure, which calculates the amount of public improvements required to be financed based on the type of development.

2. Requirement: Segregate fee revenue from the General Fund in order to avoid comingling of capital facilities fees and general funds.

Response: AB 1600 development fees are held in special deposit accounts outside of the General Fund and are therefore not comingled with other fees or funds.

3. Requirement: The City must make findings each fiscal year describing the continuing need for the money for all fees that have been in the possession of the City for five years or more, and for which the dollars have not been spent or committed to a project.

Response: Water and sewer connection fees are both nonrefundable. The fees collected are used to finance the acquisition, construction, and improvement of public water and sewer facilities needed because of this new development. The required nexus for the water and sewer connection fees are described more particularly in Attachment III to this report. On December 19, 2019 the City adopted updated park impact fees in accordance with the Mitigation and Quimby Acts, therefore there are no findings to report.

4. Requirement: Refund any fees, including accumulated interest, for developer deposits in which the findings noted above cannot be made.

Response: No refunds are required at this time.

The City has satisfied the Mitigation Fee Act requirements for FY 2022.

ECONOMIC IMPACT

Compliance with AB 1600 allows the City to hold development deposits for future improvements to the community to offset the impacts of these new developments.

FISCAL IMPACT

This is an informational report and includes no fiscal impact is associated with it. Attachment III provides a summary of the applicable fees pursuant to the Mitigation Act for FY 2022.

This report is prepared annually in compliance with Assembly Bill 1600 and allows the City to hold development deposits for future improvements to the community to offset the impacts of these new developments.

STRATEGIC ROADMAP

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

PUBLIC CONTACT

A public notice was published in The Daily Review on November 18, 2022, announcing the date, time, location, and subject matter of this report.

Prepared by: Marichu Maramba, Accounting Manager
Kaitlyn Byrne, Management Analyst I

Recommended by: Dustin Claussen, Director of Finance

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE REPORT AND ADOPTING FINDINGS RELATED
TO FEES COLLECTED FOR THE DEVELOPMENT PROJECTS SUBJECT TO THE
REQUIREMENTS OF THE MITIGATION FEE ACT

WHEREAS, Government Code section 66006, part of the Mitigation Fee Act, which is sometimes referred to as Assembly Bill 1600, requires the City to make findings each fiscal year describing the continuing need to retain fees collected from developers, but which remain unexpended and/or uncommitted after a period of five years; and

WHEREAS, The funds maintained for such period of time must be refunded if the requisite findings cannot be made; and

WHEREAS, The City has unexpended fees that it needs to retain for future expenditures.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby accepts the report of the Director of Finance dated December 6, 2022, including any attachments or exhibits thereto, and adopts the findings contained therein, a copy of which is attached to the staff report as Attachment III.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

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
Annual Report on Development Impact Fees, Per Government Code 66000
AB 1600 Statement

Sewer System Connection Charges and Fees

Municipal Code, Chapter 11, Article 3, Section 11-3.255 authorizes the City to assess connection fees to any customer (new or existing) who installs new or additional fixtures, processes, or equipment, or otherwise causes an increase in wastewater discharge into the City sewer. Residential users shall be assessed for each unit. Commercial, Industrial, Institutional and Other Users will be calculated in accordance with the number of gallons of daily capacity required to serve the customers and the pounds per year of carbonaceous biochemical oxygen demand and suspended solids.

<https://www.hayward-ca.gov/your-government/documents/master-fee-schedule>

Beginning Balance, 7/1/2021 **\$ 31,554,044**

REVENUES

Fees	4,897,975
Intergovernmental	41,879
Interest income	(619,811)
Miscellaneous	1,089,205
Total revenues	5,409,248

EXPENDITURES

Recycled Water Treatment and Distribution Facilities (07507)	16,465
Sludge Screening (07567)	2,190,978
Radio Telemetry and Transducer replacement (07119)	6,990
WPCF Headworks Channel Actuators (07714)	114,811
Trash capture implementation (07746)	70,796
Co-Generation System Maintenance Contract (07679)	85,339
WPCF Laboratory equipment replacement (07783)	89,945
Sewer Main Install 880/WILLIMET (07717)	159,890
GIS conversion/migration (07514)	6,000
Transfer out	3,998,314
Total Expenditures	6,739,528
Excess of revenues over/(under) expenditures	(1,330,280)

Ending balance, 6/30/22 **\$ 30,223,764**

Note:

Transfer out in the amount of \$1,747,314 was for debt service payments to fund Solar project and WPCF Improvement project Phase I.

Transfer out in the amount of \$2,251,000 was for capital projects.

**Percent
Financed with
Fees**

	26%
	100
	100
	100
	100
	0
	0
	100
	100
	100

City of Hayward
Annual Report on Development Impact Fees, Per Government Code 66000
AB 1600 Statement

Water System Facilities Fees

Municipal Code, Chapter 11, Article 2, Section 11-2.05 authorizes the City to impose a Water System Facilities Fee upon every applicant for a new water service. The facilities fee will be based on the water meter size.

<https://www.hayward-ca.gov/your-government/documents/master-fee-schedule>

Beginning Balance, 7/1/2021 **\$ 45,043,069**

REVENUES

Fees	5,483,173
Intergovernmental	61,428
Interest income	(981,418)
Miscellaneous	(190,298)
Total revenues	4,372,885

EXPENDITURES

Transfer out	535,128
Radio Telemetry & Transducer Replacement (07119)	8,282
D Street/Treeview/Maitland reservoir water quality pump upgrade (07108)	730
New .75 MG Tank - Garin reservoir (07183)	14,627
Groundwater Sustainability plan imp (07191)	320,759
GIS data development & conversion (07177)	6,000
Groundwater Management Plan (07021)	1,739
System seismic upgrades (07136)	37,520
Water office improvements (07139)	12,464
Total Expenditures	937,249
Excess of revenues over/(under) expenditures	3,435,636
Ending balance, 6/30/22	\$ 48,478,705

**Percent Financed
with Fees**

	0
	100
	100
	0
	100
	100
	100
	100
	100
	0

Notes:

Transfer out in the amount of \$265,000 was for capital projects.

Transfer out in the amount of \$270,128 was for debt service payments to fund Recycled Water project.

City of Hayward
Annual Report on Development Impact Fees, Per Government Code 66000
AB 1600 Statement
Park-in-Lieu Fees

Municipal Code, Chapter 10, Article 16, Section 10-16.20 authorizes the City to impose a Park Impact Fee upon park and recreational facilities. The fee shall not exceed the cost to the City mitigating the impact of such development on park and recreational facilities in the City.

<https://www.hayward-ca.gov/your-government/documents/master-fee-schedule>

Beginning Balance, 7/1/2021	\$	1,663,964	
REVENUES			
Fees - mitigation act		241,808	
Fees - quimby act		2,085,005	
Interest income		-	
Miscellaneous		-	
Total revenues		2,326,813	
			Percent Financed with Fees
EXPENDITURES			
Total Expenditures		-	
Excess of revenues over/(under) expenditures		2,326,813	
Ending balance, 6/30/22	\$	3,990,777	



CITY OF HAYWARD

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

File #: CONS 22-698

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT

Adopt a Resolution Authorizing the City Manager to Execute a Letter of Intent with the Alameda County Fire Department to Negotiate the Terms of a Proposal for Ambulance Services and/or Emergency Medical Services in Alameda County

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to execute a letter of intent with the Alameda County Fire Department to negotiate the terms of a proposal for ambulance services and/or emergency medical services in Alameda County.

SUMMARY

ACFD recently released a Request for Proposals ("RFP") for private ambulance providers in order to develop a proposal that would be submitted to Alameda County in the summer of 2023 as a competitive bid for ambulance services in the County. Cities and Fire Departments within Alameda County have an opportunity to come together in negotiations with ACFD to refine this proposal and the terms and conditions of City participation in the model.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Draft Letter of Intent



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute a Letter of Intent with the Alameda County Fire Department to Negotiate the Terms of a Proposal for Ambulance Services and/or Emergency Medical Services in Alameda County

RECOMMENDATION

That the Council adopts a resolution (Attachment I) authorizing the City Manager to execute a letter of intent with the Alameda County Fire Department to negotiate the terms of a proposal for ambulance services and/or emergency medical services in Alameda County.

SUMMARY

ACFD recently released a Request for Proposals (“RFP”) for private ambulance providers in order to develop a proposal that would be submitted to Alameda County in the summer of 2023 as a competitive bid for ambulance services in the County. Cities and Fire Departments within Alameda County have an opportunity to come together in negotiations with ACFD to refine this proposal and the terms and conditions of City participation in the model.

BACKGROUND

Currently, in Alameda County, 911 ambulance transport is provided in two ways: 1) by City fire departments that maintain “201” rights¹ to provide ambulance transport (Berkeley, Albany, Piedmont, and Alameda); or 2) through a contract between the Alameda County Emergency Medical Services (EMS) Agency and a private ambulance provider (for the Cities of Oakland, Fremont, Hayward, Livermore, Pleasanton, and the contract cities of ACFD (Union City, San Leandro, Dublin)). This model has had varying levels of success and has struggled at times with financial viability over the years it has been in operation.

In April 2019, after concerns about the financial and operational viability of the private ambulance provider model arose, the Alameda County Board of Supervisors convened an

¹ “201” Rights – <http://emsaac.org/images/stories/2017-08-14 EMSAAC Position Paper Grandfathering and Exclusivity.pdf>

Emergency Medical Services (EMS) re-design Task Force (“Task Force”) that was chaired by Hayward Fire Chief Garrett Contreras and EMS Agency Interim Director Anne Kronenburg. The Task Force evaluated these issues for over 18 months and had representatives from cities impacted by the Exclusive Operating Area (EOA) ambulance contract as well as hospitals, special districts, and long-term care facilities. The Task Force ultimately expressed overarching support for development of a Fire Based EMS delivery system, as explained further below.

The current contracted ambulance provider for Alameda County is Falck Ambulance. Falck has had the contract with Alameda County EMS Agency since July 1, 2019. For a variety of reasons (many of which were evaluated by the EMS re-design task force), Falck has struggled to meet contractual obligations, primarily related to ambulance response and transport times, at multiple points during the contract term. Falck was out of compliance in October, November, and December of 2021. The County placed Falck on a monitored performance improvement plan that included many factors to bring them into compliance. The Board of Supervisors has received information about these contract compliance issues during regular meetings and these issues have also been reported in the media².

In October of 2021, at the monthly Alameda County Fire Chiefs Association meeting, Falck, with the support of EMS Agency staff, asked the Fire Chiefs for help in the form of staffing ambulances with Fire Agency Paramedics. As a result, Fire Chiefs within the County, in partnership with ACFD and local firefighter unions, have been working together for approximately one year to bring to fruition the recommendations of the EMS Re-design Task Force. While Falck has supported partnerships that would make the system solvent within Alameda County, it is unknown whether they will bid on the new County contract or partner with ACFD on the new model. This new model would generally look similar to the model in Contra Costa County, whereby the County Fire Department contracts with a private ambulance provider (not yet identified) to provide primary response service to cities within the County. Surge capacity units would be provided by City Fire Departments on an as needed basis dependent on predicted call volumes. This model would be more financially viable than the current “private provider only” model because cost recovery rates for public entities are higher (statutorily) than for private providers.

ACFD recently released a Request for Proposals (“RFP”) for private ambulance providers in order to develop a proposal that would be submitted to Alameda County in the summer of 2023 as a competitive bid for ambulance services in the County. Cities and Fire Departments within Alameda County have an opportunity to come together in negotiations with ACFD to refine this proposal and the terms and conditions of City participation in the model.

DISCUSSION

In order to submit a competitive bid, in partnership with ACFD, in response to Alameda County’s ambulance RFP in the summer of 2023, the Fire Chiefs within the County

² [911 response times from Falck in Alameda County are 'a mess,' patients transported on fire engines - ABC7 San Francisco \(abc7news.com\)](https://www.abc7news.com/news/911-response-times-falck-alameda-county-a-mess-patients-transported-fire-engines-107777777/)

recommend that the Cities of Oakland, Hayward, Fremont, and Livermore/Pleasanton (represented by their Fire Department JPA) execute a letter of intent with ACFD. The Letter of Intent contemplated in this report will enable the City of Hayward and the Hayward Fire Department to enter into negotiations with the Alameda County Fire Department to develop the commitments and obligations of each City fire department in the model described in the Background section above. The key elements of these negotiations will include, but will not be limited to:

1. Development of the Countywide ambulance deployment model to be proposed in response to the County EMS Agency RFP, including identification of alternate transport locations
2. ACFD's plan for deploying ambulances within the Exclusive Operating Area (EOA), including system status management strategies and ambulance numbers, types, response times, and posting locations; this may include whether, to what extent, and on what terms, City of Hayward will provide ambulance services as an ACFD subcontractor
3. The extent to which ACFD and City of Hayward will provide cross-jurisdictional automatic and mutual aid for FRALS and/or ambulance services
4. In kind contributions of and/or access to facilities necessary to implement the deployment model, e.g. locating ACFD's or its subcontractors' ambulance units within the City of Hayward and associated fees
5. Staffing obligations and/or requirements of City fire departments
6. Shared use of technology, including access and sharing of data across the agencies
7. Cost Recovery - Amounts and mechanisms for ACFD to recover City of Hayward costs from payors, including administration fees to be charged by ACFD

ACFD is proceeding with this model and intends to submit a proposal in response to the County RFP for ambulance services in the summer of 2023. If the cities do not engage in these negotiations, there would be limited city input into the proposal and the terms and conditions of this model would be dictated exclusively by ACFD and their proposal. If negotiations are unsuccessful, there would be no obligation for a city to participate in the ultimate proposal, and the Alameda County EMS Agency would still be obligated to provide 911 ambulance response services to that community. However, the current service concerns and response time delays would likely continue.

The current milestones for this process looks like:

November 10, 2022: Proposals due for private partner with ACFD to submit for Countywide Ambulance proposal

December 2022/January 2023: City Councils authorize execution of letters of intent

January 2023: Countywide Ambulance RFP* released

April/May 2023: Countywide Ambulance proposals (including possible ACFD partnership) due*; State approval required prior to BOS award of contract

June/July 2023: Countywide Ambulance award of contract*

*** All County RFP dates are subject to change**

FISCAL IMPACT

At this stage of the process, there are no fiscal impacts other than the staff time needed to negotiate with the Alameda County Fire Department. Those negotiations will determine the ultimate fiscal, in kind, and/or staffing implications of the proposal for ambulance services. Once this proposal has been finalized, staff will share details of the proposal with the City Council and request authorization to enter into a formal MOU or other agreement with ACFD.

NEXT STEPS

If approved and authorized by Council, the City Manager will execute the Letter of Intent, and staff will begin negotiations with the Alameda County Fire Department on the terms of the proposal to be submitted to the County in response to the upcoming ambulance RFP. Once this proposal has been finalized, staff will share details of the proposal with the City Council and request authorization to enter into a formal MOU or other agreement with ACFD.

Prepared and Recommended by:

Garrett Contreras, Fire Chief

Approved by:



Kelly McAadoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF INTENT WITH THE ALAMEDA COUNTY FIRE DEPARTMENT TO NEGOTIATE THE TERMS OF A PROPOSAL FOR AMBULANCE SERVICES AND/OR EMERGENCY MEDICAL SERVICES IN ALAMEDA COUNTY

WHEREAS, in April 2019 after concerns about the financial and operational viability of the private ambulance provider model, the Alameda County Board of Supervisors convened an Emergency Medical Services (“EMS”) re-design Task Force (“Task Force”); and

WHEREAS, the Task Force ultimately expressed overarching support for development of a Fire Based EMS delivery system; and

WHEREAS, the Alameda County Fire Department is developing an ambulance service proposal in response to the upcoming Request for Proposals that will be issued by Alameda County in the spring of 2023; and

WHEREAS, the Alameda County Fire Department wishes to partner with other Fire Departments within Alameda County to develop a new partnership model for ambulance services that will address current issues with response times and financial feasibility; and

WHEREAS, upon finalizing the partnership model, staff will return to Council and present further details regarding the City of Hayward’s obligations and commitments under this new model.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Hayward that the City Manager is authorized to execute a Letter of Intent with the Alameda County Fire Department to negotiate the terms and conditions of a partnership model in response to the upcoming Request for Proposals that will be issued by Alameda County in the spring of 2023.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTESTED: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

LETTER OF INTENT BETWEEN
THE ALAMEDA COUNTY FIRE DEPARTMENT AND CITY OF HAYWARD

This Letter of Intent (“LOI”) is made and entered into as of the Effective Date set forth below, by and between the Alameda County Fire Department (“ACFD”) and City of Hayward (each, a “Party” and collectively, the “Parties”).

This LOI is made with reference to the following facts and circumstances:

- A. The County of Alameda (“County”) has tentatively scheduled for release in February 2023, a request for proposals for emergency ambulance services and/or emergency medical services (“EMS”) within County’s exclusive operating area (“EOA”) with service to begin July 1, 2024 (the “Solicitation”).
- B. ACFD intends to submit a proposal (“the Proposal”) in response to the Solicitation (.
- C. The Parties are engaged in informational discussions regarding the Proposal, as well as opportunities in connection with the Solicitation, the Proposal, and any resulting contract between County and ACFD, including but not limited to first response advanced life support (“FRALS”) services.
- D. The Parties have determined that working collectively and leveraging their diverse capabilities will enable ACFD to develop a competitive Proposal that meets or exceeds the Solicitation’s requirements, which neither of the Parties could accomplish on their own.

ACCORDINGLY, the Parties agree as follows:

- 1. ACFD’s Roles and Responsibilities. ACFD agrees to the following roles and responsibilities under this LOI:
 - a. Proposal Development. ACFD shall plan, develop, draft, and submit to County, the Proposal in accordance with the Solicitation’s specifications and requirements and applicable laws and regulations.
 - b. Consultation and Negotiations. ACFD shall consult and negotiate with City of Hayward regarding the extent of City of Hayward participation in ACFD’s Proposal and resulting contract with County, if any, as ACFD’s subcontractor for related services, as well as the terms and conditions of any subcontracting arrangement between the Parties.
- 2. City of Hayward’s Roles and Responsibilities. City of Hayward agrees to the following roles and responsibilities under this LOI:
 - a. Proposal Development. City of Hayward shall assist, as reasonably requested, ACFD to plan, develop, draft, and submit to County, the Proposal in accordance with the Solicitation’s specifications and requirements and applicable laws and regulations.

- b. Consultation and Negotiations. City of Hayward shall consult and negotiate with ACFD regarding the extent of City of Hayward participation in ACFD's Proposal and resulting contract with County, if any, as ACFD's subcontractor for related services, as well as the terms and conditions of any subcontracting arrangement between the Parties.
 - c. Cooperation with ACFD Subcontractors and Consultants. City of Hayward shall cooperate with subcontractors and consultants retained by ACFD to assist with the development of the Proposal and negotiation of a resulting contract with County, if any.
- 3. Subjects for Consultation and Negotiations. The subjects that the Parties shall consult on, and negotiate over, include but are not limited to the following:
 - a. Service Integration. The integration of FRALS and ambulance services into a unified incident response system within the EOA.
 - b. FRALS. City of Hayward's provision of FRALS and associated fees.
 - c. Ambulance Stations. Locating ACFD's or its subcontractors' ambulance units within City of Hayward and associated fees.
 - d. Ambulance Deployment Plan. ACFD's plan for deploying ambulances within the EOA, including system status management strategies and ambulance numbers, types, response times, and posting locations.
 - e. City of Hayward's Provision of Ambulance Services. Whether, to what extent, and on what terms, City of Hayward will provide ambulance services as an ACFD subcontractor.
 - f. Automatic and Mutual Aid. The extent to which ACFD and City of Hayward will provide cross-jurisdictional automatic and mutual aid for FRALS and/or ambulance services.
 - g. Cost Recovery. Amounts and mechanisms for ACFD to recover City of Hayward's costs from payors, including administration fees to be charged by ACFD.
 - h. Personnel Matters. Relations between, and usage of, the firefighter and EMS personnel employed by ACFD, its subcontractors, and/or City of Hayward.
- 4. No Obligation to Contract. This LOI shall not be construed as creating any legal obligation for any Party or their consultants, subcontractors, and agents to proceed with or enter into any transaction or agreement.
- 5. No Financial Obligation. This LOI does not obligate either party financially; it merely serves as a basis to identify the level of interest regarding the development

and participation in ACFD's Proposal and resulting contract with County, if any, as ACFD's subcontractor for related services, as well as the terms and conditions of any subcontracting arrangement between the Parties.

6. Effective Date and Term.

- a. The "Effective Date" of this LOI shall be the date of the last Party signature.
- b. This LOI shall remain in effect through July 1, 2024, or the date when ACFD implements services under a contract with County for emergency ambulance services, whichever is later.

7. Termination. Either Party may terminate its participation in this LOI by providing 30 days' advance written notice of its termination to the other Party.

8. Independent Contractor Status It is understood and agreed that the Parties shall perform as independent contractors under this LOI and in respect to their relationships with each other and that they are not and shall not be deemed an employee, officer, or agent of the other Parties. It is further understood and agreed that the Parties, their officers, agents, and employees shall in no event be entitled to any benefits to which the employees of the other Parties are entitled, including, but not limited to, overtime, retirement, worker's compensation, and leave benefits.

9. Jurisdiction and Venue. The laws of the State of California shall govern the interpretation and performance of this LOI. Venue for any litigation relating to the formation, interpretation or performance of this LOI shall be in Alameda County.

10. Modification. This LOI may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this LOI.

11. Notice.

- a. Any notices required hereunder shall be given, in writing, as follows:

If to ACFD, to:

William McDonald, Fire Chief
Alameda County Fire Department
Administration Office
6363 Clark Ave, Dublin CA 94568
Phone: 510-632-3473 or 925-833-3437
william.mcdonald@acgov.org

If to City of Hayward, to:

To the City: Attn: Kelly McAdoo, City Manager
City of Hayward

777 B Street, 4th Floor
Hayward, CA 94541-5007

- b. Notices shall be deemed given when received if by facsimile or by electronic means (if a record of receipt is kept by the sending party showing the date and time of receipt) or three (3) days following deposit in the United States Mail, postage prepaid, to the addressees set forth in subsection (a) above.
12. Authority to Execute. The individuals executing this LOI represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.
13. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this LOI:

**ALAMEDA COUNTY FIRE
DEPARTMENT**

CITY OF HAYWARD

William McDonald, Fire Chief

Garrett Contreras, Fire Chief Date

Date

Kelly McAdoo, City Manager Date

Attest:_____
Miriam Lens, City Clerk Date

Approved as to form:

Approved as to Form and Procedure:

Counsel for Alameda County Fire Department

Michael S. Lawson, City Attorney, City of
Hayward



CITY OF HAYWARD

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

File #: PH 22-065

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT

Density Bonus Ordinance: Introduce an Ordinance Related to Text Amendments to Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Adoption and Updates to the City's Density Bonus Ordinance and Adopt a Resolution Supporting the Proposed Zoning Text Amendments and Approving an Addendum to the Hayward 2040 General Plan Environmental Impact Report for the Administration of a New Density Bonus Program in the City of Hayward

RECOMMENDATION

That the Council adopts a resolution (Attachment II) supporting the proposed Text Amendments to Chapter 10, Article 17 and Article 19, of the Hayward Municipal Code for the adoption and updates to the City's Density Bonus Ordinance, including an Addendum to the Hayward 2040 General Plan (Attachment IV) and introduces an Ordinance for Zoning Text Amendments to Chapter 10, Planning, Zoning and Subdivisions (Attachment III) of the Hayward Municipal Code regulating development seeking a Density Bonus.

SUMMARY

The City's existing Density Bonus Ordinance, adopted in 2005, does not conform with current State law. The current State law, which is required to be implemented by local jurisdictions, offers more density, more incentives, and additional relaxed parking requirements to projects that qualify for the density bonus. While the State's Density Bonus formula takes precedence, the City can change the formula to offer a higher density bonus and more incentives for certain projects, but under no circumstances can the City offer smaller density bonuses or fewer incentives than the State formula mandates. Staff is proposing to update the City's Density Bonus Ordinance to reflect four main changes:

1. Exceed the State's Density Bonus Maximum by 5% for all density bonus projects that provide on-site affordable units;
2. Exceed the State's Density Bonus Maximum by 10% for projects that provide on-site affordable units and target special populations;
3. Increase the number of incentives/concessions for projects that exceed the minimum on-site affordable housing requirements under the City's Affordable Housing Ordinance (AHO) in order to

- encourage development of more affordable units; and
4. Streamline the review of Density Bonus applications to allow new applications to be considered by the highest approving body.

These recommendations are based on previous feedback provided by the Council, Planning Commission, and the City's Homelessness Housing Task Force (HHTF). Staff is proposing to streamline the review of Density Bonus applications and is working on a policy for fee deferrals to offset upfront costs associated with affordable housing construction to help overall project feasibility. Staff believes that the recommended updates to the City's Density Bonus Ordinance will further incentivize affordable housing production and promote housing for several target populations as identified in the recently completed Displacement Study.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution Text Amendments
Attachment III	Ordinance Text Amendments
Attachment IV	CEQA Addendum Hayward 2040 General Plan
Attachment V	Recommendations Not Included with the Density Bonus Ordinance
Attachment VI	Stakeholder Interview Comments
Attachment VII	Draft Planning Commission Minutes of 11/10/22



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT: Density Bonus Ordinance: Introduce an Ordinance Related to Text Amendments to Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code for the Adoption and Updates to the City's Density Bonus Ordinance and Adopt a Resolution Supporting the Proposed Zoning Text Amendments and Approving an Addendum to the Hayward 2040 General Plan Environmental Impact Report for the Administration of a New Density Bonus Program in the City of Hayward

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These recommendations are based on previous feedback provided by the Council, Planning Commission, and the City's Homelessness Housing Task Force (HHTF). Staff is proposing to streamline the review of Density Bonus applications and is working on a policy for fee deferrals to offset upfront costs associated with affordable housing construction to help overall project feasibility. Staff believes that the recommended updates to the City's Density Bonus Ordinance will further incentivize affordable housing production and promote housing for several target populations as identified in the recently completed Displacement Study.

BACKGROUND

As mentioned above, the City's existing Density Bonus Ordinance¹ adopted in 2005 does not conform with current State law. As part of this project, the current Density Bonus Ordinance, contained in Chapter 10, Article 19 of the Hayward Municipal Code, will need to be repealed and replaced with a new Density Bonus Ordinance that, at minimum, complies with State guidelines and reflects the direction previously provided by Council that includes additional bonuses and concessions specific to Hayward. Additional details on the State's density bonus laws and the feedback received from the Council, Planning Commission, and HHTF are included below.

Summary of State Density Bonus

The Density Bonus Law² is about creating a package of incentives intended to help make the development of affordable and other special needs housing economically feasible. The main incentives include permitting a density increase beyond the local limits, providing incentives or concessions that reduce development costs, and waiving development standards that prohibit development at the approved density. Cities are required to grant a density bonus and other incentives and/or concessions to projects which contain one of the following:

- At least 5% of the housing units are restricted to very-low-income residents.
- At least 10% of the housing units are restricted to low-income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate-income residents.
- 100% of the housing units (other than manager's units) are restricted to very-low, low, and moderate-income residents (with a maximum of 20% moderate-income).
- At least 10% of the housing units are for transitional foster youth, disabled veterans, or unhoused individuals, with rents restricted at the very-low-income level.
- At least 20% of the housing units are for low-income college students in housing dedicated for full-time students at accredited colleges.

¹ Existing Density Bonus Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART19DEB00R

² Meyers Nave Guide to California Density Bonus Law:

<https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law-2022.pdf>

- The project donates at least one acre of land to the city or county for very-low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- The project is a senior citizen housing development (no affordable units required).
- The project is a mobile home park, age-restricted to senior citizens (no affordable units required).

Projects that exceed the minimum requirements can get a higher density bonus and are eligible for additional incentives/concessions and waivers.

Joint City Council and Planning Commission Work Session. On February 1, 2022³, the Council and Planning Commission held a Joint Work Session to review and discuss the updates to the City's Density Bonus Ordinance for compliance with the State Density Bonus Laws and Residential Objective Standards. The Council and Planning Commission indicated support for:

- Creating an ordinance that is flexible enough to accommodate future changes by citing State law instead of codifying the full state legislation.
- Aligning the density bonus approval process with the standard entitlement process to streamline housing permitting.
- Offering incentives above what State law offers.
- Tailoring the Ordinance to meet Hayward's housing needs.
- Pre-defining approved incentives/concessions.

Based on the feedback from the Council and Planning Commission staff has developed a draft Ordinance that reflects changes in State law as well as streamlines the review of Density Bonus applications.

Some of the priorities identified by the Council and Planning Commission will be useful when negotiating community benefits related to some land use entitlements (Planned Development rezonings or General Plan Amendments). In some cases, the priorities identified increase development costs instead of decreasing them and therefore are not relevant to the density bonus. Details about the development priorities which are not included in the discussion of the density bonus project are included in Attachment V.

Homelessness Housing Task Force. On June 29, 2022⁴, the HHTF held a work session to review several options proposed by staff related to updates to the City's Density Bonus Ordinance. In general, the HHTF supported incentives for certain target populations (senior housing, student housing, and family housing), supported incentives for universal design, and supported additional concessions/incentives to help make projects more feasible.

In response to HHTF feedback, staff refined the recommendations and streamlined the proposed Ordinance to allow applicants more flexibility in obtaining these incentives and help

³ February 1, 2022, Joint Session Staff Report and Attachments

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5397460&GUID=B175606F-4591-4D2E-B41A-328BD292B038&Options=&Search=>

⁴ June 29, 2022, Homelessness Housing Task Force

<https://hayward.legistar.com/MeetingDetail.aspx?ID=984031&GUID=DE1B9C86-30F8-45F0-AF24-276EF93176B6&Options=info|&Search=>

administration of the density bonus program be more efficient for staff. Additional analysis of these components is detailed in the Discussion section below.

City Council Work Session. On October 18, 2022⁵, the Council held a work session to review staff's recommended updates to the Density Bonus Ordinance (as detailed in the Discussion section below). Council expressed overall support for proposed updates but highlighted their concern for granting any additional concessions that further reduce parking requirements beyond what the State already allows and highlighted the need for additional teacher and faculty housing. In response to Council feedback, staff has detailed the options to support additional teacher/faculty housing and included more details about the parking requirements in the sections below.

Teacher/Faculty Density Bonus. As previously described, the Council expressed a desire to include teachers or school faculty as a target population to assist those individuals with additional housing options. Although City staff is not proposing to provide specific incentives for teachers or school faculty as part of this Density Bonus project, new State legislation (AB2295), effective January 2024, will make it easier for school districts to build affordable housing for their teachers and staff. Specifically, AB2295 will allow staff housing to be built on any property owned by a school district without requiring the district to request zoning changes from city or county officials if the housing development satisfies certain conditions, including other local objective zoning standards, objective subdivision standards, and objective design review standards. The legislation deems a housing development that meets these requirements consistent, compliant, and in conformity with local development standards, zoning codes or maps, and the general plan. In addition, the legislation exempts a housing development project subject to these provisions from various requirements regarding the disposal of surplus land. Currently most of the school district property in the City of Hayward is zoned for residential uses and could accommodate new housing units but contain a Public Quasi-Public General Plan land use designation, which does not allow for residential uses.

In October 2022, the Hayward Unified School District sent a Notice to the City and other interested stakeholders announcing the potential sale or lease of eight (8) district owned properties, which are currently located in zoning districts that allow for residential uses, but contain a Public Quasi-Public (PQP) General Plan land use designations. Per AB2295, each of these properties could be developed for additional teacher, faculty, or affordable housing without a General Plan Amendment so long as the project complies with certain conditions, detailed in the legislation. Until such time as new faculty or teacher housing is built on school district property, staff will continue to promote all other affordable housing available to teachers and school faculty.

Density Bonus Parking Requirement. As noted earlier, the Council expressed concern with additional reductions to the amount of parking required to qualify for density bonuses. California Government Code Section 65915(p) establishes certain maximum parking ratios for density bonus projects. A project that meets the applicable ratio under the Government

⁵ City Council Work Session 10.18.22

<https://hayward.legistar.com/MeetingDetail.aspx?ID=999763&GUID=DEF02F36-948B-42C3-A6D3-BDC6F5E6BA08&Options=info&Search=>

Code may take advantage of the ratio without using a concession or waiver. If a project requires a further reduction in parking standards from what the local agency otherwise requires, then that further reduction must be sought as a concession or waiver.

The reduced parking standard generally applies to projects that are 100% affordable and/or located near a major transit stop. In the event an applicant is requesting to provide fewer spaces than State law allows, the request would qualify as an incentive or concession and the applicant would be required to provide reasonable documentation to demonstrate that the request qualifies per State law. While the City is somewhat limited in rejecting these requests, staff has included a requirement in the draft Ordinance that requires the applicant provide a Transportation Demand Management (TDM) plan to help reduce parking demand. To date, the City has not received any requests or approved any additional parking reductions beyond what the State already allows as part of a density bonus project and in fact many of the recently approved Density Bonus projects, including the Maple and Main, have proposed parking that meets or exceeds the City's Off-Street Parking Regulations in order to meet resident needs.

In the event the Council would like to impose a higher parking requirement, State law does allow cities to require a higher parking ratio for certain housing projects *if* the higher parking ratio is supported by a specific parking study that demonstrates a higher parking requirement is necessary. As previously mentioned, staff is currently working with a transportation consultant to complete a parking analysis as part of the Residential Design Study and expects that analysis to be completed in early 2023. Once completed, staff plans to schedule work session(s) with the Planning Commission and Council to present those findings and discuss next steps.

Planning Commission Work Session. On November 10, 2022, the Planning Commission held a work session to discuss and provide feedback to Council on the proposed Density Bonus Ordinance revisions. The Planning Commission was generally supportive of the proposed revisions including the flexibility that the Ordinance would provide to developers to ensure feasibility of residential development projects providing affordable units. The Planning Commission requested clarification from staff at the meeting on the increased density bonus above the requirements in State law, the applicable parking ratios, and requested additional policy clarification on how fee deferrals and fee waivers would be applied. The Planning Commission also recommended that staff compare the proposed Ordinance to other jurisdictions and routinely monitor the City's program to ensure the City remains competitive with surrounding jurisdictions and is meeting the City's goal to produce more on-site affordable units. When developing the draft Ordinance, City staff and the City's consultant did review Density Bonus Ordinances from other jurisdictions and confirmed that most cities defaulted to the State's Density Bonus law without providing any additional density bonus increases, concessions, or incentives. Following feedback from the Council, HHTF, and Planning Commission, staff believes the additional density increases proposed by the Hayward program will further incentivize housing production and result in an increase in the number of on-site units provided.

DISCUSSION

Based on the feedback from the Council, Planning Commission, and HHTF, staff is proposing four main changes from the City's existing Density Bonus Ordinance that will provide additional cost saving incentives that could increase the percentage of on-site affordable housing and/or deepen the level of affordability of affordable units included in density bonus projects. Staff believes that the recommended density bonus increases in excess of the State's requirements, coupled with the potential for additional incentives/concessions will encourage the development of on-site affordable units in the City, streamline the review of applications, and help incentivize construction of housing in Hayward. The proposed Density Bonus Ordinance is included as Attachment III and summarized in Table 1 below.

Table 1: Existing State Density Bonus vs. Proposed Hayward Density Bonus Summary

Target Population Served	State Required Restricted Affordable Units	State Maximum Density Bonus	Hayward Maximum Density	Hayward Maximum Density Increase for Special Targeting
Very Low Income	15%	50%	55%	60%
Low Income	24%	50%	55%	60%
Moderate Income	44%	50%	55%	60%
Foster Youth/Disabled Veterans/Unhoused Individuals	10% restricted at very low Income	20%	25%	30% (15% restricted at very low income)
College Students	20% Low-Income Student	35%	40%	45% (25% restricted low-income students)

Additional Density Bonus for On-Site Affordable Units

As shown in Table 1, staff is recommending a 5% density bonus increase over the maximum density bonus for projects that provide on-site affordable units and meet the State's criteria. Not only will this option support the construction of additional housing to assist the City in meeting its Regional Housing Needs Assessment (RHNA) requirement but will also create additional affordable units throughout the City, which is essential given the ongoing housing crisis throughout the State.

Additional Density Bonus for Special Target Populations

Staff is also recommending an additional density bonus for projects that both meet the State's criteria for a maximum density bonus and target special needs populations. The State Density Bonus Law currently incentivizes the development of senior housing, student housing, and housing for foster youth, disabled veterans, and unhoused individuals by allowing a 20 to 35 percent increase in density and, in some cases, without inclusion of any affordable housing.

Based on feedback from the Council, Planning Commission, and HHTF, direction was provided to create additional density bonuses for housing that accommodate certain target populations, including the following:

- Rental projects that provide more than 20% of the rental units for large families (3+ bedrooms).
- Projects that incorporate Universal Design features in more than 20% of the units.
- Senior housing projects as defined by Government Code Section 65915, as it may be modified from time to time.
- College student housing projects as defined by Government Code Section 65915, as it may be modified from time to time.
- Projects with units set-aside for foster youth, disabled veterans, or individuals experiencing homelessness as defined by Government Code Section 65915, as it may be modified from time to time.

The feedback received is also consistent with the findings of the Displacement Study⁶, which identified a need for additional housing for certain populations. To further incentivize the construction of housing for these target populations, staff is recommending an additional 5% increase, in addition to the 5% baseline increase, for a 10% total density bonus increase for projects that serve these populations, which would be over and above the State's maximum. Staff does not recommend increasing the density bonus to encourage the development of affordable senior housing units instead of market rate senior projects. The recommended density bonus increases for Special Target Populations are shown in Table 1 above and detailed in Attachment III.

Increase the Number of Incentives/Concessions for On-Site Affordable Units

In addition to the recommended increases in Density Bonus for projects that provide on-site affordable units, staff is also recommending projects receive an additional incentive or concession to help project feasibility as shown in Table 2 below.

Table 2: Existing State vs. Proposed Hayward Incentives/Concessions

No. of Incentives/ Concessions Required by State	Proposed No. of Incentives/ Concessions	Percentage of VLI Units	Percentage of LI Units	Percentage of MI Units
1	1*	5%	10%	10%
2	3	10%	17%	20%
3	4	15%	24%	30%
4	5	100% (LI/VLI) or 100% (MI 20% /LI 80%)		

*The first tier is not increased because compliance with the Affordable Housing Ordinance's on-site affordable housing requirement make the project eligible for one incentive/concession.

Per current State law, cities are required to provide one or more incentives or concessions to each project which qualifies for a density bonus (except for market rate senior projects with no affordable units, and land donated for very-low-income housing). A concession or incentive is defined as:

⁶ Displacement Study:

<https://www.hayward-ca.gov/sites/default/files/documents/Hayward-Displacement-Study-w-Appendix.pdf#:~:text=The%20City%20of%20Hayward%20Displacement%20Study%20provides%20a,analysis%2C%20the%20study%20compares%20Alameda%20County%20and%20Hayward.>

- A reduction of site development standards or a modification of zoning code or architectural design requirements, such as a reduction of minimum square footage requirements;
- approval of mixed-use zoning; or
- other regulatory incentives or concessions which result in identifiable and actual cost reductions.

The number of required incentives/concessions is based on the percentage of affordable units. The City is required to grant the incentives/concessions proposed by the developer unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions; would cause a public health or safety problem; would cause an environmental problem; would harm historical property, or would be contrary to law.

A concession is supposed to result in a cost savings for affordable housing, and the City can deny a concession if it finds that a requested concession will not result in a cost savings for affordable housing. In the event the City does deny a request for incentive/wavier, the City has the burden to prove the absence of cost savings; however, the City can require the applicant submit reasonable documentation demonstrating such a savings. Staff has added this requirement to the draft Ordinance (Attachment III) in order to ensure that any concession being requested is tied to affordable housing production.

In response to recommendations from the Council, Planning Commission, and HHTF, staff has revised the previous approach for pre-defined incentives to provide applicants with more flexibility and be less prescriptive, as summarized in Table 2. For projects that are 100% affordable or exceed the City's Affordable Housing Ordinance requirements by providing more on-site affordable units or units that provide deeper levels of affordability staff is recommending that one additional incentive/concession be provided.

Streamlined Density Bonus Process

To apply for a density bonus under the City's current Ordinance, an applicant must submit a Density Bonus Application along with a description of what is being requested, why the project qualifies, pay the planning entitlement fee (as specified in the Master Fee Schedule), and provide any supporting and reasonable documentation to demonstrate the project qualifies for a density bonus. All Density Bonus applications in the City are reviewed and approved by the Planning Commission by default. However, the application moves to the Council if the project involves another permit or entitlement requiring Council approval such as a rezoning or General Plan Amendment. In the latter case the Planning Commission makes a recommendation to the Council regarding project approval or denial and adoption of any applicable CEQA documents including a recommendation on the density bonus request. As part of the Ordinance update staff has updated the approving authority so that applications received under this new Ordinance could be considered by the highest approving body which in some cases may be an administrative staff approval. Streamlining density bonus applications will save the developer and City staff time and money, and it supports the goals identified in the two housing work plans adopted by Hayward to incentivizing housing production.

Fee Waivers (*impact fees such as traffic and park fees*). Council has already approved waiver of park fees and traffic impact fees for 100% affordable housing projects and reduction of fees for the on-site affordable housing units provided as part of a mixed-income project. Developers would not need to request this concession, but staff would promote this incentive to incentivize on-site affordable housing.

Fee Deferral (*utility, sewer, water, and infrastructure connections*). Although utility fee deferral is not part of the actual Municipal Code update, staff is proposing, deferral of some utility connection fees that would help off-set some upfront financial obligations that applicants are required to pay. Currently, utility connection fees are due prior to installation of the meter and are necessary for maintaining infrastructure. These fees could be deferred for the affordable units until issuance of certificate of occupancy and would be made a condition of project approval. Deferral of fees saves the developer the cost to finance the fees. Following Ordinance adoption, staff will continue to work with the Public Works Department to determine if this remains a viable option and to ensure that risk of non-payment is minimized. Staff envisions this would be accomplished by requiring the developer to sign an agreement that would be recorded to title of the property along with a lien or deed of trust. This would prevent sale of the property prior to payment of the connection fee due to the City. Staff can promote this option to developers in the event on-site affordable units are provided and fee deferrals are necessary to make a project feasible.

Environmental Review

In 2014, the City certified the EIR for the *Hayward 2040 General Plan*. The General Plan represents the community's view of its future and expresses the community's conservation and development goals through the year 2040. An Addendum to the General Plan EIR (Attachment IV) was prepared pursuant to Section 15164 of the CEQA guidelines which states, "The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred."

The proposed modifications to the General Plan EIR described in the attached Addendum would not require major revisions to the General Plan EIR due to new or substantially increased significant environmental effects. The analysis contained in the Environmental Checklist confirms that the modified project is within the scope of the General Plan EIR and would have no new or more severe significant effects and no new mitigation measures are required. Therefore, no subsequent or supplemental EIR or further CEQA review is required.

STRATEGIC ROADMAP

In January 2020, the Council adopted six Strategic Priorities as part of its three-year Strategic Roadmap. This agenda item supports the Strategic Priority of Preserve, Protect and Produce Housing for all. Specifically, this item relates to the implementation of the following:

- Project 4: Implement housing incentives and production work plan in accordance to state housing limits
- Project 4b: Amend Density Bonus Ordinance

FISCAL IMPACT

The budget for this project is \$75,000, which is covered and paid through a State Housing and Community Development SB2 Planning Grant awarded in 2019. At this time, staff does not anticipate any additional costs associated with this project or fiscal impacts to the City's General Fund.

PUBLIC CONTACT

Outreach to Housing Developers. Revisions to the Density Bonus will only be effective if the proposed changes are useful to developers. In response to the Council and Planning Commission's direction, staff conducted outreach to twenty housing developers, including affordable/non-profit, and market-rate housing developers, which consisted of a survey with the following seven questions emailed to the developers on May 6, 2022, with interviews scheduled from May 9, 2022, to May 18, 2022:

- What cost savings concessions would incentivize more affordable units, deeper affordability or some of the other City Priorities listed below?
- Would you like to have more concessions than is currently allowable under State Density Bonus Law?
- Do you have any experience in other cities using expedited entitlement process - explain how that process works compared to our normal process?
- Would it be beneficial to have a density bonus that exceeds 50% for mixed-income projects?
- Do you have any examples of fee waiver, reduction, or deferral programs that have been implemented in other Cities?
- Would a Density Bonus encourage you to set aside 20% of the units for students?
- Would increase incentives improve your ability/desire to provide on childcare facility? If so, what would that look like?

Of the twenty housing developers, three affordable/non-profit housing developers and three market-rate developers responded to staff's survey and were interviewed. Depending on the type of developer (market-rate, affordable, non-profit), the challenges and suggestions for development of housing vary. A summary of the feedback received from those interviews is included as Attachment VI.

NEXT STEPS

If the Council introduces the attached ordinance this evening, a second reading and adoption will be brought back during a regular meeting scheduled in January 2023. If approved, the proposed text amendments will be effective 30 days after adoption.

Prepared by: Jeremy Lochirco, Planning Manager
Christina Morales, Housing Division Manager
Rozalynne Thompson, Senior Planner

Recommended by: Jennifer Ott, Assistant City Manager/Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-

Introduced by Council Member _____

RESOLUTION TO ADOPT AMENDMENTS TO CHAPTER 10, ARTICLE 17
(AFFORDABLE HOUSING ORDINANCE) AND CHAPTER 10, ARTICLE 19
(DENSITY BONUS ORDINANCE) OF THE HAYWARD MUNICIPAL CODE
RELATED TO THE UPDATE OF THE DENSITY BONUS ORDINANCE

WHEREAS, Government Code Section 65915 et seq. ("State Density Bonus Law") requires every city and county to adopt an ordinance providing density bonuses and other incentives or concessions to applicants wishing to develop eligible projects and specifying how compliance with State Density Bonus Law will be implemented; and

WHEREAS, in November 2005, the City Council adopted the Density Bonus Ordinance (Ordinance No. 05-15), codified as Chapter 10, Article 19 in the Hayward Municipal Code (Density Bonus Ordinance), to comply with State Density Bonus Law; and

WHEREAS, Government Code Section 65915 has been amended multiple times since the City of Hayward ("City") enacted Chapter 10, Article 19 (Density Bonus Ordinance) and the City Council desires Chapter 10, Article 19 to conform to State law; and

WHEREAS, in 2019, the City was awarded grant funding under Senate Bill (SB) 2 to undertake amendments to Chapter 10, Article 17 (Affordable Housing Ordinance) and Chapter 10, Article 19 (Density Bonus Ordinance) in order to comply with the State's Density Bonus law; and

WHEREAS, on February 1, 2022, a Joint Work Session with the City Council and Planning Commission was to establish priorities for further analysis; and

WHEREAS, between May 2022 and June 2022, City staff conducted outreach to twenty housing developers, including affordable/non-profit, and market-rate housing developers, which consisted of a survey with seven questions emailed to the developers on May 6, 2022, with interviews scheduled with three affordable/non-profit housing developers and three market-rate developers that responded to staff's survey from May 9, 2022, to May 18, 2022; and

WHEREAS, on June 26, 2022, the Homelessness Housing Task Force held a work session to review staff recommendations and provided feedback on the proposed Ordinance updates; and

WHEREAS, on October 18, 2022, the City Council held a public work session to provide feedback and guidance on the recommended updates to the Density Bonus Ordinance; and

WHEREAS, on November 10, 2022, the Planning Commission held a public work session to provide feedback on the recommended updates to the Density Bonus Ordinance; and

WHEREAS, on November 18, 2022, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on December 6, 2022.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, a Program Environmental Impact Report (EIR) was prepared for the Hayward 2040 General Plan. On July 1, 2014, the City Council adopted Resolution No. 14-108, approving the Hayward 2040 General Plan update and related Program EIR.
2. In accordance with Section 15164 of the CEQA Guidelines, a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
3. Based on the draft regulations and the analysis provided in the staff report and attached documents, no new or unanticipated levels of development are anticipated that were not previously identified in the General Plan and General Plan EIR, and no new or unanticipated traffic, employment density, or construction impacts are expected to be generated as a result of adoption of these regulations. Therefore, the proposed Amendments substantially conform to the Goals and Policies set forth in the General Plan, and that were analyzed in the related Program EIR. No further environmental review is necessary.
4. That the project complies with CEQA, and that the City Council has reviewed and considered the information prior to approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department, City of Hayward located at 777 B Street, Hayward, CA 94544.

FINDINGS FOR TEXT AMENDMENTS TO CHAPTER 10 OF THE HAYWARD MUNICIPAL CODE
RELATED TO THE DENSITY BONUS ORDINANCE (REFERRED TO AS THE "TEXT
AMENDMENTS")

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The City's existing Density Bonus Ordinance adopted in 2005 does not conform with current State law. The current State law, which is required to be implemented by local jurisdictions, offers more density, more incentives, and additional relaxed parking requirements to projects that qualify for the density bonus. The City can change the formula to offer a higher density bonus and more incentives for certain projects but under no circumstances can the City offer smaller density bonuses or fewer incentives than the State formula mandates. Section 10-17.700 of Chapter 10, Article 17 (Affordable Housing Ordinance) of the Hayward Municipal Code (HMC) will be amended for consistency with the proposed Density Bonus Ordinance and the current Density Bonus Ordinance, contained in Chapter 10, Article 19 of the HMC, will be repealed and replaced with a new Density Bonus Ordinance that, at minimum, complies with State guidelines and reflects the direction previously provided by Council. Specifically, as part of the update to the City's Density Bonus Ordinance, a 5 percent density bonus increase will be granted for projects that meet the State's criteria for on-site affordable housing for the maximum density bonus; a 10 percent total density bonus increase for housing that both meet the State's criteria for on-site affordable housing for the maximum density bonus and accommodates certain target populations, including those people with disabilities, affordable student housing, and senior housing; and up to five incentives or concessions are granted to eligible projects that would otherwise qualify for only four incentives or concessions under the State Density Bonus Law. The additional incentives or concessions are being recommended to help project feasibility and support construction of a greater number of affordable units.

2. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed Text Amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan* and the State Density Bonus Law because the Text Amendments update the language to reflect the applicable policies and actions of the general plan and reflect the changes in State Density Bonus Law. The proposed Amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

- LU Policy 1-3: Growth and Infill Development. The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.

- LU Policy 1-5: Transit Oriented Development. The City shall support high-density transit-oriented development within the city's Priority Development Areas to improve transit ridership and to reduce automobile use, traffic congestion, and greenhouse gas emissions.
- LU Policy 3-1: Complete Neighborhoods. The City shall promote efforts to make neighborhoods more complete by encouraging the development of a mix of complementary uses and amenities that meet the daily needs of residents. Such uses and amenities may include parks, community centers, religious institutions, daycare centers, libraries, schools, community gardens, and neighborhood commercial and mixed-use developments.
- ED Policy 5-5: Quality Development. The City shall require new development to include quality site, architectural, and landscape design features to improve and protect the appearance and reputation of Hayward.
- Housing Policy 2.2: Provide Incentives for Affordable Housing. The City shall promote the use of density bonuses and other incentives to facilitate the development of new housing for extremely low-, very low-, and low-income households.
- Housing Policy 2.4: Integration of Affordable Housing. The City shall encourage a mix of affordability levels in residential projects and encourage the dispersal of such units to achieve greater integration of affordable housing throughout the community.
- Housing Policy 3.1: Diversity of Housing Types. The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low-density single family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments.
- Housing Policy 3.3: Sustainable Housing Development. The City shall improve affordability by promoting sustainable housing practices that incorporate a 'whole system' approach to siting, designing, and constructing housing that is integrated into the building site, consumes less water and improves water quality, reduces the use of energy use, and other resources, and minimizes its impact on the surrounding environment.
- Housing Policy 3.4: Residential Uses Close to Services. The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.
- Housing Policy 3.6: Flexible Standards and Regulations. The City shall allow flexibility within the City's standards and regulations to encourage a variety of housing types.
- Housing Policy 4.1: Flexible Development Standards. The City shall review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the development of housing, particularly housing for lower- and moderate-income households and for persons with special needs.

- Housing Policy 4.2: Clear Development Standards and Approval Procedures. The City shall strive to maintain and administer clear development standards, and approval procedures for a variety of housing types, including, but not limited to, multifamily housing and emergency shelters.

Further, the proposed text amendments are internally consistent with other applicable provisions of Chapter 10 of the Municipal Code because applicable provisions of the Code will apply to projects eligible for density bonus under the Ordinance.

3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

As determined in the Addendum to the Program EIR for the Hayward 2040 General Plan, the streets and public facilities that currently serve the City are not expected to be significantly impacted by the residential development projects eligible for a density bonus under the Density Bonus Ordinance. Projects eligible for density bonus are consistent and compatible with the other land uses that are currently permitted or conditionally permitted in the applicable zoning districts. No properties are proposed to be reclassified or rezoned with the proposed Text Amendments. As such, the streets and public facilities, both existing and proposed, would be adequate to serve the potential development of new residential development projects eligible for density bonus in the City.

4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified with the proposed Text Amendments that regulate density bonus under this Density Bonus Ordinance. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for more predictable and transparent regulations, as well as create a more streamlined permitting process for applicants. The proposed Amendments will continue to allow density bonuses for residential development projects, which contribute to the diversity of housing options and add to the City's existing housing stock. The proposed Amendments will require applicants submit an application and be subject to requirements in the Hayward Municipal Code (HMC) to ensure that any eligible development project will be compatible with present and potential future land uses.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of the proposed Text Amendments to Chapter 10, Article 17 and Chapter 10, Article 19, subject to the adoption of the companion Ordinance.

BE IT RESOLVED that this resolution shall become effective on the date that the companion Ordinance (Ordinance No. 22-__) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022.

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. 22-_____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 17 (AFFORDABLE HOUSING ORDINANCE) AND ARTICLE 19 (DENSITY BONUS ORDINANCE) OF THE HAYWARD MUNICIPAL CODE RELATED TO AN UPDATE OF THE DENSITY BONUS ORDINANCE

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

Section 1. Provisions. The City Council incorporates by reference the findings contained in Resolution No. 22-__ approving the Zoning Text Amendments to the Hayward Municipal Code.

Section 2. Chapter 10, Article 17 (Affordable Housing Ordinance) of the Hayward Municipal Code is hereby amended to read as follows:

SEC. 10-17.700. DEVELOPMENT INCENTIVES

This Article confers economic and land use benefits on Residential Development Projects that provide on-site Affordable Units, as set forth below.

- a. Density Bonus. The Applicant may apply for a density bonus and other regulatory incentives provided by state law pursuant to Chapter 10, Article 19 of the Hayward Municipal Code. In calculating the number of Affordable Units required by this Article, any additional Dwelling Units authorized as a density bonus pursuant to Government Code Section 65915 et seq ("State Density Bonus Law") shall not be counted ~~as part of~~ toward the base density calculation for the Residential Development Project.
- b. Modified Development Standards to Increase Density.
 - (1) In a residential project which contains single family detached homes, Affordable Units may be attached Dwelling Units rather than detached homes. In a residential project that includes attached multi-story Dwelling Units, Affordable Units may contain only one story;
 - ~~(2) When a Residential Development Project is within one-half mile of a rail station or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, the Applicant may request that the Decision-Making Body reduce the number of parking spaces required for the development based on the assumption that some households will take public transportation to their jobs. This will allow for increased density within the development.~~

- c. Expedited Processing. Expedited processing of development approvals and permits will be available for Residential Development Projects with on-site Affordable Units, consistent with State law.
- d. Technical and Financial Assistance. Upon request, information shall be provided to Applicants regarding objective design guidelines and financial subsidy programs for Residential Development Projects that provide on-site affordable units.

Section 3. Chapter 10, Article 19 (Density Bonus Ordinance) of the Hayward Municipal Code is hereby repealed and replaced to read as follows:

SEC. 10-19.100. TITLE.

This Article shall be known and may be cited as the Density Bonus Ordinance of the City of Hayward.

SEC. 10-19.105. PURPOSE.

(a) This article provides requirements and incentives for the development of affordable housing units in conjunction with other residential and mixed-use projects and commercial projects in partnership with affordable housing providers as provided under State law. These provisions are intended to implement General Plan policies encouraging the production of affordable housing for all economic groups, and housing for disabled and older residents, transitional foster youth, and disabled veterans, and homeless persons as defined in Government Code Section 65915, all of which is integrated, compatible with and complements adjacent uses, and is located near public and commercial services.

(b) This article is enacted pursuant to the City's authority contained in Article II of the City Charter, and Government Code Section 65915(n), which authorizes a city to enact an ordinance that provides for a greater density bonus than what is granted under state law.

(c) The incentives and concessions offered in this article are used by the City as one means of meeting its commitment to encourage housing affordable to all economic groups, and to meet its regional fair share requirements for the construction of housing affordable to very low, low, and moderate income persons.

(d) All references in this Ordinance to the State Density Bonus Law refer to Government Code section 65915, et seq., as it may be amended from time to time.

SEC. 10-19.110. DEFINITIONS.

Certain words and phrases are defined within this Article. Where it appears from the context of such words, phrases, or provisions that a different meaning is intended, the definition shall be as determined by the Director of Development Services or their designee.

- (a) "Affordable Ownership Cost" is defined as the maximum purchase price that will be affordable to a:

1. Moderate-Income Household at Presumed Occupancy Levels, based on a reasonable down payment and monthly housing payments (including mortgage principal and interest, property taxes, homeowner's insurance, and homeowner/condominium association fees where applicable) that do not exceed one hundred ten percent of Area Median Income multiplied by thirty-five percent and divided by twelve.
 2. Low-Income Household at Presumed Occupancy Levels, based on a reasonable down payment and monthly housing payments (including mortgage principal and interest, property taxes, homeowner's insurance, and homeowner/condominium association fees where applicable) that do not exceed seventy percent of Area Median Income multiplied by thirty percent and divided by twelve.
 3. Very Low-Income Household at Presumed Occupancy Levels, based on a reasonable down payment and monthly housing payments (including mortgage principal and interest, property taxes, homeowner's insurance, and homeowner/condominium association fees where applicable) that do not exceed fifty percent of Area Median Income multiplied by thirty percent and divided by twelve.
- (b) "Affordable Rent" is defined as the maximum monthly rent, including all fees for housing services and a utility allowance as determined by the Alameda County Housing Authority, that does not exceed the following, based on Presumed Occupancy Levels:
1. For Extremely Low Income Households: thirty percent of Area Median Income multiplied by thirty percent and divided by twelve.
 2. For Very Low Income Households: fifty percent of Area Median Income multiplied by thirty percent and divided by twelve.
 3. For Low Income Households: sixty percent of Area Median Income multiplied by thirty percent and divided by twelve.
- (c) "Affordable Unit" is defined as an ownership or rental Dwelling Unit whose price is set at an Affordable Ownership Cost or Affordable Rent as defined in this Article.
- (d) "Applicant" is defined as any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities who seek residential property development permits or approvals from the City of Hayward.
- (e) "Area Median Income (AMI)" is defined as the median income for the Alameda County, adjusted for household size, as published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the California Department of Housing and Community Development (HCD).
- (f) "Child Care Facility" is defined as a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

- (g) “Child Care Facility Density Bonus” means a floor area ratio bonus over the otherwise maximum allowable floor area permitted under the applicable zoning ordinance and land use elements of the general plan of the City of Hayward of the following amounts: A maximum of five (5) square feet of floor area for each one square-foot of floor area contained in the Child Care Facility for existing structures; or a maximum of ten (10) square feet of floor area for each one square-foot of floor area contained in the Child Care Facility for new structures.
- (h) “Commercial development bonus” means a modification of development standards mutually agreed upon by the City and a commercial developer and provided to a commercial development eligible for such a bonus under Subsection 10-19.170. Examples of a commercial development bonus include an increase in floor area ratio or increased building height.
- (i) “Condominium Conversion Density Bonus” means an increase in units of twenty-five percent (25%) over the number of apartments, to be provided within the existing structure or structures proposed for conversion.
- (j) “Density Bonus” is defined as a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the City as per State Density Bonus Law (SDBL) Government Code Section 65915 et seq.
- (k) “Development Standard” is defined as site or construction conditions that apply to a Residential Development Project pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation as per Government Code section 65915(o)(1) of State Density Bonus Law.
- (l) “Dwelling Unit” is defined as a dwelling designed and intended for residential occupancy by one household.
- (m) “Extremely Low, Very Low, Low, and Moderate-Income Households” are defined as households whose incomes do not exceed the extremely low, very low, low, or moderate-income limits, as applicable, established for Alameda County and adjusted for household size that are published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by HCD.
- (n) “Floor Area” is defined with respect to a commercial or industrial project, as the floor area as calculated under the applicable zoning ordinance of the City of Hayward and, with respect to a Child Care Facility, as the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state childcare licensing requirements.
- (o) “Household Income” is defined as the gross annual household income, monetary benefits, and all other sources of household income, before deductions or exemptions, and includes the income of all members of the household 18 years of age or older.
- (p) “Major Transit Stop” as per California Public Resource 21064.3, which may be amended from time-to-time is defined as:
 - (1) An existing rail or bus rapid transit station.

- (2) A ferry terminal served by either a bus or rail transit service.
 - (3) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- (q) "Marketing Plan" is defined as a plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units.
- (r) "Maximum Allowable Residential Density" is defined as the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific general plan designation and zoning range applicable to the project.
- (s) "Mixed-Income Residential Project" is defined as a project that contains the amount of both on-site affordable (extremely low, very low, low-and moderate-income households) and market rate residential rental or for sale units required by the Affordable Housing Ordinance contained in Hayward Municipal Code Chapter 10, Article 17.
- (t) "Mixed-Use Development Project" is defined as a Residential Development Project that may include a mix of commercial, office, industrial, or residential uses.
- (u) "Mobile Home Park" is defined as a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
- (v) "Partnered housing agreement" means an agreement approved by the City between a commercial developer and a housing developer identifying how the commercial development will provide housing available at affordable ownership cost or affordable rent consistent with Section 10-19.170. A partnered housing agreement may consist of the formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial developer and the housing developer are each partner, members, shareholders, or other participants, or a contract between the commercial developer and the housing developer for the development of both the commercial development and the residential development project.
- (w) "Presumed Occupancy Levels" as listed below shall be used to establish Affordable Ownership Cost and Affordable Rents, unless the Residential Development Project is financed with federal tax credits, in which case the applicable federal regulations shall determine the Presumed Occupancy Levels:
 - (1) One person for a studio unit;
 - (2) Two people for a one-bedroom unit;
 - (3) Three people for a two-bedroom unit; and
 - (4) One additional person for each additional bedroom thereafter.
- (x) "Resale Controls and/or Rent Restrictions" are defined as the restrictions, set forth by the City of Hayward or by state and/or federal law, by which the rents paid on rental Affordable Housing Units and the sales price for ownership Affordable Housing Units are limited to ensure that the unit remains affordable to Very Low or Low Income households for a term of no less than

fifty-five (55) years. With respect to rental units, such rent restrictions shall generally be in the form of a regulatory agreement recorded against the applicable property. With respect to owner occupied units, such resale controls shall generally be in the form of resale restrictions, deeds of trust and/or other similar documents recorded against the applicable property. Affordability restrictions and terms shall be consistent with State Density Bonus law.

- (y) "Residential Development Project" is defined as any development for which a discretionary or ministerial permit is required that includes the creation of five (2) or more net new Dwelling Units or residential lots, or Dwelling Units and residential lots in combination. All development within a two-year period of two (2) or more Dwelling Units on a lot, or on contiguous lots for which there is evidence of common ownership or control, even though not covered by the same City discretionary or ministerial permit, shall be considered to be one Residential Development Project. The provisions of this section shall be interpreted broadly to affect the purposes of this Chapter and to prevent evasion of its terms. Residential development project includes a shared housing building development as defined in Government Code section 65915, et seq, as it may be amended from time to time.
- (z) "Senior Citizen Household" is defined as a household headed by a person sixty-two (62) years of age or older.
- (aa) "Senior Citizen Housing Development" is defined as a development of at least thirty-five (35) dwelling units reserved for Senior Citizen Households and as further described in Sections 51.3 and 51.12 of the Civil Code.
- (bb) "Universal Design" is defined as housing with barrier free design that focuses on making the house safe and accessible for everyone, regardless of age, physical ability, or stature. Universal design features shall include, but not be limited to, features such as:
 - Installation of varied-height cabinets and countertops
 - Flexible appliances
 - Open space under the sink, cooktop, and preparation counter
 - Doorways and hallways that are 32 inches wide.
 - Provide at least one (1) full bathroom (accessible bathroom) and one bedroom on the same level as the kitchen and the primary entry into the unit.
 - The accessible bathroom(s) shall include the appropriate structural modifications so that grab bars can be easily installed in the future.
 - The accessible bathroom(s) shall be designed to accommodate a wheelchair turning radius, as determined by applicable Americans with Disabilities Act (ADA) standards.
 - The accessible bathroom shall include an accessible shower/bathtub.
 - Install slip-resistant flooring on the accessible level(s) of the unit
 - Provide sliding or barn doors for closets and/or bathrooms of accessible bedrooms and bathrooms that can remain open.

SEC. 10-19.120. APPLICATION.

The provisions of this Article apply to Residential Development Projects consisting of either five (5) or more general Dwelling Units. Projects with special targeting, including foster youth, disabled veterans, projects for unhoused people, college students, affordable Senior Citizen Housing Developments, rental projects that provide more than 20 percent of the rental units for large families (3+ bedrooms), projects incorporating Universal Design principles, in conformance with Government Code Section 65915, et seq., or as it may be modified from time to time, are eligible for additional Density Bonus. For those projects that are subject to the provisions of Hayward Municipal Code Chapter 10, Article 17, Affordable Housing Ordinance, Affordable Housing Units provided under the Affordable Housing Ordinance may be counted toward the requirements of this Article. To the extent that the provisions of this Article and the Affordable Housing Ordinance are in conflict, the provisions of the Affordable Housing Ordinance prevail.

SEC. 10-19.125. DENSITY BONUS CALCULATION.

All calculations are rounded up for any fractional numeric value in determining the total number of units to be granted, including base density and bonus density as well as the resulting number of affordable units needed for a given density bonus project.

- (a) If a residential development qualifies for a density bonus under more than one income category, or additionally, as a Senior Citizen Housing Development as defined herein, or as housing intended to serve transitional foster youth, disabled veterans, homeless persons, or lower income students, the applicant shall identify the categories under which the density bonus would be associated and granted. Density bonuses from more than one category can be combined up to the maximum allowed under Government Code Section 65915, as it may be modified from time to time, or the maximum amount allowed by the City's Density Bonus Law.
- (b) The density bonus units shall not be included in determining the number of affordable units required to qualify a residential development for a density bonus pursuant to Government Code Section 65915, as it may be modified from time to time, or the maximum amount allowed by the City's Density Bonus Ordinance.
- (c) The applicant may elect to accept a lesser percentage of density bonus than the residential development project is entitled to, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of affordable units, no residential development project shall be entitled to a density bonus of more than what is authorized under State law or as allowed by the City's Density Bonus Ordinance.

SEC. 10-19.130. STATE TARGETED AND CITY SPECIAL-TARGETED HOUSING UNITS.

The City shall grant a density bonus and incentives, or concessions described in Section 10-19.190, when an Applicant for a Residential Development Project seeks and agrees to construct a residential development that qualifies under State Density Bonus Law as shown in the table below. For Residential Development Projects that meet the criteria, the density bonus shall be calculated based on the density bonuses allowed under Government Code Section 65915, as it may be modified from time to time.

An additional density bonus increase shall apply to Mixed Income Residential Projects with special targeting that includes:

- Rental projects that provide more than 20% of the rental units for large families (3+ bedrooms)
- Projects that incorporate Universal Design features in more than 20% of the units
- Senior housing projects as defined by Government Code Section 65915, as it may be modified from time to time
- College student housing projects as defined by Government Code Section 65915, as it may be modified from time to time
- Projects with units set-aside for foster youth, disabled veterans, or individuals experiencing homelessness as defined by Government Code Section 65915, as it may be modified from time to time.

Target Population Served	State Required Restricted Affordable Units	Hayward Maximum Density	Hayward Maximum Density Increase for Special Targeting
Very Low Income	15%	55%	60%
Low Income	23%	55%	60%
Moderate Income	44%	55%	60%
Foster Youth/Disabled Veterans/Unhoused Individuals	10% restricted at very low Income	25%	30% (15% restricted at very low income)
College Students	20% Low-Income Student	40%	45% (25% restricted low-income students)

SEC. 10-19.140. LAND DONATION.

If a density bonus is requested for a land donation as per Government Code Section 65915, the applicant shall provide the following:

- The location of the land to be dedicated
- A title report showing proof of site control

SEC. 10-19.150. CHILD CARE FACILITIES.

When an Applicant proposes to construct a Residential Development Project that conforms to the requirements of Section 10-19.130 and includes a Child Care Facility that will be located on the premises of, as part of, or adjacent to, the Residential Development Project, the City shall grant an additional density bonus pursuant to Government Code Section 65915, as it may be modified from time to time.

SEC. 10-19.160. CONDOMINIUM CONVERSIONS.

When an Applicant's Residential Development Project is the conversion of an existing apartment complex to a condominium complex, the Applicant shall provide documentation showing that all of the requirements included in City of Hayward Municipal Code Chapter 10, Article 3, Subdivision Ordinance, and Government Code Section 65915, as it may be modified from time to time, regarding condominium conversions can be met.

SEC. 10-19.170. COMMERCIAL DEVELOPMENT BONUS.

In accordance with Government Code Section 65915, as it may be modified from time to time, when an Applicant proposes to construct a commercial development and has entered into a partnered housing agreement approved by the City, the City shall grant a commercial development bonus mutually agreed upon by the developer and the City. The commercial development bonus shall not include a reduction or waiver of fees imposed on the commercial development to provide for affordable housing. The requirements for commercial development bonus are as follows, which shall also be described in the partnered housing agreement:

- (a) The residential development project shall be located either:
 - (1) On the site of the commercial development; or
 - (2) On a site within the City that is within one-half mile of a major transit stop as defined in Government Code Section 65915, as it may be modified from time to time, and is located within one mile of public amenities, including schools and employment centers.
- (b) At least 30 percent of the total units in the residential development project shall be made available at affordable ownership cost or affordable rent for low-income households, or at least 15 percent of the total units in the residential development project shall be made available at affordable ownership cost or affordable rent for very low-income households.
- (c) The commercial developer must agree either to directly build the affordable units; donate a commercial development site consistent with Section 10-19.110 (h), for the affordable units; or make a cash payment to the housing developer for the affordable units.

- (d) Any approved partnered housing agreement shall be described in the City's Housing Element annual report as required by Government Code Section 65915, as it may be modified from time to time.

SEC. 10-19.180. DESIGN, DISTRIBUTION AND TIMING OF AFFORDABLE HOUSING UNITS.

Affordable Housing Units must be constructed concurrently with market-rate units. The Affordable Housing Units shall be integrated into the Residential Development Project and be comparable in infrastructure (including sewer, water, and other utilities), construction quality, and exterior design to the market-rate units. The Affordable Housing Units must also comply with Section. 10-17.230 of this Code regarding the design, distribution, and timing of affordable units.

SEC. 10-19.190. REQUESTS FOR INCENTIVES OR CONCESSIONS.

As per Government Code Section 65915, as it may be modified from time to time, the Applicant shall submit a Density Bonus Application, as described in Section 10-19.220 below, for the specific incentives or concessions that the Applicant requests. The City shall grant the concession or incentive requested by the Applicant unless the City makes a written finding, based upon substantial evidence, of either of the following:

- (a) The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, or for rents for the affordable housing units; or
- (b) The concession or incentive would have a specific adverse impact upon public health and safety, or on any real property that is listed in the Federal Register of Historic Resources, the California Register of Historical Resources, or the City's List of Officially Designated Architecturally and Historically Significant Buildings and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income households; or
- (c) The concession or incentive would be in compliance with state or federal law.

SEC. 10-19.200. GRANTING OF INCENTIVES OR CONCESSIONS.

As defined in Government Code Section 65915, as it may be modified from time to time, projects that include certain percentages of affordable units qualify for various incentives or concessions from development standards. The number of incentives or concessions that may be requested and granted shall be based upon the number the Applicant is entitled to pursuant to State Density Bonus Law and one extra incentive/concession allowed by this Article. If the conditions of 10-19.130 are met by the Applicant, the following incentives/concessions shall be granted as shown following table:

No. of Incentives/ Concessions	Percentage of Very-Low Income Units	Percentage of Low- Income Units	Percentage of Moderate- Income Units
1	5%	10%	10%

3	10%	17%	20%*
4	15%	24%	30%*
5	100% (LI/VLI) or 100% (MI 20% /LI 80%)		

*Applies to common interest development, as defined in Section 4100 of the Civil Code

- (a) In accordance with Government Code Section 65915, as it may be modified from time to time, four (4) incentives or concessions are allowed for a project within one-half mile of a major transit stop.
- (b) Nothing in this section requires the provision of direct financial incentives for the residential development project, including, but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or waiver of dedication requirements. The City, at its sole discretion, may choose to provide such direct financial incentives.

SEC. 10-19.210. COMPLIANCE.

The provisions of this Article shall apply to all agents, successors, and assignees of an Applicant, developer, builder, or property owner proposing a Residential Development Project governed by this Article. No tentative map, use permit, special development permit, or occupancy permit shall be issued for any Residential Development Project unless exempt from or in compliance with the terms of this Article.

The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to actions to revoke, deny, or suspend any permit or development approval.

SEC. 10-19.220. DENSITY BONUS APPLICATION.

An application for a density bonus request, including incentives or concessions and waivers, shall be reviewed and approved by the highest approving body and if denied, the City shall bear burden of proof in accordance with Government Code Section 65915, as it may be modified from time to time. In accordance with Hayward Municipal Code Section 10-1.2854, Appeal and Review Process. if Any Applicant requesting a density bonus and any incentive(s), waiver(s), concession(s), or commercial development bonus provided by State Density Bonus Law shall submit a density bonus report as described below concurrently with the filing of the planning application for the first discretionary permit required for the residential development project, commercial development, or mixed-use development. The requests contained in the density bonus report shall be processed concurrently with the planning entitlement application. The applicant shall be informed whether the application is complete consistent with Government Code Section 65943, as it may be modified from time to time.

The density bonus report shall include the following minimum information:

- (a) Requested density bonus.

- (1) Summary table showing the maximum number of dwelling units permitted by the zoning and general plan excluding any density bonus units, proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.
- (2) A tentative map and/or preliminary site plan, drawn to scale, showing the number and location of all proposed units, designating the location of proposed affordable units and density bonus units.
- (3) The zoning and general plan designations and assessor's parcel number(s) of the residential development project site.
- (4) A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If dwelling units on the site are currently rented, income and household size of all residents of currently occupied units shall be included in the description, if known. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size of residents occupying dwelling units when the site contained the maximum number of dwelling units, if known.
- (5) Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very-low or lower income households in the five-year period preceding the date of submittal of the application.
- (6) If a density bonus is requested for a land donation, the location of the land to be dedicated, proof of site control, and reasonable documentation that each of the requirements included in Government Code Section 65915, subdivision (g) can be met.
- (b) Requested Concession(s) or Incentive(s). In the event an application proposes concessions or incentives for a residential development project pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each incentive requested, shown on a site plan if appropriate:
 - (1) The City's required development standard and the Applicant's requested development standard concession or regulatory incentive.
 - (2) Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs or rents.
 - (3) If approval of mixed-use zoning is proposed, documentation that nonresidential land uses will reduce the cost of the residential development project, that the nonresidential land uses are compatible with the residential development project and the existing or planned development in the area where the proposed residential development project will be located, and that mixed-use zoning will provide for affordable housing costs or rents.

- (c) Requested Waiver(s). In the event an application proposes waivers of development standards for a residential development project pursuant to State Density Bonus Law, the density bonus report shall include the following minimum information for each waiver requested on each lot, shown on a site plan if appropriate:
 - (1) The City's usual development standard and the requested development standard waiver.
 - (2) Reasonable documentation that the development standards for which a waiver is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by State Density Bonus Law, as may be amended from time to time.
- (d) Requested Parking Reduction. Except for projects subject to Government Code section 65863.2, in the event an application proposes a parking reduction for a residential development project pursuant to Government Code Section 65915 (p), as it may be modified from time to time, a table showing parking required by the zoning regulations, parking proposed under Government Code Section 65915 (p), as may be modified from time to time and reasonable documentation that the project is eligible for the requested parking reduction. Applications for parking reduction requests that are less than those allowed under Government Code Section 65915(p), as may be modified from time to time shall include a transportation demand management (TDM) plan to reduce parking demand.
- (e) Child Care Facility. If a density bonus or incentive is requested for a child care facility in a residential development project, reasonable documentation that all of the requirements included in Government Code Section 65915 (h), as it may be amended from time to time, can be met.
- (f) Condominium Conversion. If a density bonus or incentive is requested for a condominium conversion, reasonable documentation that all the requirements included in Government Code Section 65915.5 can be met.
- (g) Commercial Development Bonus. If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement and the proposed commercial development bonus, as defined in Section 10-19.170, and reasonable documentation that each of the standards included in Section 10-19.170 has been met.
- (h) Fee. Payment of any fee in an amount set by resolution of the City Council for staff time necessary to determine compliance of the Density Bonus Report with State Density Bonus Law.

SEC. 10-19.230. AFFORDABLE HOUSING PLAN.

Unless the Applicant proposes to pay affordable housing in-lieu fees consistent with Section 10-17.400—10-17.415, an Applicant shall submit an Affordable Housing Plan (AHP) as part of the earliest application for a Residential Development Project. In accordance with the Permit Streamlining Act, the Development Services Director or designee shall determine

whether the AHP is complete. The elements of a complete AHP are described below. If the AHP is incomplete, the AHP will be returned to the Applicant with a list of the deficiencies or the information required. No application for a discretionary or ministerial permit to which this Article applies shall be deemed complete until the AHP is deemed complete by the Development Services Director or designee. At any time during the review process, the Development Services Director or designee may require from the Applicant additional information reasonably necessary to clarify and supplement the application or to determine the consistency of the proposed AHP with the requirements of this Article and Article 17 – Affordable Housing Ordinance. The AHP will satisfy the application requirement for this Article and Article 17.

The AHP should include, but not be limited to, the following:

- (a) The location, structure (attached, semi-attached, or detached), proposed tenure (for- sale or rental), and size of the proposed market-rate, commercial space and/or Affordable Housing Units;
- (b) A floor or site plan depicting the location of the Affordable Housing Units and a floor plan describing the size, in square footage, of the Affordable Housing Units;
- (c) The income levels to which each Affordable Housing Unit will be made affordable;
- (d) For phased Residential Development Projects, a phasing plan that provides for the timely development of the number of Affordable Housing Units proportionate to each proposed phase of development as required by this Article;
- (e) If off-site units, rental units, or other alternatives are proposed under Sections 10-17.205, 10-17.225, or 10-17.230, the information necessary to support the findings required for approval of such alternatives;
- (f) A written statement demonstrating compliance with the requirements of Section 10-17.220 for on-site Affordable Units;
- (g) A preliminary marketing plan that describes how the Applicant intends to inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units; and
- (h) Any other information reasonably requested by the Development Services Director or designee to assist with evaluation of the AHP under the standards of this Article and Article 17 – Affordable Housing Ordinance.

SEC. 10-19.240. AFFORDABLE HOUSING AGREEMENT.

Affordable Housing Agreement (AHA). Except where a density bonus, incentive, waiver, parking reduction, or commercial development bonus is provided for a market-rate Senior Citizen Housing Development, the Applicant shall enter into an AHA with the City, in a form approved by the City Attorney, to be executed by the City Manager, to ensure that the requirements of this section are satisfied. The AHA shall guarantee the affordability of the affordable units for a minimum of 55 years or a longer if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy

program; shall identify the type, size, and location of each affordable unit; and shall specify phasing of the affordable units in relation to the market-rate units as per State Density Bonus Law.

- (a) Senior Housing Agreement. Where a density bonus, waiver, or parking reduction is provided for a market-rate Senior Citizen Housing Development, the Applicant shall enter into a restrictive covenant with the City, running with the land, in a form approved by the City Attorney, to be executed by the City Manager, to require that the residential development project be operated as “housing for older persons” consistent with state and federal fair housing laws.
- (b) The executed AHA or senior housing agreement shall be recorded against the land prior to final or parcel map approval, or, where a map is not being processed, prior to issuance of building permits for the residential development project. The AHA or senior housing agreement shall be binding on all future owners and successors in interest.
- (c) The AHA shall include, but not be limited to, the following:
 - (1) The number of density bonus dwelling units granted;
 - (2) The number and type of affordable dwelling units
 - (3) The unit size(s) (square footage) of target dwelling units and the number of bedrooms per target dwelling unit;
 - (4) The proposed location of the affordable dwelling units;
 - (5) Schedule for production of affordable dwelling units;
 - (6) Incentives or concessions or waivers provided by the City;
 - (7) Where applicable, tenure and conditions governing the initial sale of the affordable units;
 - (8) Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units;
 - (9) Compliance with federal and state laws;
 - (10) Prohibition against discrimination;
 - (11) Indemnification;
 - (12) City’s right to inspect units and documents;
 - (13) Remedies;
 - (14) The duration of the AHA.

SEC. 10-19.250. AFFORDABLE HOUSING AGREEMENTS FOR OWNERSHIP UNITS.

In the case of Residential Development Projects consisting of ownership units, the AHA must provide the following additional conditions governing the sale and use of Affordable Housing Units during the applicable use restriction period:

- (a) Affordable Housing Units shall be sold to Very Low Income households, Lower Income households or Moderate Income households in a common interest development, at an affordable sales price and housing cost as defined by this Article.
- (b) Affordable Housing Units shall be owner-occupied by Very Low, Lower Income households or by Moderate Income households within common interest developments.
- (c) The purchaser of each Affordable Housing Unit shall execute an instrument or agreement approved by the City restricting the sale of the Affordable Housing Unit in accordance with this Article and Article 17 of Chapter 10 of this Code during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Affordable Housing unit and shall contain such provisions as the City may require ensuring continued compliance with this Article, Article 17 of Chapter 10 of this Code, and Government Code Section 65915, as it may be amended from time to time.
- (d) Any additional obligations relevant to the compliance with this Article.

SEC. 10-19.260. AFFORDABLE HOUSING AGREEMENTS FOR RENTAL UNITS.

In the case of Residential Development Projects consisting of rental units, the AHA must provide the following additional conditions governing the use of Affordable Housing units during the use restriction period:

- (a) Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining Affordable Housing units for qualified tenants;
- (b) Provisions requiring property owners to verify household incomes and maintain books and records to demonstrate compliance with this Article.
- (c) Provisions requiring the Property Owner to submit an annual report to the City, which includes the name(s), address, and income of each household occupying target units, and which identifies the bedroom size and monthly rent or cost of each Affordable Housing unit.
- (d) Provisions describing the amount of, and timing for payment of, Administrative Fees to be paid to the City for the on-going compliance monitoring of the provisions of this Article.
- (e) Any additional obligations relevant to the compliance with this Article.

SEC. 10-19.270. ADMINISTRATIVE FEE.

An administrative fee shall be charged to the Applicant for City review of all materials submitted in accordance with this Article for implementation and on-going enforcement of the provisions of this Article. The fee amount shall be established by City Council resolution and will be described in the City of Hayward Master Fee schedule.

SEC. 10-19.280. VIOLATION OF AFFORDABLE HOUSING COST REQUIREMENTS.

In the event it is determined that rents in excess of those allowed by operation of this Article have been charged to a tenant residing in a rental Affordable Housing Unit, the City may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or to the City in the event the tenant cannot be located), any excess rent charges.

In the event it is determined that a sales price in excess of that allowed by operation of this Article has been charged to an income-eligible household purchasing an ownership Affordable Residential Unit, the City may take the appropriate legal action to recover, and the Affordable Residential Unit seller shall be obligated to pay to the purchaser (or to the City in the event the purchaser cannot be located), any excess sales costs.

Section 4. California Environmental Quality Act. The City Council independently finds and determines that the Addendum to the Program EIR for the Hayward 2040 General Plan concludes that no new or unanticipated levels of development are anticipated that were not previously identified in the General Plan and General Plan EIR, and no new or unanticipated traffic, employment density, or construction impacts are expected to be generated as a result of adoption of the updated regulations. Therefore, the proposed Amendments substantially conform to the Goals and Policies set forth in the General Plan, and that were analyzed in the related Program EIR. No further environmental review is necessary in accordance with Section 15164 of the CEQA Guidelines because none of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent EIR have occurred.

Section 5. Severance. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 6. Effective Date. In accordance with the provisions of Section 620 of the City Charter, the Ordinance shall become effective 30 days following adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 6th day of December 2022, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____th day of _____ 2023, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

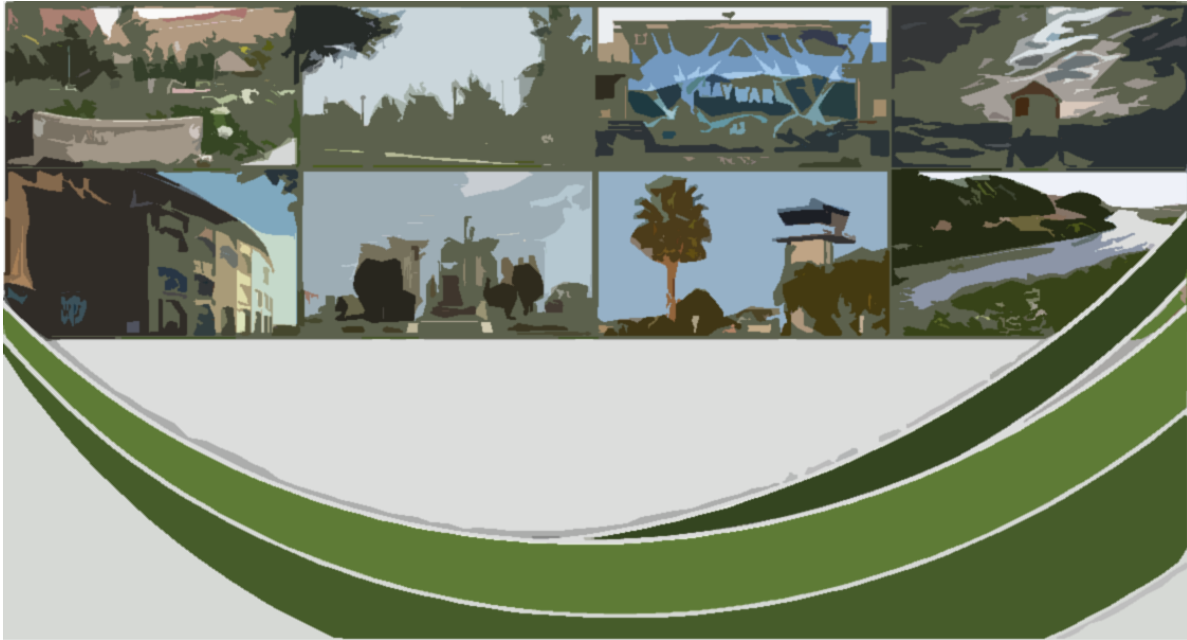
APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Density Bonus Ordinance Update

Addendum to the City of Hayward General
Plan 2040 Environmental Impact Report

SCH # 2013082015

prepared by

City of Hayward

Development Services Department, Planning Division

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Hayward, California 94541

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November 2022

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Appendix A Vehicle Miles Traveled Analysis

1 Introduction

This document is an addendum to the *City of Hayward General Plan 2040 Final Environmental Impact Report (EIR)* (State Clearinghouse #2013082015), which was certified by the City of Hayward City Council in July 2014 (2014 General Plan EIR). This addendum addresses the proposed Density Bonus Ordinance Update (“project”). The update includes a proposed zoning ordinance text amendment (ZTA) to revise Chapter 10, Article 17 – Affordable Housing Ordinance and Article 19 – Density Bonus Ordinance – of the City’s Municipal Code’s Zoning Ordinance to facilitate affordable residential development and bring the City’s regulations into compliance with Government Code Section 65915 et seq., also known as the current State Density Bonus Law.

In accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, codified in Sections 15000 et seq. of Title 14 of the California Code of Regulations, a lead agency must prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. Under Section 15162(a), where an EIR has been certified for a project, no subsequent EIR shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that there are substantial changes in the project or circumstances or substantially important new information that will cause the project to have significant new impacts or substantially increase previously identified significant impacts.

The addendum does not need to be circulated for public review but can be included in or attached to the final EIR (Section 15164(c)). The decision-making body must consider the addendum with the final EIR prior to making a decision on the project (Section 15164(d)). An addendum should include a brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162, supported by substantial evidence, the lead agency’s findings on the project, or elsewhere in the record (Section 15164(e)). A discussion on this topic can be found in Section 4, Decision Not to Prepare a Subsequent Environmental Impact Report, of this addendum.

This addendum has been prepared in accordance with relevant provisions of CEQA (California Public Resources Code Section 21000, *et seq.*) and the *CEQA Guidelines*. It describes the proposed project and compares its impacts to those identified in the 2014 General Plan EIR. The analysis demonstrates that the proposed project does not require the preparation of a subsequent or supplemental EIR.

2 Background

This section provides an overview of the Hayward 2040 General Plan and its EIR to provide context for this addendum.

2.1 Hayward 2040 General Plan

On July 1, 2014, the City Council of the City of Hayward approved the Hayward 2040 General Plan. The City's General Plan provides goals, policies, and programs intending to guide development in the City for 26 years through the planning horizon year of 2040. The General Plan includes 10 elements, including Land Use and Community Character; Mobility; Economic Development; Housing; Community Safety; Public Facilities and Services; Natural Resources; Hazards; Education and Lifelong Learning; and Community Health and Quality of Life which comprise those General Plan elements required by State law (Land Use, Circulation, Housing, Open Space, Conservation, Noise, and Safety), as well as three additional elements. The purpose of the General Plan is to:

- Identify land use, transportation, environmental, economic, and social goals, and policies as they relate to land use and development.
- Provide a basis for a community's decision-making regarding land use.
- Provide citizens an opportunity to participate in the planning and decision-making process.
- Inform citizens, developers, decision-makers, and others of the ground rules that guide development in the community.

The City of Hayward's planning area is located approximately 20 miles southeast of San Francisco, in an area commonly referred to as the "East Bay." The project planning area includes all the land in the City's Sphere of Influence as defined by the Alameda County Local Agency Formation Commission (LAFCO), including all land within the Hayward City limits and adjacent unincorporated county land, including Garin Regional Park, open space areas east of the City, portions of San Lorenzo and Castro Valley, and the communities of Hayward Acres, Cherryland, and Fairview.

2.2 Hayward 2040 General Plan EIR

The City Council certified the EIR for the General Plan (2014 General Plan EIR) in July 2014. The 2014 General Plan EIR evaluated potential environmental consequences associated with the General Plan, focusing in depth on the following environmental issue areas:

- | | |
|--|----------------------------------|
| ▪ Aesthetics and Visual Resources | ▪ Hydrology and Water Quality |
| ▪ Agricultural and Forestry Resources | ▪ Land Use and Planning |
| ▪ Air Quality | ▪ Noise |
| ▪ Biological Resources | ▪ Population and Housing |
| ▪ Geology, Soils, and Minerals | ▪ Public Services |
| ▪ Global Climate Change and Greenhouse Gas Emissions | ▪ Transportation and Circulation |
| ▪ Hazards and Hazardous Materials | ▪ Utilities and Service Systems |
| ▪ Historic and Cultural Resources | |

The 2014 General Plan EIR found that the General Plan's goals, policies, and programs as well as required mitigation measures would reduce most of the potential environmental impacts that would occur due to buildout of the General Plan. However, impacts related to air quality, noise, and transportation and circulation were determined to be significant and unavoidable. Accordingly, the City adopted a Statement of Overriding Considerations for these significant and unavoidable impacts as required under *CEQA Guidelines* Section 15093.

The General Plan EIR studied the impacts of an estimated buildout of 67,112 dwelling units and a population of 208,047 within Hayward City limits and an estimated buildout of 85,794 dwelling units and a population of 265,962 within the Hayward Planning Area¹.

The General Plan Draft EIR and Final EIR are available online at: <https://www.hayward-ca.gov/your-government/documents/planning-documents> and are incorporated herein by reference.

¹ Assuming an average household size of 3.1 persons per household

3 Project Description – Proposed Density Bonus Ordinance Update

The proposed project would involve adoption by the Hayward City Council of a Zoning Ordinance text amendment (ZTA) to revise Chapter 10, Article 17 – Affordable Housing Ordinance and Article 19 – Density Bonus Ordinance – of the Hayward Municipal Code to facilitate affordable residential development and bring the City’s regulations into compliance with current State Density Bonus Law. The Density Bonus Ordinance was added to the City of Hayward Zoning Ordinance by Ordinance 05-15, adopted November 22, 2005, and since adoption has largely remained unchanged despite the adoption of new State Density Bonus regulations. The purpose of the proposed project is to enact certain select provisions that go beyond State Density Bonus Law to further encourage developers to exceed the minimum requirements for providing on-site affordable housing in the City of Hayward. The California Government Code states, as guidance to local agencies, that the State Density Bonus Law “shall be interpreted liberally in favor of producing the maximum number of housing units.”

3.1 Project Location and Zoning Districts

The proposed project would apply the following zoning districts within the entire planning area (the City of Hayward and its sphere of influence) that allow residential and mixed-use development:

- Single-Family Residential (RS)
- Medium Density Residential (RM)
- High Density Residential (RH)
- Residential Natural Preservation (RNP)
- Residential-Office (RO)
- Neighborhood Commercial (CN)
- Neighborhood Commercial-Residential (CN-R)
- General Commercial (GC)
- Commercial Office (CO)
- Sustainable Mixed Use (SMU)
- Limited Access Commercial (CL)
- Central Business (CB)
- Central City-Commercial (CC-C)
- Central City-Residential (CC-R)
- Central City-Plaza (CC-P)
- Agricultural (A)
- Mission Boulevard – Corridor Neighborhood (MB-CN)
- Mission Boulevard – Neighborhood Node (MB-NN)
- Mission Boulevard – Corridor Center (MB-CC)
- Neighborhood Edge (NE)

- Neighborhood General (NG)
- Urban Neighborhood (UN)
- Urban Neighborhood Limited (UN-L)
- Downtown Main Street (DT-MS)
- Urban Core (UC)

3.2 Description of the Density Bonus Ordinance Update

The proposed ZTA would allow a higher density bonus than currently allowed by state law for projects with a certain percentage of affordable units and an even higher density increase for special target projects listed below. The special target projects eligible for an increased density bonus beyond State Density Bonus Law include the following, if they include affordable units on-site as summarized in Table 1 below:

- Mixed income rental projects that provide more than 20% of the rental units for large families (3+ bedrooms)
- Mixed income projects incorporating universal design principles
- Mixed income senior housing
- Mixed income college student housing
- Mixed income housing with unit set-asides for foster youth, disabled vets, or individuals experiencing homelessness

Table 1 Proposed Maximum Density Increases

Target Population Served	State Required Restricted Affordable Units	State Maximum Density Increase	Proposed Hayward Maximum Density	Proposed Hayward Maximum Density Increase for Special Targeting
Very Low Income	15%	50%	55%	60%
Low Income	23%	50%	55%	60%
Moderate Income	44%	50%	55%	60%
Foster Youth/Disabled Veterans/Unhoused people	10% restricted at very low income	20%	25%	30% (15% restricted at very low income)
College Students	20% Low-Income Student	35%	40%	45% (25% restricted low-income students)

The types of incentives/concessions allowed for affordable housing projects include the following:

- a. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, resulting in identifiable, financially sufficient, and actual cost reductions; or
- b. A reduction in setback and square footage requirements; or
- c. Approval of mixed-use zoning in conjunction with the Residential Development Project if commercial, office, industrial, or other land uses will reduce the development cost of the Residential Development Project and if the commercial, office, industrial, or other land uses are

compatible with the Residential Development Project and the existing or planned development in the area where the proposed housing project will be located.

The proposed ZTA also proposes an increase in the number of incentives/concessions from development regulations beyond that allowed by the State Density Bonus Law for projects with a certain percentage of affordable housing units as shown in Table 2 below.

Table 2 Proposed Increase in Incentives and Concessions

Number of Incentives/ Concessions Required by State	Proposed Number of Incentives/Concessions Proposed by Hayward	Percentage of VLI Units	Percentage of LI Units	Percentage of MI Units
1	1 ¹	5%	10%	10%
2	3	10%	17%	20%
3	4	15%	24%	30%
3	4	100% (LI/VLI) or 100% (MI 20% /LI 80%)		
4	5			

¹ The first tier is not increased because compliance with the Affordable Housing Ordinance's on-site affordable housing requirement makes the project eligible for one incentive/concession.

VLI = Very Low Income

LI = Low Income

MI = Moderate Income

As described in Section 3.1, *Project Location and Zoning Districts*, proposed density bonus provisions would apply to zoning districts that allow residential developments:

- Single-Family Residential (RS)
- Medium Density Residential (RM)
- High Density Residential (RH)
- Residential Natural Preservation (RNP)
- Residential-Office (RO)
- Neighborhood Commercial (CN)
- Neighborhood Commercial-Residential (CN-R)
- General Commercial (GC)
- Commercial Office (CO)
- Sustainable Mixed Use (SMU)
- Limited Access Commercial (CL)
- Central Business (CB)
- Central City-Commercial (CC-C)
- Central City-Residential (CC-R)
- Central City-Plaza (CC-P)
- Agricultural (A)
- Mission Boulevard – Corridor Neighborhood (MB-CN)
- Mission Boulevard – Neighborhood Node (MB-NN)
- Mission Boulevard – Corridor Center (MB-CC)

- Neighborhood Edge (NE)
- Neighborhood General (NG)
- Urban Neighborhood (UN)
- Urban Neighborhood Limited (UN-L)
- Downtown Main Street (DT-MS)
- Urban Core (UC)

Depending on the number of Density Bonus applications received, the City may expect to see an incrementally greater increase of units in the future under the proposed updates for projects where use of the density bonus is proposed. The unit increase would depend on the density bonus increase request. The current density allowances for the land uses listed above range from 1.0 to 110 dwelling units per net acre. With the proposed updates, density bonus applicants would be able to receive a maximum 55% density bonus or 60% density bonus (if an applicant provides housing for one of the target groups mentioned above) which would be 5% to 10% greater than what is currently required by state law.

3.3 Relationship of the Proposed Project to Previous EIR Analysis

The City of Hayward adopted the 2040 General Plan on July 1, 2014. It includes goals and policies that convey the City's long-term vision and guide local decision making to reach that vision. The General Plan EIR assessed impacts from the implementation of the General Plan and was certified in 2014 when then City Council approved the General Plan. Development under the project would be required to abide by all applicable goals and policies in the adopted General Plan. The proposed Density Bonus Ordinance Update does not include changes to the policies or land use designations of the General Plan or any other amendments to the General Plan; it would also not involve or facilitate development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The effected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The proposed project would be consistent with the 2040 General Plan goals and policies to that encourage the development of affordable housing.

4 Decision Not to Prepare a Subsequent Environmental Impact Report

As outlined in Section 15164 of the *CEQA Guidelines*, a lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in *CEQA Guidelines* Section 15162 calling for preparation of a subsequent EIR have occurred. The conditions described in Section 15162 include the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The impact analysis that follows demonstrates that the proposed Density Bonus Ordinance Update would not result in new significant environmental impacts beyond those that have already been identified and characterized in the General Plan EIR in 2014, and that there are no substantial changes in the project or circumstances or substantially important new information that would cause the project to have significant new impacts or substantially increase previously identified significant impacts. None of the conditions described above in *CEQA Guidelines* Section 15162 that would call for preparation of a subsequent EIR have occurred or would occur as a result of the proposed project. Therefore, this addendum is the appropriate level of environmental documentation under CEQA. This addendum will be considered by the City's decision-making body in its consideration of the proposed project.

5 Environmental Impacts

This addendum evaluates potential environmental impacts that could result from the proposed project in the context of/compared to the growth projects and impacts studied in the 2014 General Plan EIR. The existing environmental conditions in and around the project area are substantially the same under present conditions as described in the 2014 General Plan EIR. The analysis below provides updates where necessary to characterize potential impacts.

Appendix G of the *CEQA Guidelines* provides a checklist of environmental issue areas suggested for assessment in CEQA analyses. Since preparation of the 2014 General Plan EIR, revisions to the *CEQA Guidelines* have occurred to include environmental issue areas pertaining to energy, vehicle miles traveled (VMT), tribal cultural resources, and wildfire. To provide a thorough and conservative analysis of potential impacts associated with the proposed project, this addendum addresses the 20 environmental issue areas suggested by Appendix G of the 2022 *CEQA Guidelines*, listed below.

- | | |
|------------------------------------|---------------------------------|
| ▪ Aesthetics | ▪ Land Use and Planning |
| ▪ Agriculture and Forest Resources | ▪ Mineral Resources |
| ▪ Air Quality | ▪ Noise |
| ▪ Biological Resources | ▪ Population and Housing |
| ▪ Cultural Resources | ▪ Public Services |
| ▪ Energy | ▪ Recreation |
| ▪ Geology and Soils | ▪ Transportation |
| ▪ Greenhouse Gas Emissions | ▪ Tribal Cultural Resources |
| ▪ Hazards and Hazardous Materials | ▪ Utilities and Service Systems |
| ▪ Hydrology and Water Quality | ▪ Wildfire |

Potential environmental impacts of the proposed project are analyzed to determine whether they are consistent with the impact analysis provided in the 2014 General Plan EIR, and whether additional mitigation measures are required to minimize or avoid further potential impacts. Where the following analysis identifies impacts, discussion of previously identified mitigation measures from the 2014 General Plan EIR and existing applicable policies and regulations are discussed, as relevant, with respect to mitigating potential impacts from the proposed project.

5.1 Aesthetics

Impacts Identified in the 2014 General Plan EIR

Impacts related to aesthetics were analyzed on pages 5-1 through 5-34 of the General Plan EIR. The General Plan EIR determined that cumulative mitigating benefits of the General Plan programs and policies would result in a less than significant impacts to scenic vistas; scenic resources; visual character or quality; and light or glare that would affect day or nighttime views. Therefore, impacts regarding aesthetics were determined to be less than significant, and no mitigation was required.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in a substantial change in the potential for projects to affect scenic views, the potential to damage scenic resources, or the potential to introduce new sources of light and glare. Height increases are currently allowed under State Density Bonus Law. California Government Code Section 65915(d)(2)(D) allows a height increase as an incentive for a mixed-income project that qualifies for a density bonus, and the proposed project would not allow for greater heights than currently approvable. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to aesthetics than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. Existing General Plan programs and policies that address aesthetics would continue to apply to development under the proposed project. No new mitigation measures are necessary.

5.2 Agriculture and Forestry Resources

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses agricultural impacts in the agricultural and forestry resources section, on pages 6-1 through 6-6. The General Plan EIR determined that the cumulative mitigating benefits of the General Plan programs and policies would result in a less than significant impacts to agriculture and forestry resources and no mitigation was required.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in substantially greater development footprints or excavation/disturbance depth or extent such new or greater impacts to agriculture and forestry resources would occur. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant

impacts or substantially more severe significant impacts with respect to agriculture and forest resources than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.3 Air Quality

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses air quality impacts on pages 7-1 through 7-40 and finds that odor-related impacts would be less than significant. Impacts associated with short-term construction, long-term operational emissions, and health risk exposure to toxic air contaminants (TAC) and particulate matter 2.5 (PM2.5) would be significant and unavoidable, even after application of all feasible mitigation. The General Plan EIR includes the incorporation of specific source-reduction and receptor-oriented risk reduction measures and best management practices (BMP) in the General Plan, although the overall effectiveness of these measures in reducing communitywide health risk could not be quantified. These impacts would, therefore, remain significant and unavoidable. Because the General Plan would not be fully consistent with the primary goals of the Bay Area 2010 Clean Air Plan with the elevated emissions projected, the General Plan EIR found that this impact would be significant and unavoidable.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would allow a higher density bonus than currently allowed by State law for projects that would include a certain percentage of affordable units, and an even higher density increase for special target projects, in specific zoning districts in Hayward. The proposed provisions would be voluntary and would only apply in zoning districts that already allow residential housing. It would be speculative to project how many developers would request to apply the provisions, to what extent, and in what locations. Nevertheless, in projects that make use of the provisions, the allowed density could increase by up to 10 percent beyond what is currently allowed under State law, which would directly generate population growth. Still, as discussed in Section 5.14, *Population and Housing*, the modest increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR. The proposed Density Bonus Ordinance Update would also not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes.

The modest incremental increase in allowable density and building scale would not result in substantially more intense construction phases, or in different or substantially more intense land uses in the affected zoning districts. As discussed in Section 5.17, *Transportation*, the project would not result in a substantial increase in vehicle trips or vehicle miles travelled such that a significant increase in emissions would result. General Plan policies and programs, standard conditions of approval, and Municipal Code provisions that address air quality would apply to development under the proposed project. Impacts would not be substantially greater than those analyzed in the 2014 General Plan EIR.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to air quality than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. Local, State, Bay Area Air Quality Management District (BAAQMD), and federal regulations as well as General Plan programs and policies would continue to apply to development under the proposed project, and impacts would be substantially similar to those analyzed in the 2014 General Plan EIR. No new mitigation measures are necessary.

5.4 Biological Resources

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses biological resources impacts on pages 8-1 through 8-32 and finds impacts to be less than significant. The General Plan EIR determined that the cumulative mitigating benefits of the General Plan programs and policies would result in a less than significant impact to biological resources and no mitigation was required.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in substantially greater development footprints or excavation/disturbance depth or extent such that additional or greater impacts to biological resources would occur. General Plan programs and policies related to biological resources, as well as existing regulations from state and federal agencies, would continue to apply to development under the proposed project and would ensure that impacts remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to biological resources than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.5 Cultural Resources

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes cultural resources on pages 12-1 through 12-13 and finds that impacts to sites of local importance, overall historic setting, and previously undiscovered

archaeological resources would be less than significant and impacts to paleontological resources would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in more demolition potential, substantially greater development footprints, or excavation/disturbance depth or extent. General Plan policies and local, state, and federal regulations related to cultural resources would continue to apply to development under the proposed project and impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to cultural resources than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur and no new mitigation measures are necessary.

5.6 Energy

Impacts Identified in the 2012 EIR

The General Plan EIR analyzes impacts on energy on pages 21-9 through 21-24. This discussion addresses the issues of inefficient, wasteful, or unnecessary consumption of energy. The General Plan EIR identifies impacts related to energy consumption as less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would allow a higher density bonus than currently allowed by State law for projects that would include a certain percentage of affordable units, and an even higher density increase for special target projects, in specific zoning districts in Hayward. The proposed provisions would be voluntary and would only apply in zoning districts that already allow residential housing. It would be speculative to project how many developers would request to apply the provisions, to what extent, and in what locations. Nevertheless, in projects that make use of the provisions, the allowed density could increase by up to 10 percent beyond what is currently allowed under state law, which would directly generate population growth. Still, as discussed in Section 5.14, *Population and Housing*, the modest increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR. The proposed Density Bonus Ordinance Update would also not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes.

The modest incremental increase in allowable density and building scale would not result in substantially more intense construction phases, or in different or substantially more intense land uses in the affected zoning districts. As discussed in Section 5.17, *Transportation*, the project would not result in a substantial increase in vehicle trips or vehicle miles travelled such that a significant increase in energy use would result. In addition, many projects would be required to comply with the City's Reach Code, which was not in effect in 2014 and which states that new low-rise residential buildings (three stories and less) must be all electric and requires electric vehicle charging infrastructure beyond that required in the California Green Building Standards Code. Impacts would not be substantially greater than those analyzed in the 2014 General Plan EIR.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to energy than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.7 Geology and Soils

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses geology and soils impacts on pages 9-1 through 9-18 and concludes that impacts related to geology and soils would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not require substantially different foundation or building designs or engineering, or result in substantially greater development footprints or excavation/disturbance depth or extent. General Plan policies and local, State, and federal regulations, including the California Building Code, related to building safety and seismic considerations would continue to apply to development under the proposed project and impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to geology and soils than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.8 Greenhouse Gas Emissions

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes GHG emissions on pages 10-1 through 10-42 and concludes that impacts would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would allow a higher density bonus than currently allowed by State law for projects that would include a certain percentage of affordable units, and an even higher density increase for special target projects, in specific zoning districts in Hayward. The proposed provisions would be voluntary and would only apply in zoning districts that already allow residential housing. It would be speculative to project how many developers would request to apply the provisions, to what extent, and in what locations. Nevertheless, in projects that make use of the provisions, the allowed density could increase by up to 10 percent beyond what is currently allowed under State law, which would directly generate population growth. Still, as discussed in Section 5.14, *Population and Housing*, the modest increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR. The proposed Density Bonus Ordinance Update would also not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes.

The modest incremental increase in allowable density and building scale would not result in substantially more intense construction phases, or in different or substantially more intense land uses in the affected zoning districts. As discussed in Section 5.17, *Transportation*, the project would not result in a substantial increase in vehicle trips or vehicle miles travelled such that a significant increase in greenhouse gas emissions would result. In addition, many projects would be required to comply with the City's Reach Code, which was not in effect in 2014 and which states that new low-rise residential buildings (three stories and less) must be all electric and requires electric vehicle charging infrastructure beyond that required in the California Green Building Standards Code. Impacts would not be substantially greater than those analyzed in the 2014 General Plan EIR.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to GHG emissions than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new or revised mitigation measures are necessary.

5.9 Hazards and Hazardous Materials

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses hazardous materials impacts on pages 11-1 through 11-24 and finds that impacts related to hazards and hazardous materials in the City would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in substantially greater development footprints or excavation/disturbance depth or extent such that the potential to encounter hazardous materials or conditions would differ from those under General Plan buildout. General Plan policies and local, state, and federal regulations related to hazards and hazardous materials would continue to apply to development under the proposed project and impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to hazards and hazardous materials than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.10 Hydrology and Water Quality

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses hydrology and water quality impacts on pages 13-1 through 13-40. The EIR found that potential impacts to hydrology and water quality would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in substantially greater development footprints, impermeable surfaces, or excavation/disturbance depth or extent. General Plan policies and local, state, and federal regulations related to drainage and water quality would continue to apply to development under the proposed project and impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to hydrology and water quality than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines*

Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.11 Land Use and Planning

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR addresses land use and planning on pages 14-1 through 14-42. Impacts to land use and planning were determined to be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would allow a higher density bonus than currently allowed by State law for projects that would include a certain percentage of affordable units, and an even higher density increase for special target projects, in zoning districts that allow residential development in Hayward. The proposed provisions would be voluntary and would only apply in zoning districts that already allow residential housing. The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014 and the proposed use it would support – residential housing – is an allowed use in all affected zoning districts, as studied in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. General Plan policies and Zoning Ordinance requirements (except as modified pursuant to specific project requests as allowed by the proposed ZTA and State law) would continue to apply to development under the proposed project. Impacts would remain less than significant with adoption of the proposed project by the Hayward City Council.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to land use and planning than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.12 Mineral Resources

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes mineral resources in Section 10, *Geology, Soils, and Minerals* and finds that impacts would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the location and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The only State-designated mineral resource location in

Hayward is the La Vista Quarry, which would not be affected by the proposed project. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to mineral resources than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.13 Noise

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes noise on pages 15-1 through 15-32. Impacts due to construction-related ground vibration, railroad generated noise, and noise generated from stationary sources were found to be less than significant. Impacts related to short-term and long-term construction-generated noise, and traffic-related noise, were found to be significant and unavoidable even with General Plan policies that would reduce noise from these sources.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would allow a higher density bonus than currently allowed by State law for projects that would include a certain percentage of affordable units, and an even higher density increase for special target projects, in specific zoning districts in Hayward. The proposed provisions would be voluntary and would only apply in zoning districts that already allow residential housing. It would be speculative to project how many developers would request to apply the provisions, to what extent, and in what locations. Nevertheless, in projects that make use of the provisions, the allowed density could increase by up to 10 percent beyond what is currently allowed under State law, which would directly generate population growth.

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes.

The modest incremental increase in allowable density and building scale would not result in substantially louder or longer construction phases, or in different or substantially more intense land uses in the affected zoning districts. As discussed below in Section 5.17, *Transportation*, the project would not result in a substantial increase in vehicle trips or vehicle miles travelled such that a significant increase in traffic noise would result. General Plan policies and programs, standard conditions of approval, and Municipal Code provisions for noise reduction would apply to development under the proposed project. Impacts would not be substantially greater than those analyzed in the 2014 General Plan EIR.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant

impacts or substantially more severe significant impacts with respect to noise than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.14 Population and Housing

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR discusses population and housing on pages 16-1 through 16-7. The General Plan EIR accounts for a population of 265,962 people at full buildout of the Hayward Planning Area and finds that impacts would be less than significant.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would allow a higher density bonus than currently allowed by State law for projects that would include a certain percentage of affordable units, and an even higher density increase for special target projects, in specific zoning districts in Hayward. The proposed provisions would be voluntary and would only apply in zoning districts that already allow residential housing. It would be speculative to project how many developers would request to apply the provisions, to what extent, and in what locations. Nevertheless, in projects that make use of the provisions, the allowed density could increase by up to 10 percent beyond what is currently allowed under State law, which would directly generate population growth.

The population of Hayward as of January 2022 was approximately 160,591 persons (California Department of Finance 2022). The 2040 General Plan EIR studied the impacts of a population increase up to 208,047 by 2040. The modest (up to 10 percent) increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR, and impacts would remain less than significant. The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as currently allowed; therefore, potential displacement impacts would be the same as for buildout under the General Plan as analyzed in the 2014 General Plan EIR and would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to population and housing than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.15 Public Services

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes public services on pages 17-1 through 17-42 and concludes that impacts regarding public services would be less than significant.

Impacts of the Proposed Project

As discussed above in Section 5.14, *Population and Housing*, the modest (up to 10 percent) increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR. The proposed Density Bonus Ordinance Update would also not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014, which are currently served by fire services, police services, schools, and libraries. The affected zoning districts currently allow residential development at generally the same physical scale as currently allowed; therefore, potential impacts would be generally the same as for buildout under the General Plan as analyzed in the 2014 General Plan EIR and new or expanded facilities would not be required as a result in the proposed project specifically. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to public services than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.16 Recreation

Impacts Identified in the 2014 General Plan EIR

As discussed in Section 17, *Public Services*, of the General Plan EIR (pages 17-1 through 17-42) impacts to recreation were determined to be less than significant.

Impacts of the Proposed Project

As discussed above in Section 5.14, *Population and Housing*, the modest (up to 10 percent) increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR. The proposed Density Bonus Ordinance Update would also not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014, which are currently served by parks and recreation facilities and services. The affected zoning districts currently allow residential development at generally the same physical scale as currently allowed; therefore, potential impacts would be generally the same as for buildout under the General Plan as analyzed in the 2014 General Plan EIR. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to recreation than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section

15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.17 Transportation

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR evaluates transportation impacts on pages 18-1 through 18-44, using level-of-service (LOS) as the methodology and to assess significance. Since certification of the EIR and pursuant to Senate Bill (SB) 743, the City of Hayward has adopted vehicle miles traveled (VMT) as the primary metric to analyze transportation impacts instead of LOS.

Impacts of the Proposed Project

Buildout under the proposed project would be consistent with over buildout allowed under the General Plan and analyzed in the 2014 General Plan EIR. It would be speculative to project how many developers would request to apply the provisions, to what extent, and in what locations. In projects that make use of the provisions, the allowed density could increase by up to 10 percent beyond what is currently allowed under State law, which would directly generate population growth.

Hayward's residential zoning districts are largely served by transit, and many are in areas with more than 15 percent below average VMT per capita. In addition, affordable units and multi-family units typically generate less VMT than market rate housing and single-family dwellings. The modest increase in density that could be facilitated by the project on limited infill sites, combined with the lower-VMT generation of the types of units that would be facilitated under the project would not be expected to substantially increase VMT per capita in Hayward. VMT would not be substantially greater than for General Plan buildout under current conditions.

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not substantially change the EIR's conclusions regarding traffic safety, alternative travel modes, or incompatible uses. Impacts would be generally the same as for General Plan buildout under current conditions.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more significant impacts with respect to transportation and traffic than were identified in the 2014 General Plan EIR. None of the conditions listed in CEQA Guidelines Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.18 Tribal Cultural Resources

Impacts Identified in the 2014 General Plan EIR

Tribal Cultural Resources was added to the 2016 *CEQA Guidelines* as a separate environmental issue area. Thus, the 2014 General Plan EIR does not include a chapter or section dedicated to analysis of impacts to tribal cultural resources. However, it does analyze general impacts to historical and cultural resources (including archeological resources that may originate from Native American tribes) in Section 12, *Historical and Cultural Resources*, and concludes that impacts to historic and cultural resources would be less than significant. Implementation of existing regulations and General Plan policies LU-8.3 (Historic Preservation), LU-8.4 (Survey and Historic Reports), and LU-8.13 (Planning Study Considerations) would ensure that archaeological sites and resources, including undocumented human remains and those resources specifically of significance to Native Americans, would be protected, properly documented, and integral to the City's planning process.

Impacts of the Proposed Project

The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. The modest incremental increase in allowable density and building scale would not result in substantially greater development footprints or excavation/disturbance depth or extent; accordingly, potential impacts to Tribal cultural resources would be the same as under existing conditions. Finally, in addition to the General Plan policies listed above, California Assembly Bill 52 of 2014 (AB 52) came into effect after the certification of the 2014 General Plan EIR. In addition to adding tribal cultural resources to the CEQA Appendix G checklist, AB 52 established a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. Under AB 52, lead agencies are required to "begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency. This process has improved identification and protection of Tribal cultural resources.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to tribal cultural resources than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.19 Utilities and Service Systems

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes impacts on utilities and service systems on pages 19-1 through 19-34. This discussion addresses the issues of water supply and delivery, wastewater collection and

treatment, and solid waste disposal, recycling, and composting. The General Plan EIR identifies impacts to utilities and service systems as less than significant.

Impacts of the Proposed Project

As discussed above in Section 5.14, *Population and Housing*, the modest (up to 10 percent) increase in potential additional density that would be facilitated on limited sites in Hayward under the proposed Density Bonus Ordinance Update would not cause Hayward's population to exceed the General Plan projections and associated analysis in the EIR. The proposed Density Bonus Ordinance Update would also not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014, which are currently served by utilities and service systems. The affected zoning districts currently allow residential development at generally the same physical scale as currently allowed; therefore, potential impacts would be generally the same as for buildout under the General Plan as analyzed in the 2014 General Plan EIR and new or expanded facilities would not be required as a result in the proposed project specifically. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to utilities and service systems than were identified in the 2014 General Plan EIR. None of the conditions listed in CEQA Guidelines Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

5.20 Wildfire

Impacts Identified in the 2014 General Plan EIR

The General Plan EIR analyzes impacts related to wildfire on pages 11-1 through 11-24. The General Plan EIR identifies impacts related to wildfire as less than significant.

Impacts of the Proposed Project

Recent changes to the *CEQA Guidelines* have added additional checklist questions related to wildfire hazards to Appendix G of the *CEQA Guidelines*. Therefore, additional discussion related to wildfire hazards is provided herein to supplement the 2014 General Plan EIR. Wildfires are of particular concern in areas designated as a Very High Fire Hazard Severity Zone (VHFHSZ). The areas where the proposed ZTA would apply are not located within or adjacent to land classified as a VHFHSZ (CAL FIRE 2022). In addition, the proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014; the land uses, location, and general footprint of development under the project would be the same as for the citywide buildout analyzed in the 2014 General Plan EIR. The affected zoning districts currently allow residential development at generally the same physical scale as would be allowed under the proposed changes. Impacts would remain less than significant.

Conclusion

No substantial changes have occurred that require major revisions to the 2014 General Plan EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect wildfire than were identified in the 2014 General Plan EIR. None of the conditions listed in *CEQA Guidelines* Section 15162 requiring preparation of a subsequent EIR would occur. No new mitigation measures are necessary.

6 Conclusion

The City of Hayward, acting as the lead agency, determined that an addendum is the appropriate environmental document under CEQA because the proposed project would not require revisions to the adopted General Plan's certified EIR due to the involvement of new significant environmental effects or substantial increases in the severity of significant effects previously identified in the General Plan Update EIR.

There are no changed circumstances or new information that meets the standards for requiring further environmental review under CEQA Guidelines Section 15162. Thus, these circumstances and information would not result in new or more severe impacts beyond what were addressed in the General Plan Final EIR and would not meet any other standards under CEQA Guidelines Section 15162(a)(3). No additional analysis is required based on the discussions throughout this addendum. The proposed Density Bonus Ordinance Update would not involve development in areas not assumed for development in the EIR certified for the 2040 General Plan in 2014, nor would it result in population growth and density beyond what was analyzed in the 2040 General Plan EIR. The project would not result in significant or substantially more severe impacts that were not discussed in the 2040 General Plan EIR. Also, there are no previously identified significant effects which, as a result of substantial new information that was not known at the time of the previous environmental review, would be substantially more severe than discussed in the 2040 General Plan EIR. Accordingly, no additional CEQA review is required.

State CEQA Guidelines Section 15164 states that "[t]he lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred." An addendum is therefore appropriate because, as explained above, none of the conditions calling for preparation of a subsequent EIR have occurred.

7 References

7.1 Bibliography

California Department of Forestry & Fire Protection (CAL FIRE) Fire and Resource Assessment Program. 2022. Fire Hazard Severity Zone Viewer. <https://egis.fire.ca.gov/FHSZ/> (accessed November 2022).

7.2 List of Preparers

Rincon Consultants, Inc. prepared this addendum under contract to the City of Hayward. Persons involved in data gathering, analysis, project management, and quality control include the following:

Rincon Consultants, Inc.

Abe Leider, AICP CEP, Principal-in-Charge

Jerry Hittleman, Project Manager

Amber McEldowney, Environmental Planner

RECOMMENDATIONS THAT ARE NOT PART OF THE DENSITY BONUS UPDATE

Project Amenities

Recommendation: Consider Density Bonus for project that provide certain project amenities, such as public art, dog parks, open space, etc.

Staff Response: While the Council and Planning Commission suggested that providing amenities such as dog parks, public art, and recreation/open space could qualify a project to eligible for a density bonus, amenities such as these increase the cost of projects. One option to provide broader flexibility with the development standards and incentivize the incorporation on-site amenities could be to have applicants apply for Planned Development zoning (PD) and/or a General Plan Amendment. Most PD rezonings are applied for when the project is seeking additional flexibility on adopted development standards and these features could be considered as a public benefit when a PD application is submitted.

On-Site Affordable Units

Recommendation: Require affordable housing units to be provided on-site.

Staff Response: While the updated Density Bonus Ordinance will help support and incentivize the construction of on-site affordable units, the requirements to provide those affordable units on-site is currently under review as part of an update to the City's Affordable Housing Ordinance (AHO). Staff expects a draft of the updated AHO to be completed in early 2023.

Fee Assessment

Recommendation: Look at fees on a square footage basis rather than a per unit basis.

Staff Response: While the Density Bonus Ordinance does contain recommendations for fee waivers or deferrals, the assessment of impact fees or other permit fees are often tied to nexus studies, which will determine the appropriate amount of fees charged and is codified as part of the City's Master Fee Schedule. While many development-related fees are based on square footage or per unit basis, the Density Bonus update will not determine how impact fees are assessed.

Property Transfer Tax

Recommendation: Increase Property Transfer Tax

Staff Response: The intent to the Density Bonus Ordinance is to either increase revenue or decrease development costs tied to affordable housing or housing tied to special needs populations. Property transfer taxes are not directly or indirectly tied to the Density Bonus Ordinance update.

Applicable Income Levels

Recommendation: Use Hayward income levels rather than area median income as a measure, since Hayward income is lower than Alameda County

Staff Response: The State Density Bonus laws dictate the income levels/limits to be used for affordable housing.

Speculative Investments

Recommendation: Prevent speculative investment

Staff Response: Staff is currently exploring options tied to the Strategic Roadmap to preserve, protect, and produce housing.

Parking

Recommendation: No parking reduction and concerns about equity implications of not giving low-income units as much parking.

Staff Response: While the State already allows projects that qualify for a Density Bonus application to have a reduced parking ratio by right, the update to the Density Bonus Ordinance is not proposing any additional limitations or restrictions on project specific parking requirements. Staff is currently working to develop Objective Standards and as part of that project, parking regulations will be studied.

Displacement

Recommendation: Make sure residents are not displaced

Staff Response: Recently adopted SB330 legislation requires any housing units demolished that were occupied by protected tenants be replaced and additionally, the city has adopted a tenant assistance ordinance to provide tenant relocation assistance in the event they are displaced due to no-fault eviction or temporarily displaced due to renovations.

Project Financing

Recommendation: Banks may not lend to market rate buyers purchasing in a building with subsidized units

Staff Response: The City does not have the authority to regulate financial institutions but there are existing federal programs and lending criteria that allow for financing approval for restricted units.

STAKEHOLDER INTERVIEW COMMENTS

Market-Rate Developers:

Challenges:

- City's mixed use ordinance requirements are difficult to meet and, in some cases, has led a project/deal to fall through. Difficult to finance commercial component – specifically, commercial size requirement.
- Developer expressed that there isn't a lot of land that is available and buildable:
 - For student housing, it's difficult to find sites due to CSU requirement (master lease and project site must be within 1 mile from university).
 - Considered areas of “downtown” but turned away due to high environmental review/clean-up costs.
- Mixed-use projects are desirable but very difficult to finance due to the layering of funding and regulatory requirements from various funding sources/programs.

Suggestions:

- Reduce commercial size requirement(s) in mixed-use ordinance.
- Establish case manager in CMO to facilitate expedited review for projects. Example provided – SJ and LA.
 - Example shared about SJ – Project successfully expedited and streamlined entitlement through a program like such and the city had environmental review completed for project site/area. Also, city waived affordable fees estimating at \$4M.

Affordable/Non-Profit Developers:

Challenges:

- High impact fees – Affordable developers get specific impact fees waived but further waiving fees related to entitlement would be helpful and reduce overall development cost.
- Adapting to changing development requirements. Difficult for developers to adapt – logistics and budget.
- NIMBY-ism/community opposition.
- Public art requirement can pose challenges related to prevailing wages/D. Bacon.
- Open space and parking requirements are challenging – budget and project site size.

Suggestions:

- Reduce, waive, or defer payment of impact fees/city fees.
 - Example shared about Fremont – City deferred fees for developer to pay fee after project closing via agreement between City and developer. Estimated fee that was deferred - \$2M.
- Be mindful of economy of scale – Although there are incentives for including deeper affordability and denser buildings, projects need to be financially feasible, and developer needs to have appropriate capacity to carry on project at large scale.
- Provide clear confirmation of requirements up front and the timing associate with the requirement.
- Waive open space and parking requirements.



**PLANNING COMMISSION MEETING
COUNCIL CHAMBERS AND VIRTUAL (ZOOM)
PARTICIPATION
Thursday, November 10, 2022, 7:00 p.m.**

The Planning Commission meeting was called to order at 7:00 p.m. by Chair Ali-Sullivan. The Planning Commission held a hybrid meeting in the Council Chambers and virtually via Zoom.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present:	COMMISSIONERS:	Bonilla Jr., Goldstein, Lowe, Roche
	CHAIRPERSON:	Ali-Sullivan
Absent:	COMMISSIONER:	Stevens
	CHAIRPERSON:	Oquenda

Staff Members Present: Madhukansh, Morales, Ochinero, Schmidt, Tabari, Thompson, Vigilia

PUBLIC COMMENTS

There were none.

WORK SESSION

1. Proposal Bonus Update: Review and Discuss Updates to the City's Density Bonus Ordinance for Compliance with State Density Bonus Laws **(WS 22-035)**

Senior Planner Thompson provided a synopsis of the staff report.

Commissioner Goldstein asked staff if 55 percent for very low-income was the proposed Hayward maximum density and if special groups were also to be targeted. He also asked if a developer was allowed a 60 percent density bonus for a ten-unit project, then they would be permitted to build an additional six units. Senior Planner Thompson confirmed this was correct.

Commissioner Goldstein commented that the proposed recommendations were very generous compared to the State's incentives. He wanted to understand if staff received any feedback on the proposal from developers. Ms. Thompson mentioned a survey and interviews were conducted with developers sharing three developers participated in this process.

Commissioner Goldstein indicated that in previous conversations with developers, some responses received were that developers could build higher projects, but this would not come to fruition due to increased costs. Senior Planner Thompson shared that developers provided feedback on methods to incentivize greater production of affordable housing



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units within the city, including providing feedback for the proposed ordinance which comprises of incentives, concessions, and greater density bonus.

With regards to financial incentives, fee waivers, and fee deferrals, Commissioner Goldstein encouraged staff to consult with the Hayward Area Recreation and Park District (HARD) Board on the proposed reduction of the park in-lieu fees due to the potential impact it may have. He commented that many times developers proposed to dedicate space to be used for a park, however these typically did not have a maintenance fund and that this should be considered. Mr. Goldstein noted that the city was struggling to modernize its existing infrastructure and suggested that staff consider what neighborhoods were being developed and whether a utility fee deferral would be feasible.

Commissioner Roche appreciated staff's recommendation with streamlining the process as this will guide developers. She agreed with Commissioner Goldstein's comments on park in-lieu fees and consulting with HARD, and underscored the importance of providing green space for people to enjoy the outdoors when building high density projects. Ms. Roche shared that many residents were concerned about traffic impacts resulting from construction along Mission Boulevard and emphasized the need for resources to help manage traffic as additional housing projects are constructed.

Commissioner Lowe asked what policies and provisions were in place to ensure equity when the City considers waiving a fee or issuing a deferral. Ms. Thompson stated that equity provisions were a policy consideration and staff would forward that question to the City Council for consideration.

Commissioner Lowe asked what problems and concerns were experienced by other cities when administering fee waivers or deferrals. Housing Division Manager Morales stated standard criteria would be established for individual projects rather than who was requesting thereby setting specific terms. In order to ensure compliance, Ms. Morales shared the fees would be memorialized in agreements that would be recorded to the title of the property. In terms of deferrals, the fee payments would differ until the units were placed in service and would be short-term deferrals. With regards to the park in-lieu fees, Ms. Morales clarified that the ability to waive the fees for 100 percent affordable housing projects already existed under the ordinance. Ms. Morales added that staff worked with HARD to allow specified reductions in park fees for units that comply with on-site affordable housing to incentivize developers.

Commissioner Lowe noted that when developers were asked to complete the survey, the response was that mixed-use was difficult due to challenges with the size and getting financing of commercial spaces. She asked staff if the City's requirements for mixed-use developments were similar to other cities of the same size. She wanted to ensure that an



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updated ordinance would allow Hayward to be competitive in the development of affordable housing.

Senior Planner Hittleman with Rincon Consultants shared that other cities that have gone beyond State law have helped incentivize more affordable housing growth in their communities, commenting that both mixed-use and residential developments have been successful.

Commissioner Lowe stressed that updates to the ordinance should ensure that Hayward remain competitive with surrounding cities. Ms. Morales stated the proposed changes exceeded State law requirements and that this made the city more competitive than surrounding jurisdictions. She noted that the Affordable Housing Ordinance would be brought to the Planning Commission at a future meeting and that this would include comparisons of how much affordable housing has been developed in comparable jurisdictions, emphasizing that Hayward has done well in developing affordable housing. She stated that this would provide incentives, additional tools and resources in making affordable housing more feasible. Mr. Hittleman added that the city would be drafting a user guide once the ordinance was adopted and that would be very beneficial to developers.

Chair Ali-Sullivan stated that it would be helpful to have comparisons with adjacent cities to benchmark what was proposed for Hayward compared to neighboring jurisdictions.

Commissioner Bonilla Jr. expressed that he was proud as he found the proposal to be very responsive to the comments made by the Planning Commission underscoring that the proposed plan incentivized affordable housing in the city. He mentioned that Hayward was being recognized across the Alameda County as a leader in affordable housing production. Mr. Bonilla Jr. stated there had been a lot of previous discussion about incentives the city should provide to build more affordable housing and the proposed changes reflected these incentives. He wanted to understand how the city planned to ensure that onsite affordable housing would be built, but he understood that information would come at a later time. He appreciated the flexibility proposed in the ordinance and the ability to adjust to the community's needs, speaking favorably of the targeted special populations component of the plan. Mr. Bonilla Jr. found the plan to be very responsive to the regional needs for housing and emphasized that it provided a plan to ensure equitable housing. He appreciated Commissioner Lowe's comments with respect to equitability and staff's response to establish criteria.

Chair Ali-Sullivan echoed Commissioner Bonilla Jr.'s comments about the proposed changes being responsive to the Planning Commission's comments about affordable housing. He asked what the current State maximum density was and how it compared to the proposal. Senior



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Planner Thompson explained that currently the city was operating at the State's maximum density of 50 percent for very-low-income, low-income and moderate-income; however, the proposal was to exceed the State's maximum and increase it to 55 percent.

Chair Ali-Sullivan asked staff what would happen if a developer wanted all the concessions in the City's Density Bonus Ordinance. Ms. Thompson responded that if a project was eligible for a Density Bonus, that project was eligible for the maximum density and specified number of concessions with unlimited waivers if the developer chose to pursue it.

Chair Ali-Sullivan commented that there was no incentive for a developer to provide very low-income units when they would receive the same Density Bonus for moderate income units. He noted there was a need in the community for more very-low-income units. Housing Division Manager Morales responded that based on the high percentage of moderate-income units required relative to the number of very-low-income units required, staff observations for lower-tier density bonus were that developers were choosing to provide fewer units of very-low-income units rather than to try to get a higher number of on-site inclusionary for moderate income units in order to receive the first incentive. Staff shifted the focus to get developers to get to the second incentive and to provide more on-site affordable housing. She exemplified that if the market rate price for a unit was \$1 million, then the restricted resell price would be approximately \$500,000, which was a large price differential for developers to sell 44% of units at the moderate-income level price versus having 15% of very low-income units. Ms. Morales stated that it also depended on the economics of the project, but there are evident cases of very low-income units being incentivized and that staff was pleased to see that it was a priority of the Planning Commission to target this population as there was a need for more units at this price level.

With regards to Regional Housing Needs Assessment (RHNA) numbers, Commissioner Lowe inquired if this was the reason why the city was lacking in moderate-income units. Housing Division Manager Morales noted that there were two mechanisms to create moderate-income units which were the on-site inclusionary agreement and the second mechanism was being able to count accessory dwelling units (ADUs) that are developed, noting these were naturally occurring moderate-income units. For low and very low-income-units, she indicated that 100 percent affordable housing projects can be included and subsidized with Housing Inclusionary Funds. This enables the creation of units faster than having a smaller incremental percent of units being proposed under the Inclusionary Ordinance. She added that there was not a lot of public financing available to subsidize moderate-income ownership units which made it challenging for developers to create these units.

Commissioner Bonilla Jr. understood the way the city would increase units in specific categories was to adjust the proposed plan accordingly and Ms. Morales agreed. She



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explained the reason mixed-income was general was to encourage a more mixed-income community.

Commissioner Bonilla Jr. stated that the way to deeply incentivize specific income-based units was to provide more incentives for those units. Ms. Morales concurred that was correct and responded that staff would ensure the ordinance was and that mixed income meant a mixture of market rate and affordable units.

Commissioner Goldstein mentioned the city had not established a formula on how to measure parking for new developments and that placed the city at a disadvantage relative to State law. Principal Planner Schmidt stated the city had existing off-street parking regulations and pointed out that the state density bonus superseded the city's regulations. She noted that density bonus projects were subject to different parking standards already outlined in State law. In response to Commissioner Goldstein's question about objective parking standards, Ms. Schmidt stated that future discussions on the City's Objective Parking Standards would be considered in early 2023 and that this would be for projects not seeking a density bonus.

Chair Ali-Sullivan opened the public hearing at 7:57 p.m.

Mr. Gabriel Altamirano with South Hayward Now/Ahora, participated via Zoom, stated the objective of the organization was to have a voice for environmental justice. He expressed that the City was known for issuing Mitigated Negative Declaration for projects that cause extreme effects on traffic and that his organization would monitor this. As projects come before the city, the group will focus its efforts on reducing traffic and advocate for proper California Environmental Quality Act (CEQA) review for parking. He encouraged the Planning Commission to continue to focus on low and very-low-income housing.

Ms. Ro Aguilar, Zoom participant, acknowledged the City's efforts to build more affordable housing in Hayward; however, she wanted the focus to remain on inclusionary affordable housing. She stated the control and responsibility to build inclusionary affordable housing was still in the hands of the developer with the proposed ordinance revisions. She commented whether exceeding the state requirements was necessary and mentioned that the city had not tried requiring developers to build inclusionary affordable housing. Ms. Aguilar stated no matter how many incentives, waivers, or concessions the city offered, the voluntary approval may not work due to neighborhood political opposition or due to business desired profit margins. She emphasized that action be taken demonstrating that the city was serious about inclusionary affordable housing and work towards repairing damage done by discriminatory housing codes.

Chair Ali-Sullivan closed the public hearing at 8:04 p.m.



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APPROVAL OF MINUTES

2. Minutes of the Planning Commission Meeting of October 27, 2022

A motion was made by Commissioner Lowe, seconded by Commissioner Goldstein, to approve the meeting minutes of October 27, 2022.

The motion passed with the following roll call votes:

AYES:	Chair Ali-Sullivan Commissioners Bonilla Jr., Goldstein, Lowe, Roche
NOES:	None
ABSENT:	Chair Oquenda Commissioner Stevens
ABSTAIN:	None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Senior Planner Schmidt congratulated Commissioners Roche and Goldstein, acknowledging that while final votes were still being counted, but in the event that the Commissioners move to new appointments, she shared that a special recruitment would be held to fill the vacant Planning Commission positions. She indicated that the Affordable Housing Ordinance would be discussed at the December 8, 2022, meeting and noted that the November 24, 2022, meeting would be canceled due to the Thanksgiving holiday.

Commissioners' Announcements, Referrals

Commissioner Bonilla Jr. congratulated Commissioners Roche and Goldstein on the election and looked forward to their continued impact on the City of Hayward.

Commissioners Goldstein and Roche thanked staff for their efforts and earlier presentation.

Chair Ali-Sullivan thanked members of the public for attending the meeting. He thanked all candidates who ran for City Council and their commitments and desire to serve Hayward. He commented that while the certification of election of results was pending, it was evident that some Planning Commissioners may be joining the City Council and congratulated Commissioners Roche and Goldstein for their hard work and desire to serve on the City Council.



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ADJOURNMENT

Chair Ali-Sullivan adjourned the meeting at 8:09 p.m.

APPROVED:

Brigitte Lowe, Secretary
Planning Commission

ATTEST:

Avinta Madhukansh-Singh
Interim Planning Commission Secretary
Office of the City Clerk



CITY OF HAYWARD

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

File #: RPT 22-111

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT

Smoke-Free Multi-Family Housing: Proposed Timeline for Updated Regulations

RECOMMENDATION

That Council reviews this informational report regarding the proposed schedule for evaluating and potentially adopting regulations regarding smoking within multi-family residential developments and makes any adjustments to the proposed timeline as the next three-year Strategic Roadmap is developed.

SUMMARY

The City has adopted ordinances and codes regulating smoking in many public places; however, the regulations specifically exempt private residences. The community has reached out to Council and staff requesting that the City take action immediately to regulate smoking in residential areas as well, specifically multi-family complexes. While staff recommends working to implement these regulations, it is important to schedule and prioritize this project within the context of the existing workload consistent with the projects already designated in the Strategic Roadmap. Based on review of the existing Strategic Roadmap and available staff resources, staff proposes completing this effort as a year one project in the next three-year Strategic Roadmap that commences in fiscal year 2023-24.

ATTACHMENTS

Attachment I Staff Report



DATE: December 6, 2022

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT: Smoke-Free Multi-Family Housing: Proposed Timeline for Updated Regulations

RECOMMENDATION

That Council reviews this informational report regarding the proposed schedule for evaluating and potentially adopting regulations regarding smoking within multi-family residential developments and makes any adjustments to the proposed timeline as the next three-year Strategic Roadmap is developed.

SUMMARY

The City has adopted ordinances and codes regulating smoking in many public places; however, the regulations specifically exempt private residences. The community has reached out to Council and staff requesting that the City take action immediately to regulate smoking in residential areas as well, specifically multi-family complexes. While staff recommends working to implement these regulations, it is important to schedule and prioritize this project within the context of the existing workload consistent with the projects already designated in the Strategic Roadmap. Based on review of the existing Strategic Roadmap and available staff resources, staff proposes completing this effort as a year one project in the next three-year Strategic Roadmap that commences in fiscal year 2023-24.

BACKGROUND

The City of Hayward has adopted numerous regulations addressing smoking within the City. Specifically, Hayward Municipal Code Chapter 5, Article 6 aims to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of tobacco and cannabis use around non-tobacco and non-cannabis users; by protecting children from exposure to smoking tobacco and cannabis while they play; by reducing the potential for children to associate smoking tobacco and cannabis with a healthy lifestyle; by protecting the public from smoking tobacco-related and cannabis-related litter and pollution; and by affirming and promoting the family atmosphere of the City's public places. While this section of the Municipal Code speaks to smoking in public places primarily, it specifically exempts private residences.

Recently, representatives from La Familia, as well as individual tenants in multi-family complexes within the City have outreached to the City raising concerns regarding the City's lack of regulations pertaining to smoking within these complexes. Based on this feedback, Council requested staff review and a timeline for addressing the issue.

DISCUSSION

As discussed above, Chapter 5, Article 6 of the Hayward Municipal Code does address smoking, however, the regulations currently exempt private residences. In doing some preliminary research, the greatest concerns relate to smoking in multi-family residential complexes as opposed to single family residential units. As part of any new change in policy or direction, staff recommends that the City outreach to the community and affected parties and provide an opportunity for input prior to final Council action. Given existing priorities (i.e., Housing Element, EnerGov implementation, Vacant Building Ordinance implementation, Density Bonus, Residential Objective Design Standards, Sidewalk Vendor, Community Preservation, and Alcohol Regulations) and competing staff resources, staff recommends that this project be added to the next three-year Strategic Roadmap as a year one priority project. The below schedule reflects staff's recommended timeframe for completion:

Task	Timeframe
Community Outreach (web page, community survey, listening sessions, etc.)	July 2023-September 2023
Develop Draft Regulations	September-October 2023
Work Sessions	October-November 2023
Final Regulations	January 2024

Staff is committed to making this project a priority year one project in the next Strategic Roadmap. Alternatively, staff could begin outreach earlier, but would need to modify the anticipated timing for other priority efforts, namely the Community Preservation Ordinance.

ECONOMIC IMPACT

The economic impacts of adopting such regulations is unknown, but would be evaluated as part of the future project.

STRATEGIC ROADMAP

Establishing regulations to regulate smoking within multi-family residential developments is not currently a project in the adopted Strategic Roadmap. Given interest on the part of community members as well as Council, staff would recommend it be added as a year one project in the next three-year Strategic Roadmap under Support Quality of Life.

FISCAL IMPACT

The fiscal impacts of adopting such regulations are unknown, but would be evaluated as part of the future project.

SUSTAINABILITY FEATURES

There are no sustainability features associated with evaluating and adopting regulations regarding smoke-free multi-family housing.

PUBLIC CONTACT

There was no public outreach as part of developing the proposed project schedule. There will however, be outreach associated with the project itself including, but not limited to outreach with both residents and owners of multi-family properties anticipated for 2023.

NEXT STEPS

Staff proposes discussing this project with Council as part of the next three-year Strategic Roadmap priority setting process and begin outreach in the first half of fiscal year 2023.

Prepared by: Sara Buizer, AICP, Deputy Director of Development Services

Recommended by: Jennifer Ott, Assistant City Manager/Development Services Director

Approved by:



Kelly McAdoo, City Manager



CITY OF HAYWARD

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File #: RPT 22-113

DATE: December 6, 2022

TO: Mayor and City Council

FROM: Councilmembers Andrews and Wahab

SUBJECT

City Council Referral: Hayward Family Resource Center

RECOMMENDATION

That Council reviews the attached Council referral memo and provides direction to staff.

SUMMARY

A formal Council referral was received from Councilmembers Andrews and Wahab in November 2022 based on interest to explore the development of a Family Resource Center in Hayward. The referral requests that staff study and create a Family Resource Center for Hayward residents and consider integration of this plan into the Hayward Stack Center.

Given the work that has already been completed related to the development of the Stack Center in South Hayward, staff recommends that this discussion topic be referred to the Governance Group for the Stack Center for further research and follow up policy discussion.

ATTACHMENTS

Attachment I Council Referral Memo



COUNCIL POLICY REFERRAL MEMORANDUM

To: Hayward Mayor and City Council
From: Council Members Aisha Wahab & Angela Andrews
Subject: Hayward Family Resource Center
Date: 12/13/22

Background:

As the City of Hayward develops the Stack Center and other efforts to service the needs of our residents, family resources need to be considered as a permanent effort as the City of Hayward is seeing increased housing, population growth, economic stability and more. The most vulnerable community members must continue to be prioritized, met with compassion and resources where they are, and easily supported with the vast amount of resources available.

Cities across the Bay Area and United States have Family Resource Centers that range from direct services, partnerships with service providers, and a community resource center.

Below is a list of suggested policy proposals that should be evaluated and discussed further:

1. Direct staff to study and create a Family Resource Center for Hayward Residents.
2. Integrate this plan to potentially be consolidated into the Hayward Stack Center
3. Focus on: Housing, Legal Services, Food Security, & Basic Needs
4. Create a consolidated Hayward Non-Profit Collaboration Network, in collaboration with County Resources, and State Resources.
5. Ensure resources are equitably advertised, provided, and ensured.

Timeline: FY2023

Aisha Wahab
Hayward City Council Member

Angela Andrews
Hayward City Council Member

References:

- California: <https://californiafamilyresource.org/>
- Fremont: <https://www.fremont.gov/government/departments/human-services/fremont-family-resource-center>
- Union City: <https://www.unioncityfamilycenter.org/>
- San Francisco: <https://www.first5sf.org/family-resource-centers/>