

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, March 6, 2018

7:00 PM

Council Chambers

City Council

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

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

Certificate of Commendation: Beautiful Yard Contest

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

ACTION ITEMS

The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.

CONSENT

1. [MIN 18-033](#) Minutes of the City Council Meeting on February 20, 2018

Attachments: [Attachment I Draft Minutes of 02/20/2018](#)

2. [CONS 18-135](#) Resignation of Kingsley Macmadu from the Community Services Commission

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

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

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution and List of Properties for Lien](#)

LEGISLATIVE BUSINESS

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

Attachments: [Attachment I Staff Report](#)
[Attachment II Cannabis Tax Ordinance](#)
[Attachment III Cannabis Tax Resolution](#)
[Attachment IV Alameda County Cannabis Tax Rates](#)

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

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution for Community](#)
[Attachment III Resolution for Municipal Facilities](#)

PUBLIC HEARING

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

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution Initial Study/Draft MND](#)
 [Attachment III Resolution Contract](#)
 [Attachment IV Resolution Loan Application](#)
 [Attachment V Resolution Appropriation](#)
 [Attachment VI Initial Study/Draft MND](#)

INFORMATION 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.

7. [RPT 18-043](#) Informational Report on Tiny Homes

Attachments: [Attachment I Staff Report](#)
 [Attachment II HCD Bulletin](#)
 [Attachment III Ordinance No. 17-16](#)
 [Attachment IV Housing Matrix](#)

CITY MANAGER'S COMMENTS

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

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT**NEXT SPECIAL MEETING, March 13, 2018, 7:00 PM**

PUBLIC COMMENT RULES

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

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council adopted Resolution No. 87-181 C.S., which imposes the 90-day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

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



CITY OF HAYWARD

Hayward City Hall
777 B Street
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File #: MIN 18-033

DATE: March 6, 2018

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Minutes of the City Council Meeting on February 20, 2018

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on February 20, 2018,

ATTACHMENTS

Attachment I Draft Minutes of 02/20/2018



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 20, 2018, 7:00 p.m.

The Meeting of the Hayward City Council was called to order by Mayor Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Cub Scout Pack No. 765 from the Golden Oak Montessori School.

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced the City Council convened in closed session regarding three items: 1) conference with legal counsel pursuant to Government Code 54956.9 concerning Nelson v. City of Hayward, et al., Alameda County Superior Court, No. RG16822362; 2) conference with legal counsel regarding Askia v. City of Hayward, et al., Alameda County Superior Court, No. HG16809656; 3) conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups, and noted there was no reportable action related to Items 1) and 3). Regarding Item 2), Mr. Lawson noted that the City Council approved the recommendation to settle the case with Council Member Zermeño moving and Council Member Márquez seconding the item and Council Member Mendall absent.

PRESENTATION

Mayor Halliday read a Certificate of Commendation presented to Ms. Carmen Sylvia Kelly for her service, achievements, business, and influence on the City of Hayward. Ms. Kelly thanked the Council for such a recognition.

PUBLIC COMMENTS

The following City of Hayward employees asked the Council to make City workers “whole”, restore wage cuts, and negotiate fairly.

Mr. Michael Stotts
Ms. Megan Bucci, President of SEIU Local 1021 Clerical Chapter
Mr. Gilbert Heslia, President of SEIU Local 1021 Maintenance Chapter

Mayor Halliday and City Manager McAdoo showed appreciation for the City workers, and expressed their desire to settle the Public Employment Relations Board (PERB) issues.

Mr. Jim Drake, Hayward resident, advocated for City employees, and he also noted the need for more Police officers to patrol the streets.

Mr. Charlie Peters, Clean Air Performance Professionals representative, reported the temperature at the Hayward Area Senior Center was inadequate, and submitted an article related to air pollution.

CONSENT

1. Minutes of the Special Joint Meeting of the City Council and the Hayward Area Recreation and Park District Board of Directors on January 30, 2018 **MIN 18-028**

It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously with Council Member Mendall absent, to approve the minutes of the Special Joint Meeting of the City Council and the Hayward Area Recreation and Park District Board of Directors on January 30, 2018.

2. Minutes of the City Council Meeting on February 6, 2018 **MIN 18-029**

It was moved by Council Member Márquez, seconded by Council Member Lamnin, and carried unanimously with Council Member Mendall absent, to approve the minutes of the City Council on February 6, 2018.

3. Recycled Water Storage and Distribution System Project: Authorization to Execute an Amendment to Professional Services Agreement with West Yost Associates to Increase the Contracted Amount for Additional Engineering Support Services **CONS 18-089**

Staff report submitted by Utilities and Environmental Services
Director Ameri, dated February 20, 2018, was filed.

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

Resolution 18-012, "Resolution Authorizing the City Manager to Amend the Agreement with West Yost Associates to Increase the Contract Amount for Professional Services for the Recycled Water Storage and Distribution Project No. 07507 to Not Exceed Amount of \$1,498,000"

4. Authorization to Amend the Legal Services Agreement with Downey Brand LLP to Increase the Contracted Amount for Specialized Legal Support on Water Resources-Related Matters **CONS 18-090**

Staff report submitted by Utilities and Environmental Services
Director Ameri and City Attorney Lawson, dated February 20, 2018, was filed.

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

Resolution 18-013, "Resolution Authorizing the City Attorney to Amend the Agreement with Downey Brand LLP to Increase the Contract Amount for Specialized Legal Support Services for



MINUTES OF THE MEETING OF THE CITY COUNCIL
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Water Resources-Related Matters to Not Exceed Amount of \$150,000"

5. Resolution Authorizing the City Manager to Submit an Application for a Priority Development Area (PDA) Staffing Assistance Grant **CONS 18-095**

Staff report submitted by Interim Development Services Director Bristow and Interim Public Works Director Ameri, dated February 20, 2018, was filed.

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

Resolution 18-014, "Resolution Authorizing Development Services Department and Public Works Engineering and Transportation to Proceed with PDA-Staffing Assistance Grant Application and Submission"

6. Pavement Maintenance Technical Assistance (P-TAP) Grant from the Metropolitan Transportation Commission (MTC) to update the City's Pavement Management Program – Authorization to Accept the Grant **CONS 18-104**

Staff report submitted by Interim Public Works Director Ameri, dated February 20, 2018, was filed.

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

Resolution 18-015, "Resolution Authorizing the City Manager to Accept a Pavement Management Technical Assistance Program (P-Tap) Grant in the Amount of \$85,000"

PUBLIC HEARING

7. Public Hearing Regarding the Adoption of a Resolution of the City Council of the City of Hayward Approving the Issuance of Obligations by the California Enterprise Development Authority ("CEDA") for the Purpose of Financing and Refinancing the Cost of Acquiring, Constructing, Improving, Installing, Equipping and Furnishing the Real Property and Improvements Located at 25001 Industrial Boulevard, Hayward, California 94545 (the "Facilities") for the benefit of Life Chiropractic College West, Incorporated, or Any Affiliate Thereof or Successor Thereto (the "College") (Report from Director of Finance Claussen) **PH 18-008**

Staff report submitted by Finance Director Claussen, dated February 20, 2018, was filed.

Finance Director Claussen provided a synopsis of the staff report.

There being no public comments, Mayor Halliday opened and closed the public hearing at 7:30 p.m.

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

Resolution 18-16, "A Resolution of the City of Hayward Approving the Issuance of Tax-Exempt Obligations by the California Enterprise Development Authority in an Aggregate Refinance Facilities for the Benefit of the Life Chiropractic College West, Incorporated"

LEGISLATIVE BUSINESS

8. FY 2018 Mid-Year Budget Review & General Fund Long Range Financial Model Update (Report from Finance Director Claussen) **LB 18-007**

Staff report submitted by Finance Director Claussen, dated February 20, 2018, was filed.

Discussion ensued among Council Members and City staff regarding: General Fund revenues, expenditures, and balance; staffing changes in the Police Department; General Fund transfer to the Facilities Capital Fund to secure employee parking; loans to Eden Housing and Habitat for Humanity; next steps and the budget work session on April 28, 2018; Sales Tax increase; mutual aid reimbursement; funds to contract legal services for the Residential Stabilization Program; new library and Sunday hours; change in reserves-surplus; FY 2018 General Fund revenues; and new appropriations for plan check services.

Council Member Márquez requested that an analysis of Sales Tax strength attributes be presented to the Council Economic Development Committee.

There being no public comments, Mayor Halliday opened and closed the public hearing at 8:06 p.m.

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

Resolution 18-017, "Resolution Amending Resolution 17-086, As Amended, the Budget Resolution for the City of Hayward Operating Budget for Fiscal Year 2018, Relating to an Appropriation of Funds"



MINUTES OF THE MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 20, 2018, 7:00 p.m.

Resolution 18-018, "Resolution Amending Resolution 17-086, As Amended, the Budget Resolution for the City of Hayward Capital Improvement Projects for Fiscal Year 2018, Relating to an Appropriation of Funds"

CITY MANAGER'S COMMENTS

City Manager McAdoo made two announcements: 1) the Rental Housing Affordability Strategies community discussion will be held on February 26, 2018 at the Matt Jimenez Community Center; and 2) the California Department of Water Resources' recommendation to award a \$1 million grant to the City and East Bay Municipal Utility District to prepare the Groundwater Sustainability Plan for the East Bay Plain.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeno announced the Latino Business Roundtable meeting on February 23, 2018, at St. Rose Hospital will include the success story of the "Books on B" business.

Council Member Salinas announced that he, along with the Hayward High Chinese Mandarin Program, will be participating in the San Francisco Chinese New Year 2018 Parade on February 24, 2018.

Council Member Márquez announced the Keep Hayward Clean and Green Task Force will be holding a beautification event at Tyrell Elementary School on February 24, 2018.

Mayor Halliday shared she threw out the first pitch at the Girls Tennyson Softball game.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 8:15 p.m., in memory of the seventeen individuals who lost their lives in Parkland, Florida on February 14, 2018, and wished the best to those who survived the tragedy.

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
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File #: CONS 18-135

DATE: March 6, 2018

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Resignation of Kingsley Macmadu from the Community Services Commission

RECOMMENDATION

That the City Council adopts a resolution accepting the resignation of Mr. Kingsley Macmadu from the Community Services Commission effective immediately.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Resignation Letter



DATE: March 6, 2018

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Resignation of Mr. Kingsley Macmadu from the Community Services Commission

RECOMMENDATION

That the City Council adopts a resolution accepting the resignation of Mr. Kingsley Macmadu from the Community Services Commission, effective immediately.

SUMMARY

Mr. Kingsley Macmadu was appointed to the Community Services Commission on September 16, 2014. Mr. Macmadu's resignation becomes effective immediately per his resignation letter (Attachment III). Mr. Macmadu's vacated position will be filled as part of the annual appointment process for the City's appointed officials to Boards, Commissions, Committees, and Task Forces.

STRATEGIC INITIATIVES

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

FISCAL IMPACT

There is no fiscal impact associated with this action.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION No. 18-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE RESIGNATION OF KINGSLEY MACMADU
FROM THE COMMUNITY SERVICES COMMISSION

WHEREAS, Mr. Kingsley Macmadu was appointed to the Community Services Commission on September 16, 2014;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of Kingsley Macmadu from the Community Services Commission; and commends him for his civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

From: Kingsley Macmadu
Sent: Friday, February 16, 2018 3:35 PM
To: Lara Williams <Lara.Williams@hayward-ca.gov>
Subject: Re: UPDATED LOCATION: Community Services Commission Meeting February 21, 2018

Hi Lara,
I need to resign from the committee. I now work in the city and it's almost impossible to attend the meetings on time. What are the steps I need to make it official?

Thanks
Kingsley



CITY OF HAYWARD

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File #: CONS 18-116

DATE: March 6, 2018

TO: Mayor and City Council

FROM: Interim Director of Development Services

SUBJECT

Filing Nuisance/Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations

RECOMMENDATION

That Council adopts the attached resolution confirming the Report of non-abatable code violations, and penalty liens associated with the Code Enforcement Division and Community Preservation/Rental Housing Programs.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution and List of Properties for Lien



DATE: March 6, 2018

TO: Mayor & City Council

FROM: Interim Development Services Director

SUBJECT: Filing Nuisance Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations

RECOMMENDATION

That Council adopts the attached resolution confirming the Report of non-abatable code violations, and penalty liens associated with the Code Enforcement Division and Community Preservation/Rental Housing Programs.

SUMMARY

The purpose of this Nuisance Abatement/Municipal Code confirmation is to consider the proposed Report and filings of liens with the County Recorder's Office as a third collection tool for the Community Preservation and Rental Housing Programs. The Resolution will officially confirm the properties in violation of City ordinances and will be filed with the County for recordation on property titles.

BACKGROUND

Hayward's Community Preservation and Improvement Ordinance (Article 7, Chapter 5 of the Hayward Municipal Code (HMC)), otherwise known as the Community Preservation and Improvement Ordinance, makes it unlawful for Hayward property owners to allow the condition of their property to deteriorate to the point that it becomes detrimental to the public health, safety, or general welfare of the community. This includes both inhabited properties and vacant properties, whether residential or commercial. Typical violations include debris, trash, overgrown vegetation, graffiti, signs, zoning issues, abandoned and/or inoperable vehicles, and the like.

Hayward's Residential Rental Inspection Ordinance (Article 5, Chapter 9 of the Hayward Municipal Code (HMC)), otherwise known as the Residential Rental Inspection Ordinance (RRIO), creates an inspection program for residential rental units in the City. The purpose of the RRIO is to safeguard the stock of safe and sanitary rental housing by inspecting units for violations of housing and building codes. This includes all rental housing units and hotels and motels. Typical violations include housing violations such as inadequate maintenance, and unpermitted building, plumbing, electrical and mechanical work.

Hayward's Public Nuisance Ordinance (Article 1, Chapter 4 of the Hayward Municipal Code (HMC)), otherwise known as the Public Nuisance Ordinance, defines a public nuisance as anything which is injurious to health, or is indecent, offensive to the senses, or an obstruction to the free use of property that interferes with the comfortable or safe enjoyment of life or property in the community.

These ordinances provide staff an alternative method of enforcement and collections for non-abatable violations of the HMC. A condition on property is considered non-abatable when City staff cannot perform the abatement and the property owner fails to comply with the City's requirement to perform abatement. Examples of non-abatable conditions include fence height(s) and/or structures that do not meet setback requirements, illegal structures, businesses operating without an approved use permit (if applicable) or failing to comply with Conditions of Approval of an approved use permit, parking violations, rental housing violations, and illegal units. Adoption of the Resolution will authorize staff to file a lien against properties in violation with the County Recorder's Office.

This additional enforcement process does not affect or change the Administrative Hearing request process, nor the Special Assessment Process. However, this Nuisance Abatement/Municipal Code Violations lien process is an additional means of enforcement when dealing with non-abatable code violations. Staff utilizes the lien and special assessment processes independently or in conjunction to enhance compliance efforts. The lien process differs from that used for special assessments in that a violation and fee are recorded on a property's title to alert potential buyers or those with a fiduciary interest in the property, such as a lending institution, of the property violation and the need to pay a fee. The primary function of special assessments, related to action taken by Council is to allow the City to collect past due fees via annual tax bills. Authority for this process is granted under the Community Preservation and Improvement Ordinance, Residential Rental Inspection Ordinance and Government Code Section 38773.1.

DISCUSSION

As of the date of this report, there are seventeen (17) properties being submitted to Council for the filing of a Nuisance Abatement/Municipal Code Violations lien, as listed in Exhibit "A" in the attached resolution (Attachment II). The unpaid charges, which total \$137,925 plus any administrative costs of the County, will become liens on the property titles. When the properties are sold or refinanced, the liens will be paid.

Staff sends a minimum of three notices to the property owner in question and, if applicable, to the tenants. The first notice informs the recipient of the violation and the right to an Administrative Hearing to dispute the factual findings. The notices are sent by first class mail with proof of service. The final notice is also delivered by way of process server. The final notice details all related costs and/or fees and informs the affected parties of the opportunity to request an Administrative Hearing. The notice also encourages them to make the needed corrections(s) to bring their properties into compliance. To date, no Administrative Hearings have been requested to be heard by the City's hearing officer. A confirmed copy of the

Nuisance Abatement/Municipal Code Violations form will be sent to the owner, tenant and lender once received from the County Recorder's Office.

ECONOMIC IMPACT

The filing of liens with the County Recorder's Office supports the community preservation/rental inspection programs in ensuring well maintained, safe and sanitary neighborhoods and properties.

FISCAL IMPACT

There is no negative fiscal impact to the City of Hayward resulting from this action. There will be 100% cost recovery reimbursement through the lien process. To change ownership of a property, a lien must be satisfied. If the property is sold or the owner refinances, the City will receive reimbursement. All reimbursed funds are allocated to the General Fund and support the Code Enforcement Division's on-going compliance efforts.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play. This item supports the following goal and objective:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 4: Create resilient and sustainable neighborhoods.

PUBLIC CONTACT

Notice of City Council's confirmation of this report was published in The Daily Review on February 23rd and March 2nd, 2018.

NEXT STEPS

A copy of the lien list will be forwarded to the Alameda County Assessor's Office. Upon receipt, the Assessor's Office will attach the City of Hayward's fees past due and violations as a lien against each parcel. That lien will then appear on the property title until the fees have been paid and violation(s) are abated.

Prepared by: Eusebio Espitia, Code Enforcement Manager

Recommended by: Stacey Bristow, Interim Development Services Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. ____

Introduced by Council Member

RESOLUTION CONFIRMING THE REPORT AND NON - ABATABLE CODE VIOLATIONS AND PENALTIES LIENS LIST ASSOCIATED WITH THE CODE ENFORCEMENT DIVISION AND COMMUNITY PRESERVATION/RENTAL HOUSING PROGRAMS

WHEREAS, in connection with the Code Enforcement Division, Community Preservation/Rental Housing Programs, the Code Enforcement Manager has rendered an itemized report ("the Report", attached as Exhibit "A") in writing to the City Council showing the Community Preservation/Residential Rental Inspections and Zoning Ordinance non-abatable code violations and related fines, fees, penalties and lien costs for certain properties in the City of Hayward described in the Report; and

WHEREAS, the hour of 7:00 p.m. on Tuesday, March 6, 2018, in the Council Chambers, City Hall, 777 B Street, Hayward, California, was fixed as the time and place for the City Council to confirm the Report, as published and noticed in the manner required by Section 5-7.110 of the Municipal Code; and

WHEREAS, the Report was presented at the time and place fixed, and the City Council has considered the report and all comments with respect thereto.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward confirms, except as may be amended by Council, the Report of the Code Enforcement Manager of the City of Hayward Code Enforcement Division, Community Preservation/Rental Housing Programs on costs and non-abatable ordinance violations associated with the properties described in the Report.

BE IT FURTHER RESOLVED that payments of all fines, fees, penalties and lien costs confirmed hereby may be received by the City of Hayward Finance Director within ten days from the date of this resolution and thereafter such official shall transmit the unpaid charges to the County Recorder's Office for a Nuisance Abatement lien on said property(s) listed in Report.

IN COUNCIL, HAYWARD, CALIFORNIA March 6, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Exhibit "A"

	Address/Lien Amount		Zoning/Violation
1.	580 W. A St. CE16-0078	\$8,733	Commercial General Zone (CG) Unpermitted construction.
2.	25601 Clawiter Rd. CE16-0460	\$8,733	Industrial Zone I) Use Permit Violation.
3.	2401 Depot Rd. CE17-1349	\$6,489	Single Family Residential (RS) Unpermitted construction.
4.	1286 Folsom Ave. CE17-0250	\$5,589	Single Family Residential (RS) Unpermitted home occupation & storage of commercial, inoperative vehicles.
5.	22401 Foothill Blvd. CE17-0606	\$10,041	Center City Commercial Zone (CC-C) Unpermitted construction & Use Permit Violation.
6.	679 Greeley Ct. CE16-3998	\$10,641	Urban General Zone (S-T4) Unpermitted outside storage of materials.
7.	27949 Ludwig Ct. CE16-3572	\$8,837	Neighborhood Commercial Zone (CN) Use Permit Violation.
8.	984 Major Ave. CE17-1207	\$6,189	Single Family Residential Zone (RS) Unpermitted construction.
9.	24052 Park St. CE16-3617	\$3,178	Medium Density Residential Zone (RM) Unpermitted outside storage of construction equipment, materials & Zoning Violation - accessory structure
10.	25062 Soto Rd. CE15-3588	\$7,081	Single Family Residential Zone (RS) Unpermitted construction.
11.	127 W. Tennyson Rd. CE16-3546	\$12,267	Neighborhood Commercial Zone (CN) Use Permit Violation & Unpermitted construction.
12.	691 W. Tennyson Rd CE16-2617	\$8,863	Neighborhood Commercial Zone (CN) Use Permit Violation & Unpermitted construction.

13.	22680 Thelma St CE16-3155	\$14,493	Single Family Residential Zone (RS) Unpermitted construction.
14.	230 Traynor St. CE17-0251	\$6,198	Single Family Residential Zone (RS) Unpermitted construction.
15.	26569 Underwood Ave. CE17-2423	\$7,915	Single Family Residential Zone (RS) Unpermitted construction & Zoning Violation- accessory structure.
16.	25401 University Ct. CE17-0301	\$6,489	Single Family Residential Zone (RSB10) Excess paving over 50% in front yard.
17.	346 Winton Ave. CE17-1465	\$6,189	Neighborhood Commercial Zone (CN) Use Permit Violation - excess signage

SUMMARY CHART

1.	580 W. A St.	\$8,733
2.	25601 Clawiter Rd.	\$8,733
3.	2401 Depot Rd.	\$6,489
4.	1286 Folsom Ave.	\$5,589
5.	22401 Foothill Blvd.	\$10,041
6.	679 Greeley Ct.	\$10,641
7.	27949 Ludwig Ct.	\$8,837
8.	984 Major Ave.	\$6,189
9.	24052 Park St.	\$3,178
10.	25062 Soto Rd,	\$7,081
11.	127 W. Tennyson Rd.	\$12,267
12.	691 W. Tennyson Rd.	\$8,863
13.	22680 Thelma St.	\$14,493
14.	230 Traynor St.	\$6,198
15.	26569 Underwood Ave.	\$7,915
16.	25401 University Ct.	\$6,489
17.	346 Winton Ave.	\$6,189
	TOTAL	\$137,925



CITY OF HAYWARD

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

File #: LB 18-011

DATE: March 6, 2018

TO: Mayor and City Council

FROM: Director of Finance and City Attorney

SUBJECT

Introduction of an Ordinance and Resolution for Taxation of Adult Use Cannabis

RECOMMENDATION

That the City Council:

1. Introduces the attached ordinance relating to a Commercial Cannabis Tax; and
2. Reviews and provides direction regarding the proposed resolution establishing the Commercial Cannabis Tax rate.

ATTACHMENTS

Attachment I Staff Report
Attachment II Cannabis Tax Ordinance
Attachment III Cannabis Tax Resolution
Attachment IV Alameda County Cannabis Tax Rates



DATE: March 6, 2018

TO: Mayor and City Council

FROM: Director of Finance and City Attorney

SUBJECT Introduction of an Ordinance and Resolution for Taxation of Adult Use Cannabis

RECOMMENDATION

That the City Council:

1. Introduces the attached ordinance relating to a Commercial Cannabis Tax, (Attachment II); and
2. Reviews and provides direction regarding the proposed resolution establishing the Commercial Cannabis Tax rate (Attachment III).

SUMMARY

City staff is proposing introduction of an ordinance establishing the procedure for levying and collecting the Commercial Cannabis Tax approved by the passage of Measure EE. Additionally, staff seeks direction regarding a proposed resolution to establish the Commercial Cannabis Tax rate at 6% of gross sales.

BACKGROUND

On November 8, 2016, the voters of the City of Hayward approved Measure EE authorizing the City Council to enact an ordinance imposing a general tax of up to 15% of gross sales of medicinal cannabis and adult use cannabis and products derived therefrom. This tax is in addition to any other taxes imposed by the City of Hayward or the State of California. Prop. 64 and its trailer legislation established two distinct state taxes on the cannabis industry.

Statewide, a cultivation tax will be imposed on all harvested cannabis that enters the commercial market at the rate of \$9.25/dry weight ounce for flowers and \$2.75/dry weight ounce for leaves. The state will also impose an excise tax on cannabis and cannabis products sold in California at the rate of 15% of the average market price of any retail sale by a cannabis retailer.

On the same date that Prop. 64 was approved, the voters of Hayward approved Measure EE authorizing the City to impose a local tax not exceeding fifteen percent (15%) of gross sales of adult use of recreational and medical cannabis. The tax may be applied to cultivation, distribution, manufacturing, business-to-business sales, as well as retail sales.

On October 30, 2017, City Council provided feedback and direction [during a work session](#) regarding the imposition of the Measure EE Cannabis Tax rate.

DISCUSSION

City officials and staff have expressed that the intention of the “up to 15%” language was to provide flexibility for the rate at which the tax would be imposed. Factors supporting such flexibility include:

- Ensuring that local cannabis businesses maintain their competitiveness with other neighboring communities and
- Ensuring that the cumulative federal, state, and local taxes imposed on such businesses would not inadvertently incentivize an underground market for cannabis.

There are many taxes applicable to adult-use cannabis businesses including:

State and Federal Taxes

Proposition 64, which legalized the non-medical use of cannabis statewide as part of the November 2016 election, included a 15% excise tax that will be imposed on the retail sales price of cannabis. In addition, because the federal government still classifies cannabis as a Class I controlled substance, cannabis businesses are subject to higher federal taxes than other businesses. More specifically, Federal law 26 USC §280E (Rule 280E) arguably burdens the cannabis industry by disallowing standard business expense deductions. Traditionally, non-cannabis companies may legally deduct from gross sales nearly all their costs of goods sold and their business expenses. Costs of goods sold are the direct costs attributable to the production of the goods sold. For a cannabis business, this amount includes the costs of the materials used in creating the good, along with the direct labor costs used to produce the good. The expenses would be advertising, professional services, and office supplies to name a few. However, because of Rule 280E, cannabis businesses are disallowed from taking deductions from gross sales for business expenses, other than cost of goods. Therefore, their federal tax liability will be greater than that of a non-cannabis business of a comparable size and annual revenues.

Local Sales Taxes

In Alameda County, the sales tax rate is 9.25%.

Cannabis Tax Rates in Alameda County

Different jurisdictions in Alameda County have set their cannabis tax rates at a range of levels. A detailed summary of tax rates and regulations for other Alameda County cities is in Attachment IV.

- Oakland: Taxes recreational cannabis at 10% of gross receipts
- San Leandro: Measure NN approved in November 2016 was a voter-approved gross receipts tax on cannabis businesses of up to 10%. It is currently 6% and will increase to 8% by 2021. All cannabis businesses must have annual audits.
- Emeryville: Is currently considering setting a tax rate for recreational cannabis
- Berkeley: On 2/13/18, Berkeley amended their tax rate from 10% to 5% for recreational cannabis.

Other Jurisdictions

Many jurisdictions in California are in process of establishing their respective tax rates. Below is a summary of comparable jurisdictions and what they are implementing:

- Santa Rosa: 2% of gross receipts for cultivation, 1% of gross receipts for manufacturing, and 3% for adult use retail dispensaries
- Unincorporated Sonoma County: 3% of gross receipts for manufacturing, 2% of gross receipts for dispensaries
- San Jose: 10% of gross receipts

At the October 30, 2017 work session, Council expressed a preference for 5% of gross sales for cultivating and manufacturing and 8% for retail sales dispensaries. Staff recommends that the Council impose a rate of 6% gross sales. This enables the City to develop a tax that is simple to administer, audit, and encourages industry to operate legally and not in the black market. Additionally, this proposed tax rate reduces the impact of tax layering and provides certainty and clarity around the tax rate.

The proposed ordinance, as authorized by Measure EE, codifies procedures for levying and imposing the Commercial Cannabis Tax. The tax rate may be set by resolution or ordinance. However, the City Council may not impose a rate which exceeds the maximum rate authorized by the voters or change the methodology for calculating the tax. If the rate is set by resolution, the resolution must be published in the same manner and in the same time as an ordinance.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support structures, services and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. The item supports the following goal and objective:

Goal 3: Develop a Regulatory Toolkit for Policy Makers

Objective 3: Develop and refine other regulatory tools

FISCAL IMPACT

On October 14, 2017, the Council held a Fiscal Sustainability Workshop in which it considered strategies and options to shape the City's long-term fiscal future. One of the strategies presented and discussed in the session and staff report for this meeting were possible revenues generated from the cannabis tax approved by Measure EE. The City partnered with Management Partners to research many of the strategies presented; Management Partners estimated gross annual tax receipts of approximately \$2.1 million. This amount was calculated on a per capita number from San Jose (gross tax receipts/the number of residents), which came up with \$9.02 per capita. Related to the City of Hayward, staff multiplied \$9.02 by the number of residents and then multiplied the per capita by 1.5 to recognize the difference in rates (as presented at 15%). Staff estimates these revenues to be between \$1 and \$3 million annually depending on the tax rate applied, number of businesses, how the tax is applied, and which types of operations the tax will apply to.

PUBLIC CONTACT

The Council held work sessions regarding cannabis businesses in Hayward in March, July, and October 2017 and introduced ordinances establishing a local regulatory framework for cannabis businesses on October 17, 2017.

NEXT STEPS

After introduction of the tax ordinance, subject to any amendments made by the Council, the tax ordinance and a finalized resolution imposing the specific tax rate will be placed on the agenda for the next City Council meeting for adoption.

Prepared by: Monica Davis, Management Analyst II
Michael G. Vigilia, Senior Assistant City Attorney

Recommended by: Dustin Claussen, Director of Finance
Michael S. Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager

ORDINANCE No. 18-

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

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

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

ARTICLE 21
COMMERCIAL CANNABIS TAX

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 8-21.11 TAX IMPOSED.

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

(a) Every commercial cannabis business must pay an annual tax of up to 15% of gross receipts for all products associated with medical or adult use of cannabis, from cultivation, distribution, manufacturing, and retailing of cannabis or products derived therefrom. The tax under this Article shall not be imposed on commercial cannabis businesses unless and until the City Council, by ordinance or resolution, takes action to set a tax rate not to exceed 15% of gross receipts.

(b) The City Council may, in its discretion at any time, by ordinance or resolution, impose the tax authorized by this section at a lower rate. No action taken by the City Council under this subsection to reduce the tax rate will prevent it from subsequently increasing the tax rate for cannabis business to the maximum rate specified in this section. If the City Council sets the tax rate by resolution, the resolution shall be published in the same manner and within the same time as ordinances are required to be published by law. Resolutions or ordinances imposing the tax rate shall be codified as amendments to this section

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

SEC. 8-21.12 DECLARATION STATEMENT REQUIRED

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

SEC. 8-21.13 PAYMENT - TIMING

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

(b) If any permittee or operator of a cannabis business is liable for any amount of tax, interest or penalty under this Article, and he or she sells or

otherwise disposes of the business, his or her successors or assigns must withhold from the purchase price a sum sufficient to cover such amount until the former permittee or operator produces from the City either a receipt reflecting full payment or a certificate stating that no amount is due.

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

SEC. 8-21.14 AUDIT OF DECLARATION STATEMENT AND PAYMENT

(a) The City has the right to audit the matters referred to in the declaration statement, and to determine the correctness of the figures set forth in such statement, and the amount payable to the City.

(b) The books, records and accounts of any permittee may be inspected and audited by the City.

(c) Such an inspection and audit may be performed by the City's Finance Director or designee, a qualified accountant, a City official selected by the Finance Director, or a consultant selected by the Finance Director.

(d) To facilitate such audits, the permittee must keep complete records of all transactions related to the receipt or disbursement of funds arising out of or related to cannabis business operations during the preceding three-year period. All such records must be made available to the City for audit at the permittee's place of doing business or such other place that the City may designate during normal business hours after reasonable prior notice.

(e) Any failure or refusal of any permittee to make and file a declaration statement within the required time period, or to pay such sums by way of taxes when the same are due and payable in accordance with the provisions of this article, or to permit such inspection of such books, records and accounts of such permittee will be and constitute full and sufficient grounds for suspension or revocation of any special business license or permit for operation of a cannabis business.

SEC. 8-21.15 NOTICE NOT REQUIRED BY CITY

The City is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Article, and failure to send such notice or bill will not affect the validity of any tax, interest or penalty due under the provisions of this Article.

SEC. 8-21.16 TAX DEEMED DEBT TO THE CITY

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

SEC. 8-21.17 DEFICIENCY DETERMINATIONS

(a) If the Finance Director is not satisfied that a declaration statement filed, as required under the provisions of this Article, is correct, or that the amount of tax is correctly computed, the Finance Director may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the declaration statement or upon the basis of any information in the City's possession or that may come into the City's possession.

(b) The City may make more than one deficiency determination of the amount of tax due for a period or periods.

(c) In the case of a cannabis business which is discontinued, dissolved or otherwise terminated, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due.

(d) Whenever a deficiency determination is made, the City will provide fifteen (15) calendar days' notice to the permittee.

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

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

(1) If the permittee has not filed any declaration statement required under the provisions of this Article;

(2) If the permittee has not paid any tax due under the provisions of this Article;

(3) If the permittee has not, after demand by the Finance Director, filed a corrected declaration statement or furnished to the Finance Director adequate substantiation of the information contained in a statement of revenue already filed, or paid any additional amount of tax due under the provisions of this Article.

(b) The notice of assessment will separately set forth the amount of any tax known or estimated by the Finance Director to be due, after full consideration of all information within his or her knowledge concerning the cannabis business activities of the person or permittee assessed and will include the amount of any penalties, costs or interest accrued on each amount to the date of the notice of assessment.

SEC. 8-21.19 TAX ASSESSMENT – NOTICE REQUIREMENTS

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

SEC. 8-21.20 TAX ASSESSMENT - HEARING

(a) Within ten (10) days after the date of service of a notice issued under Section [8-21.19](#), the permittee may apply in writing to the Finance Director for a

hearing on the assessment.

(b) If application for a hearing before the Finance Director is not made within the time herein prescribed, the tax assessed by the Finance Director will become final and conclusive.

(c) Within thirty (30) days of the receipt of any such application for hearing, the Finance Director will cause the matter to be set for hearing before him or her not later than thirty (30) days after the date of application, unless a later date is agreed to by the Finance Director and the permittee requesting the hearing.

(d) Notice of such hearing will be given by the Finance Director to the permittee requesting such hearing not later than five (5) days prior to such hearing. At such hearing, said permittee may appear and offer evidence why the assessment as made by the Finance Director should not be confirmed and fixed as a tax.

(e) After such hearing, the Finance Director will make a written determination and may at his or her discretion reassess the proper tax to be charged and will give written notice thereof to the permittee.

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

(a) Nothing in this Article limits the City from using any remedy legally available for violations of this Article, including, but not limited to, the penalties under Article 3, Chapter 1 of this Code.

(b) The conviction and punishment of any person for failure to pay the required tax will not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction.

(c) No civil action will prevent a criminal prosecution for any violation of the provisions of this article or of any State law requiring the payment of all taxes

SEC. 8-21.22 AMENDMENTS OF ARTICLE

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

SEC. 8-21.23 ADMINISTRATIVE REGULATIONS

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

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

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

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

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

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

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBER

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
ESTABLISHING THE CANNABIS GROSS RECEIPTS TAX RATE AT 6%

WHEREAS, on November 8, 2016, Hayward voters authorized Measure EE (the Cannabis Business Tax), which established a new gross sales tax on cannabis businesses of up to 15%; and

WHEREAS, the results of this election were subsequently certified by the City Council on December 6, 2016; and

WHEREAS, in the interests of ensuring the success of these new businesses and in recognition of the fact that these businesses face significant state and federal taxes, the City Council desires to implement Measure EE with a lower rate of tax.

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

That said cannabis business tax is hereby set at a rate of 6% of gross sales.

BE IT FURTHER RESOLVED that the City Clerk is directed to publish this resolution in the same manner and within the same time as an ordinance is required to be published by law.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Alameda County Cannabis Activities by City

Jurisdiction	Voter Approved Tax and Details
Hayward	Measure EE approved in November 2016 was a voter-approved gross receipts tax on cannabis businesses of up to 15%.
San Leandro	Measure NN approved in November 2016 was a voter-approved gross receipts tax on cannabis businesses of up to 10%. The tax rate is currently 6% and will increase to 8% by 2021. All cannabis businesses must have annual audits.
Emeryville	No special cannabis tax – they pay standard city business tax of 1% of gross receipts, up to a maximum tax of \$353,704. Might place a cannabis tax on the November 2018 ballot.
Berkeley	Measure S was approved in 2010, just in case the state ballot measure to legalize cannabis passed that year. It is 2.5% of gross receipts for medical cannabis and 5% gross receipts for non-medical.
Unincorporated Alameda County	There is no tax yet but there is an expected ballot measure for the November 2018 ballot.
Oakland	The current tax rates are 5% gross receipts for medical and 10% for adult use.

Piedmont, Fremont, Dublin, Albany, and Pleasanton currently have a ban on cannabis business activities.



CITY OF HAYWARD

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

File #: LB 18-009

DATE: March 6, 2018

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Resolutions Authorizing the City Manager to Purchase Brilliant 100 Electricity from East Bay Community Energy (EBCE) for City Facilities and to Request that EBCE Set Brilliant 100 as the Default Product for all Hayward Customers Served by EBCE

RECOMMENDATION

That Council reviews and comments on this report and considers adoption of the two attached draft resolutions

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Draft Resolution Selecting Brilliant 100 for Community
Attachment II	Draft Resolution Selecting Brilliant 100 for Municipal Facilities



DATE: March 6, 2018

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT: Resolutions Authorizing the City Manager to Purchase Brilliant 100 Electricity from East Bay Community Energy (EBCE) for City Facilities and to Request that EBCE Set Brilliant 100 as the Default Product for all Hayward Customers Served by EBCE

RECOMMENDATION

That Council reviews and comments on this report and considers adoption of the two attached draft resolutions.

SUMMARY

East Bay Community Energy (EBCE) will be serving non-residential customers beginning in June 2018. The EBCE Board of Directors recently voted to offer two products for its first phase of customers in June. The products will be Bright Choice, which will be a minimum of 85% carbon free electricity and Brilliant 100, which will be 100% carbon free. Bright Choice is intended to be the default product for all customers in the community, but some cities may want to choose Brilliant 100 instead to be the default product. The deadline for cities to make this choice is March 5, 2018. In addition, cities can choose Brilliant 100 for municipal facilities. This decision can be made at any time.

BACKGROUND

In December 2016, Hayward joined ten other cities in Alameda County and the County of Alameda to establish a joint powers authority to form EBCE. The cities of Newark and Pleasanton did not join and the City of Alameda is served by its own electric utility. The EBCE Board of Directors meets regularly and meeting packets are available at <http://ebce.org/archive/>. The last report was presented to Council on January 16, 2018, when EBCE's CEO Nick Chaset presented an update on overall program activities and the anticipated timeline for the rest of 2018. All previous Council and Sustainability Committee reports regarding EBCE are available at <http://www.hayward-ca.gov/cce>.

The joint powers agreement for EBCE includes several Recitals including guiding principles stating that EBCE seeks to:

- Provide electricity rates that are lower or competitive with those offered by PG&E for similar products; and
- Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties' greenhouse gas reduction goals and the comparable goals of all participating jurisdictions.

All electric utilities, including Pacific Gas and Electric (PG&E), are increasing the percentage of electricity coming from renewable sources. California's renewable portfolio standard (RPS) requires utilities to provide 33% renewable energy by 2020. SB 350, signed into law in October 2015, increases the RPS requirement to 50% by 2030. Under RPS rules, solar, wind, geothermal and small hydroelectric facilities qualify as eligible renewable energy resources. Power from large hydroelectric does not qualify as an eligible resource due to impacts to fisheries and watershed hydrology, but many community choice energy (CCE) programs use it because it is a carbon-free and often a lower cost energy source. In this report, the term "renewable" means renewable energy that meets the state's criteria for an eligible renewable energy resource. The terms "carbon free" and "GHG free" are used interchangeably.

DISCUSSION

The choice of the EBCE default product for Hayward was going to be presented to the City Council Sustainability Committee on March 12, but on Friday, February 23, EBCE announced that a decision must be made by March 5, 2018. Because March 6 was the soonest staff could present this item to Council, staff requested a two-day extension.

All CCE programs in California offer at least two products. Primarily due to cost considerations, the default product typically ranges from 40% to 55% renewable energy and the other product is 100% renewable energy. When a CCA launches and mails opt-out notices, customers have a choice of opting out, doing nothing to automatically enroll in the default product, or opting up to 100% renewable energy for those willing to pay a bit more. One jurisdiction in California, Portola Valley in Peninsula Clean Energy, chose to select 100% renewable energy as their default product and customers had the opportunity to opt down to 50% renewable energy or opt out completely. Portola Valley, a very affluent community and not representative of Alameda County, is the only city to choose 100% renewable energy as the default to date. Portola Valley experienced a 6% opt out rate; 4% of customers opted down to the 50% product, and 90% remain enrolled in Peninsula Clean Energy's "Eco 100" product. Most CCEs that have launched in the last few years have experienced opt out rates of 2 to 3%.

The Bay Area Air Quality Management District (BAAQMD) funded a study to consider the feasibility of using 100% renewable energy as the default product for jurisdictions within EBCE. Tom Kelly, part of the initial consultant team that helped form EBCE, and Ben Foster authored the study. When the study was initiated, it was assumed that EBCE would offer a

100% renewable product at the time of the program's initial launch. The study set out to determine whether or not a 100% renewable energy default product would achieve individual cities' climate action goals and how the pricing of such a default product might affect opt out rates.

On February 7, 2018, the EBCE Board of Directors decided to offer customers a default product called Bright Choice that will be sourced from 38% renewable and 47% hydro for a total of 85% GHG free or carbon free electricity. EBCE has indicated that Bright Choice will be offered at rates that are 1.5% less¹ than PG&E rates. The Board decided that the second product, called Brilliant 100, will be 40% renewable and 60% hydro for a total of 100% GHG free electricity and it will be offered at the same price as PG&E rates. EBCE staff has offered that additional products, with higher percentages of renewables may be offered in the future, but not with Phase 1, which will include non-residential accounts starting in June 2018.

One objective of the Kelly and Foster study was to address the concern that a 100% renewable product as a possible default may be too expensive and may be a burden on lower income households. However, because Brilliant 100 will match PG&E rates, Council could decide to make Brilliant 100 the default for all customers in Hayward. Separately, Council may want to consider purchasing Brilliant 100 just for municipal facilities.

The following table is an excerpt from information provided by Tom Kelly and Ben Foster. It shows how Bright Choice and Brilliant 100 compare to the default products of other CCEs.

Table 1. Comparison of CCE Programs

	2016							2018		
	PG&E	MCE (Marin Clean Energy)	SCP (Sonoma Clean Power)	PCE (Peninsula Clean Energy)	CPSF (Clean Power San Francisco)	SVCE (Silicon Valley Clean Energy)	RCEA (Redwood Coast Energy Authority)	PG&E*	EBCE Bright Choice	EBCE Brilliant 100
Renewable Content (default product)	33%	55%	42%	50%	40%	50%	42%	42%	38%	40%
Carbon Free (default product)	69%	68%	91%	80%	78%	100%	82%	88%	85%	100%
Residential Rate compared to PG&E	-	-1%	+2%	-5%	+4%	-1%	-3%	-	-1.5%	equal
Non-Residential Rate compared to PG&E	-	+0.5%	+2%	-5%	+2.4%	-1%	-3%	-	-1.5%	equal

* PG&E Forecast from November 2017 RPS report using statewide IOU average and calculations for carbon free based on PG&E testimony filed on 12/6/2017 for its Energy Resource Recovery Account (ERRA).

¹ The 1.5% discount only applies to the "generation" line item on the PG&E bill. Depending on a customer's electricity usage, the generation charge may only be approximately half of the total electric charges, so the total savings will be less than 1.5%.

In a February 7 staff report to the Board, EBCE staff presented a recommended power mix for each product and referenced PG&E's power content label from 2016, which shows that PG&E's electricity was 69% carbon free; however, as noted in the table above, PG&E's 2018 power content is forecast to be 88% GHG free. The 38% renewable energy for Bright Choice is the minimum that would be guaranteed and EBCE staff intends to exceed the minimum, but it is possible that EBCE's Bright Choice may have a higher carbon content than PG&E.

One of the key reasons why Hayward joined EBCE was to reduce GHG emissions and meet the goals of the Climate Action Plan. As noted in the 2015 Greenhouse Gas Inventory [report](#) presented to the Council Sustainability Committee on September 11, 2017, Hayward, like almost all other Bay Area cities, is unlikely to meet its 2020 reduction target unless the entire community is enrolled in 100% carbon free energy. Depending on the actual carbon free energy content of Bright Choice and if Council decides on Bright Choice as the default product for the community, it is possible that EBCE will not result in a near term GHG reduction for Hayward.

Each city has the opportunity to choose whether or not to make Brilliant 100 the default for their community; however, EBCE staff have started marketing the program and informing commercial customers that they will see savings on their bills. The first opt-out notices for commercial accounts are scheduled to arrive in mailboxes during the first week of April. Brilliant 100 would eliminate all the GHGs associated with electricity, but it relies on 60% hydro which will most likely come from existing energy facilities and would not result in the development of new renewable sources. If Council chooses Brilliant 100 as the default for all commercial customers, they would have the choice to opt down to Bright Choice or opt out.

The discount relative to PG&E does not appear to be a significant factor in a program's opt out rate. For example, EBCE staff have noted that PCE (with a 5% discount) and SVCE (with a 1% discount) both have similar opt out rates. If Brilliant 100, which is forecasted to have rates equal to PG&E, is chosen as the default for Hayward, we do not know if the opt out rate would be similar to those experienced by other communities.

In addition to Hayward, the EBCE member jurisdictions of Berkeley, Albany, Piedmont, Emeryville, San Leandro, and Oakland are exploring the idea of 100% carbon free as the city-wide default product.

Several jurisdictions, including Corte Madera, El Cerrito, Larkspur, Mill Valley, Napa, Novato, Richmond, Ross, San Rafael, Campbell, Cupertino, Morgan Hill, Mountain View, Saratoga, Sunnyvale, Los Altos, Los Gatos, Gilroy, Los Altos Hills, and the Counties of Marin and Napa have chosen 100% renewable energy from their CCEs for municipal operations. During the Council work session on January 16, 2018, Council members expressed support for purchasing Brilliant 100 for City facilities with the caveat that cost would be a determinant.

STRATEGIC INITIATIVES

This agenda item does not relate to one of Council's three Strategic Initiatives.

ECONOMIC IMPACT

If Bright Choice is chosen as the default for Hayward, residents and businesses would see some savings on their electric bills. As noted above, the 1.5% discount for Bright Choice only applies to the generation charge, which is only a portion of the electric charges on a utility bill. While the typical household would see savings of less than a few dollars each month, large businesses could see much more substantial savings, but still the same 1.5%. If Brilliant 100 is chosen as the default for Hayward, residents and businesses will see no change in their cost of electricity unless they choose to opt down to Bright Choice.

FISCAL IMPACT

The City of Hayward currently spends approximately \$2.2 million on electricity each year. The City uses the Renewable Energy Self-generation Bill Credit Transfer (RES-BCT) tariff, which allows the transfer of excess credits from the Water Pollution Control Facility (WPCF) to other City facilities. EBCE intends to develop a tariff similar to RES-BCT, but not in time for the Phase 1 launch in June. In addition to the WPCF account, there are approximately 45 "benefiting accounts" that cannot be enrolled in EBCE in Phase 1. There are approximately 4,900 other accounts for City facilities including traffic signals and irrigation controllers that will be enrolled in EBCE in June. If Council chooses to enroll the City's eligible accounts in Bright Choice, the City may see a savings of approximately \$10,000 to \$15,000 per year. If Council elects to purchase Brilliant 100, there would be no financial impact to the City and it would be a significant step toward meeting the City's GHG reduction goals.

SUSTAINABILITY FEATURES

Community choice energy was identified in the City's Climate Action Plan as a program with the greatest potential to reduce community-wide GHG emissions. As noted above, if the entire community is enrolled in Brilliant 100, and assuming that opt outs are kept to a minimum, then Hayward could come close to meeting its 2020 reduction target. If large accounts that currently have direct access to wholesale power switch over to EBCE using Brilliant 100, then Hayward could meet its 2020 reduction target. Actual GHG savings resulting from EBCE remain to be seen. It is possible that the Bright Choice product will not offer GHG savings compared to PG&E. Even if GHG reductions are modest at first, the program is expected to provide cleaner electricity over time and develop local renewable energy projects that benefit the local economy.

NEXT STEPS

The first opt-out notices for commercial accounts are scheduled to arrive in mailboxes during the first week of April. If Council adopts the attached resolutions, staff will inform EBCE in writing. Regardless of Council's decision, staff will work with EBCE to perform outreach to Hayward customers to minimize opt-outs.

Prepared by: Erik Pearson, Environmental Services Manager

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

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE BRILLIANT 100
ELECTRICITY FROM EAST BAY COMMUNITY ENERGY FOR CITY FACILITIES

WHEREAS, on December 6, 2016, the City of Hayward City Council adopted Ordinance 16-21 authorizing Hayward's participation in Alameda County's Community Choice Energy program known as East Bay Community Energy (EBCE); and

WHEREAS, on February 7, 2018, the EBCE Board of Directors decided to offer customers a default product called Bright Choice that will be sourced from 38% renewable and 47% hydro for a total of 85% GHG free or carbon free electricity. Bright Choice will be offered at rates that are less than PG&E rates. The Board decided that the second product, called Brilliant 100, will be 40% renewable and 60% hydro for a total of 100% GHG free electricity and it will be offered at the same price as PG&E rates; and

WHEREAS, the energy mix offered by Pacific Gas and Electric (PG&E) in 2018 is not yet available and it is possible that EBCE's Bright Choice will have a higher GHG intensity than electricity from PG&E; and

WHEREAS, the City of Hayward General Plan includes policy NR-2.5 (Municipal Greenhouse Gas Reduction), which states, "The City shall reduce municipal GHG emissions by 20% below 2005 baseline levels by 2020, and strive to reduce community emissions by 61.7% and 82.5% by 2040 and 2050, respectively."; and

WHEREAS, Hayward's purchase of Brilliant 100 electricity for City facilities will be a significant step toward meeting Hayward's municipal GHG reduction goal for 2020; and

WHEREAS, Hayward's purchase of Brilliant 100 electricity for City facilities will have no difference in cost compared to electricity PG&E; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves Brilliant 100 as the electricity product for Hayward facilities.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO REQUEST THAT EAST BAY
COMMUNITY ENERGY (EBCE) SET BRILLIANT 100 AS THE DEFAULT PRODUCT FOR ALL
HAYWARD CUSTOMERS SERVED BY EBCE

WHEREAS, on December 6, 2016, the City of Hayward City Council adopted Ordinance 16-21 authorizing Hayward's participation in Alameda County's Community Choice Energy program known as East Bay Community Energy (EBCE); and

WHEREAS, on February 7, 2018, the EBCE Board of Directors decided to offer customers a default product called Bright Choice that will be sourced from 38% renewable and 47% hydro for a total of 85% GHG free or carbon free electricity. Bright Choice will be offered at rates that are less than PG&E rates. The Board decided that the second product, called Brilliant 100, will be 40% renewable and 60% hydro for a total of 100% GHG free electricity and it will be offered at the same price as PG&E rates; and

WHEREAS, the energy mix offered by Pacific Gas and Electric (PG&E) in 2018 is not yet available and it is possible that EBCE's Bright Choice will have a higher GHG intensity than electricity from PG&E; and

WHEREAS, the City of Hayward General Plan includes policy NR-2.4 (Community Greenhouse Gas Reduction), which states, "The City shall work with the community to reduce community-based GHG emissions by 20% below 2005 baseline levels by 2020, and strive to reduce community emissions by 61.7% and 82.5% by 2040 and 2050, respectively."; and

WHEREAS, the enrollment of Hayward customers in Brilliant 100 electricity will be a significant step toward meeting Hayward's GHG reduction goal for 2020; and

WHEREAS, Hayward customers will have the choice to change their enrollment from Brilliant 100 to Bright Choice and they will also have the ability to opt out of the program completely.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves Brilliant 100 as the default product for the Hayward community.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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

File #: PH 18-016

DATE: March 6, 2018

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Solar Photovoltaic Project - Phase II: Approval of the Mitigated Negative Declaration; Authorization for the City Manager to Negotiate and Execute a Design-Build Contract to Construct a Two-Megawatt Solar Energy System and Submit an Application to the California Energy Commission for Financing; and Appropriation of Additional Funds

RECOMMENDATION

That Council adopts the attached resolutions:

1. Approving the Initial Study and Mitigated Negative Declaration prepared for the Solar Photovoltaic Project - Phase II; and
2. Authorizing the City Manager to negotiate and execute a design-build contract with Engie Services U.S. Inc., which submitted the low bid, in an amount not to exceed \$5,740,000, for a two-megawatt solar photovoltaic energy system to be installed at Water Pollution Control Facility; and
3. Authorizing the City Manager to submit an application for a California Energy Commission (CEC) low-interest rate loan; and
4. Appropriating additional funds from the Sewer Improvement Fund for the Solar Photovoltaic Project - Phase II.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution Initial Study/Draft MND
Attachment III	Resolution Contract
Attachment IV	Resolution Loan Application
Attachment V	Resolution Appropriation
Attachment VI	Initial Study/Draft Mitigated Negative Declaration

File #: PH 18-016



DATE: March 6, 2018

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT: Solar Photovoltaic Project - Phase II: Approval of the Mitigated Negative Declaration; Authorization for the City Manager to Negotiate and Execute a Design-Build Contract to Construct a Two-Megawatt Solar Energy System and Submit an Application to the California Energy Commission for Financing; and Appropriation of Additional Funds

RECOMMENDATION

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3. Authorizing the City Manager to submit an application for a California Energy Commission (CEC) low-interest rate loan; and
4. Appropriating additional funds from the Sewer Improvement Fund for the Solar Photovoltaic Project – Phase II.

SUMMARY

The first phase of the City's solar photovoltaic (PV) project, located at the Water Pollution Control Facility (WPCF), was commissioned in 2011. The proposed project would expand the City's existing one-megawatt solar system by an additional two megawatts for a total of three megawatts. The new system would occupy about nine acres of land adjacent to the existing system. A portion of the proposed additional solar energy would be used to further offset the power demands of City facilities through Pacific Gas & Electric's (PG&E) Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) program to help the City get closer to meeting its goal of zero net energy for its municipal facilities, with the remaining energy exported to East Bay Community Energy.

The City plans to construct the new solar facility under a design-build contract and will own and operate the facility following project completion. Design-build refers to a method of project delivery under which one entity (i.e. the design-build team) works under a single contract and is responsible for both design and construction services. The new solar PV system would consist of approximately 6,500 solar panels. The project would substantially reduce greenhouse gas emissions, offsetting approximately 2,600 tons of carbon dioxide. Construction of the project is estimated to start in May 2018 and be operational by January 2019. The design-build contract will be at \$5,740,000, which includes the low bid of \$5,464,360 and a \$275,640 administrative change order contingency for unforeseen changes and conditions during design and construction.

BACKGROUND

The City is a leader in sustainability being one of the first cities in California to adopt a Climate Action Plan (2009) demonstrating its commitment to environmental protection and sustainability. Among the City's Climate Action Plan objectives is a goal to reduce municipal greenhouse gas emissions by twenty percent below 2005 baseline levels by 2020. In 2016, the City adopted a resolution establishing that all new municipal buildings, as well as significant retrofits of existing buildings, be zero net energy (ZNE). The City is striving to achieve ZNE for its portfolio of facilities by 2025 through production of more renewable energy at the City's WPCF and other City facilities.

The existing one-megawatt solar system was commissioned in 2011 and supplies approximately twenty percent of the WPCF's energy demand. A few years after the solar photovoltaic project was put in service, the City upgraded its combined heat and power cogeneration facility at WPCF which uses bio-gas, a renewable by-product of the wastewater treatment process, to produce more renewable energy. Because some of the energy produced by the cogeneration system is at times excess to the needs of WPCF, the City is able to export excess energy generated by both the solar PV and the upgraded cogeneration system to the grid for use at other City facilities under the RES-BCT tariff. Under the RES-BCT regulations, the City is authorized to produce up to five megawatts of power and export its excess energy to a limited number of other City facilities. Due to the restrictions associated with the number of benefiting accounts, and the minimum benefit to each account, the tariff would allow for an addition of only 0.5 megawatt of solar energy. However, staff is proposing a larger expansion, in anticipation of new regulations from the recently formed [East Bay Community Energy \(EBCE\)](#), which would not only allow but encourage local clean energy producers to generate and transfer to EBCE as much clean energy as they can produce.

The proposed two-megawatt solar system project would increase the City's solar power generation from one to three megawatts and provide the following benefits:

- Contribute substantially to the City's goals to reduce greenhouse gas (GHG) emissions and reach the zero-net energy goal by 2025.

- Provide the ability to expand the existing RES-BCT program by adding a number of additional benefitting accounts, further reducing the reliance on non-renewable energy sources such as energy generated by burning natural gas.
- Provide the ability to contract with EBCE to sell clean energy through a power purchase agreement further contributing to the reduction in reliance on fossil fuels county-wide.

Planning for the proposed project has included researching financial incentives and performing an environmental review pursuant to the California Environmental Quality Act (CEQA) resulting in an Initial Study and Draft Mitigated Negative Declaration. The study has been available for public review for the required time period; and is now recommended for Council's approval. Staff has also identified a low-interest loan program administered by the California Energy Commission (CEC) for which the proposed solar project would be eligible. Application for the CEC loan will require a resolution approving and authorizing the application.

DISCUSSION

Environmental Review

City staff prepared an Initial Study and Mitigated Negative Declaration in compliance with CEQA (see Attachment VI). The study identified potentially significant impacts related to Air Quality, due to dust during construction; encountering Cultural Resources during construction; and Water Quality during and after construction. The Initial Study determined that impacts were reduced to less than significant based on following standard construction and water quality mitigation measures as identified in the Mitigation Monitoring and Reporting Plan. The Initial Study and Mitigated Negative Declaration was distributed for public review and comment on January 26, 2018, and a legal notice was published on the same day. No comments or inquiries were received during the review period for the Initial Study and Mitigated Negative Declaration. The notice of determination will be sent to the Alameda County Clerk for recordation upon approval by the City Council.

Design-build Selection Process

There are various ways that the design, procurement, and construction of public projects can be processed. The two main options are conventional design-bid-build, and as an alternative, the design-build approach. The advantages and disadvantages of each option were discussed with the Council Sustainability Committee on September 11, 2017. A copy of the Committee staff report can be found at: <http://bit.ly/2sNDIZX>. Based on direction from the Committee, staff proceeded with the design-build option.

On October 31, 2017, staff issued a request for proposals (RFP) seeking proposals from three qualified firms. The scope of work included design and construction of a two-megawatt solar PV energy system at the WPCF and operation and maintenance services for a twenty-year period. On November 17, 2017, staff received proposals from two firms, REC Solar and Engie Services U.S. Inc (Engie Services).

Staff evaluated both proposals using defined criteria such as experience with similar successful projects, knowledge and technical qualifications, cost, and schedule. During the review period, the federal administration announced that it would impose a thirty percent tariff on imported solar panels. Both REC Solar and Engie Services proposed using high efficiency imported solar panels with twenty percent higher power output. Staff considered requiring the use of other panels not subject to the new tariffs. However, staff's analysis showed that an additional 2.5 acres would be required to generate the same amount of energy using the lower efficiency panels. Therefore, the City requested that REC Solar and Engie Services revise their proposals to reflect the portion of the added tariff on imported solar panels which each firm chose to add on to the project cost. Revised proposals were received on February 7, 2018.

A summary of the two design-build proposals received is summarized on Table 1. Both firms met the minimum qualification and experience requirements outlined in the City's RFP. In addition, REC Solar and Engie Services are both proposing to install identical systems with the same equipment and indicated they could meet the City's required scheduled completion date of the end of 2018.

Based on an objective evaluation of both proposals, staff is recommending award of the design-build contract to Engie Services for the following reasons:

- Total project cost: As shown in Table 1, REC Solar and Engie Services submitted design-build cost bids of \$5,539,104 and \$5,464,360, respectively. Engie Services submitted the lower design-build bid by \$74,000.

As part of staff's review process, the two firms were asked to confirm that their bids included full compliance with the City's Community Workforce Agreement (CWA) requirements, and to estimate the effect of CWA requirements on proposed project cost. The CWA was approved by Council on April 14, 2015 and requires the use of union labor for construction projects that exceed one million dollars. REC Solar estimated a cost increase of \$850,000 based on a quote from subcontractors for the use of union labor forces. Engie Services estimated the CWA had no significant change in their cost proposal since they have been utilizing union labor for their construction projects.

- Operations & Maintenance (O&M) cost: Engie Services' proposal has the lower operation and maintenance costs, when evaluated over a twenty-year period.
- Warranty: Engie Services' proposal includes an additional two years on the product warranty for solar modules and ten more years on the racking structure, as compared to REC Solar.

Engie Services has a local office in Oakland and has successfully completed similar solar projects for City of Yuba, City of Salinas, and City of Livermore. They have the experience and qualifications to perform the design and construction services required by the City for the proposed solar energy project.

Table 1. Summary of Solar Energy System Bid Proposals

	Item	REC Solar	Engie Services
System	RESBCT portion	777.6kW DC, 600AC	777.6kW DC, 600AC
	EBCE portion	1814.4kW DC, 1400AC	1814.4kW DC, 1400AC
	Total	2.6 MW DC, 2.0MW AC	2.6 MW DC, 2.0MW AC
	Module Type	LG 400N2W-A5	LG 400N2W-A5
	Module Qty	6480	6480
Cost	Total cost, including impact due to 30% tariff on imported solar panels	\$5,539,104	\$5,464,360
Operations and Maintenance (O&M)	Cost at Year 1	\$42,407	\$38,880
	Annual Escalator	2.5%	3.0%
	Net Present Value for 20 years O&M cost using 3% annual escalation rate	\$786,546	\$754,951
Warranty	Module	10yr product, 25yr power output warranty	12yr product, 25yr power output warranty
	Inverter	10yr product	10yr product
	Racking Structure	10yr structural, 5yr motor and controls	20yr structural, 10yr motor and controls
	Electrical equipment/wires	10yr workmanship warranty	10yr workmanship warranty
Schedule	Months to Completion	6 months	7 months

ECONOMIC IMPACT

Given that WPCF is already energy self-sufficient, the energy produced by the new facility would almost exclusively be used for export to either other City buildings or facilities to help the City meet its ZNE goal or sold to EBCE. While the financial variables are numerous and hard to precisely predict this early in the project, staff believes the project's impact on City residents and businesses to be neutral.

FISCAL IMPACT

The total estimated project costs are as follows:

Design and Administration Services – City Staff	\$ 70,000
Design and Construction Contract (including administrative change orders)	\$ 5,740,000
Estimated PG&E Interconnection Service Upgrade fee	\$ 250,000
Inspection– City Staff and Third-Party Testing Companies	<u>\$ 100,000</u>
Total	\$ 6,160,000

The total project cost includes an amount of \$5,740,000 to design and construct the new solar PV project, which includes Engie Services' low bid of \$5,464,360 and an administrative change order budget of \$275,640 in the event additional funds are needed for unforeseen changes and conditions during design and construction.

The current Ten-Year Capital Improvement (CIP) Program includes \$5,205,000 for the Solar PV Project – Phase II. As shown above, the current project cost estimate exceeds the amount budgeted in the CIP due to an increase in the project size from the original planned one-megawatt facility to a proposed two-megawatt facility, and the recent, unanticipated thirty percent tariff added to imported solar modules. Staff is requesting that adequate funds be appropriated from the Sewer Capital Improvement Fund balance in an amount of \$955,000. There will be no impact on the General Fund.

Staff plans to apply for a low-interest loan from the CEC to help finance the project. Based on the guidelines from the CEC, the maximum loan is up to \$3,000,000 per applicant. However, at this point, only less than one million dollars is available for distribution. If successful, annual debt service would be in the range of up to \$220,000 annually, which would be paid for from the Wastewater Operating Fund. The annual \$38,880 O&M cost would also be budgeted in the Wastewater Operating Fund.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities strategy is to create and support structure, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This agenda item supports the following goal and objective:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 1: Increase neighborhood safety and cohesion.

By producing more emissions free energy from renewable sources, this project in a small measure contributes to the health and wellbeing of our residents throughout the City.

SUSTAINABILITY FEATURES

The installation of additional solar PV in municipal facilities would allow the City to work towards producing local, GHG-free electric energy, from renewable sources. This project will get the City a step closer to meeting the Council's stated ZNE goal for City municipal services by 2025. The City is currently producing more than fifty percent of its electric energy from renewable sources and purchases just over 8,000 megawatt hours from PG&E. This project can potentially produce an additional 4,700 megawatt hours and get the City substantially closer to meeting its municipal ZNE goal. In addition, the City would be able to initiate a new energy purchase agreement with EBCE to sell and support clean electricity with lower rates for local communities.

PUBLIC CONTACT

As discussed previously, the CEQA Initial Study and Draft Mitigated Negative Declaration has been circulated and posted for public review and comment. No comments have been received at this writing.

SCHEDULE

The estimated schedule for this project is summarized as follows:

Initiate design	March 2018
Initiate construction	May 2018
Complete construction	December 2018
Begin operation	January 2019

Prepared by: Terence Lai, Associate Civil Engineer
Suzan England, Senior Utility Engineer

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

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-_____

Introduced by Council Member _____

RESOLUTION APPROVING THE INITIAL STUDY AND DRAFT MITIGATED
NEGATIVE DECLARATION FOR A TWO-MEGAWATT SOLAR PHOTOVOLTAIC
RENEWABLE ENERGY SYSTEM PROJECT, PROJECT NO. 07530, AT THE
WATER POLLUTION CONTROL FACILITY (WPCF)

WHEREAS, the City's existing one-megawatt solar photovoltaic project, located at the Water Pollution Control Facility (WPCF), was commissioned in 2011 and serves approximately twenty percent of the WPCF's energy demand; and

WHEREAS, the City Council adopted a resolution in 2016 establishing that all new municipal buildings, as well as significant retrofits of existing buildings, be zero net energy (ZNE) buildings by 2025; and

WHEREAS, the proposed project would expand the City's existing solar photovoltaic system by an additional two megawatts and substantially contribute towards the City's ZNE and greenhouse gas reduction goals; and

WHEREAS, the two-megawatt solar photovoltaic energy system would be constructed at the WPCF, adjacent to the existing one-megawatt solar photovoltaic energy system, and would occupy about nine acres of land; and

WHEREAS, City staff prepared an Initial Study and Draft Mitigated Negative Declaration in compliance with the California Environmental Quality Act, titled City of Hayward Photovoltaic Renewable Energy Phase II Project; and

WHEREAS, the Initial Study was distributed for public review and comments on January 26, 2018, and a legal notice was published on the same day; and

WHEREAS, the City Council of the City of Hayward hereby finds and determines that the City Council has independently reviewed and considered the information contained in the Initial Study upon which the Draft Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan is based, certifies that the Draft Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan have been completed in compliance with the requirements of the California Environmental Quality Act, and finds that the Draft Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan reflect the independent judgment of the City of Hayward.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Hayward hereby approves the Draft Negative Declaration and Mitigation Monitoring and Reporting Plan prepared in connection with development of the Solar Photovoltaic Renewable Energy System Phase II Project, located at the Water Pollution Control Facility.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH ENGIE SERVICES U.S., INC., FOR A TWO-MEGAWATT SOLAR PHOTOVOLTAIC ENERGY SYSTEM AT THE WATER POLLUTION CONTROL FACILITY (WPCF), PROJECT NO. 07530 IN AN AMOUNT NOT TO EXCEED \$5,740,000

WHEREAS, the City's existing one-megawatt solar photovoltaic project, located at the Water Pollution Control Facility (WPCF), was commissioned in 2011 and serves approximately twenty percent of the WPCF's energy demand; and

WHEREAS, the City is currently producing more than fifty percent of its municipal electric needs energy from renewable sources and purchases just over 8,000 megawatt hours from PG&E; and

WHEREAS, the proposed project would expand the City's existing solar photovoltaic energy system by an additional two megawatts and produce an additional 4,700 megawatt-hours to get the City substantially closer to meeting its goal of Zero Net Energy for City municipal services by 2025; and

WHEREAS, the additional solar photovoltaic energy produced by the project would be used to further offset PG&E electric energy usage at City facilities and the excess energy could be sold to East Bay Clean Energy to support clean electricity; and

WHEREAS, the two-megawatt solar photovoltaic energy system would be constructed at the WPCF, adjacent to the existing one-megawatt solar photovoltaic energy system, and would occupy about nine acres of land; and

WHEREAS, the City issued a request for proposals to three qualified firms for design and construction of the new solar photovoltaic energy system and received two proposals; and

WHEREAS, based on an objective evaluation of the two proposals, the City has determined that Engie Services U.S., Inc., possesses the necessary experience, knowledge and technical expertise to perform the work, and submitted the lower bid fee to design and construct the solar photovoltaic system; and

WHEREAS, the Capital Improvement Program Sewer Improvement Fund includes sufficient funding for Engie Services U.S. Inc., to perform the scope of work required by the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to negotiate and execute a contract with Engie Services U.S. Inc., for the design, construction and operation/maintenance of a two-megawatt solar photovoltaic energy system to be located at and interconnected with the Water Pollution Control Facility PG&E and East Bay Clean Energy service meters, in an amount not to exceed \$5,740,000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION FOR A LOW INTEREST LOAN FROM THE CALIFORNIA ENERGY COMMISSION FOR A TWO-MEGAWATT SOLAR PHOTOVOLTAIC RENEWABLE ENERGY SYSTEM PROJECT, PROJECT NO. 07530, AT THE WATER POLLUTION CONTROL FACILITY (WPCF), IN AN AMOUNT NOT TO EXCEED \$3,000,000

WHEREAS, the City's existing one-megawatt solar photovoltaic project, located at the Water Pollution Control Facility (WPCF), was commissioned in 2011 and serves approximately twenty percent of the WPCF's energy demand; and

WHEREAS, the City Council adopted a resolution in 2016 establishing that all new municipal buildings, as well as significant retrofits of existing buildings, be zero net energy (ZNE) buildings by 2025; and

WHEREAS, the proposed project would expand the City's existing solar photovoltaic system by an additional two megawatts and substantially contribute towards the City's ZNE and greenhouse gas reduction goals; and

WHEREAS, the California Energy Commission provides loans to schools, hospitals, local governments, special districts, and public care institutions to finance renewable energy systems.

WHEREAS, City staff has identified a low interest loan program administered by the California Energy Commission to assist in construction costs; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to apply for a low interest loan from the California Energy Commission to construct a two-megawatt solar photovoltaic energy system to be located at the Water Pollution Control Facility, in an amount not to exceed \$3,000,000, which is the maximum loan amount for each project.

BE IT FURTHER RESOLVED, that in compliance with the California Environmental Quality Act (CEQA), the City of Hayward City Council finds that the activity funded by the loan is a project as defined by CEQA, and an Initial Study and Mitigated Negative Declaration report was prepared.

BE IT FURTHER RESOLVED, that if recommended for funding by the California Energy Commission, the City of Hayward City Council authorizes its City Manager to accept a loan up to \$3,000,000.

BE IT FURTHER RESOLVED, that the amount of the loan will be paid in full, plus interest, under the terms and conditions of the loan agreement, Promissory Note and Tax Certificate of the California Energy Commission.

BE IT FURTHER RESOLVED, that the City of Hayward City Manager is hereby authorized and empowered to execute in the name of the City of Hayward all necessary documents to implement and carry out the purpose of this resolution, and to undertake all actions necessary to undertake and complete the two-megawatt solar photovoltaic renewal energy system project at the Water Pollution Control Facility.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-_____

Introduced by Council Member _____

RESOLUTION APPROPRIATING \$955,000 FROM THE CAPITAL IMPROVEMENT PROGRAM SEWER IMPROVEMENT FUND FOR THE SOLAR PHOTOVOLTAIC PROJECT – PHASE II, PROJECT NO. 07530

WHEREAS, the current Ten-Year Capital Improvement Program includes \$5,205,000 for the Solar Photovoltaic Project – Phase II; and

WHEREAS, the total project cost to design and construct a two-megawatt solar photovoltaic energy system at the Water Pollution Control Facility is estimated at \$6,160,000; and

WHEREAS, the proposed project would expand the City's existing one-megawatt solar photovoltaic system by an additional two megawatts for a total of three megawatts, and substantially contribute towards the City's Zero Net Energy and greenhouse gas reduction goals; and

WHEREAS, the total project cost estimate exceeds the amount budgeted in the Capital Improvement Program due to an increase in the project size from the original planned one-megawatt solar energy system to a proposed two-megawatt solar energy system, and the recent, unanticipated thirty percent tariff added to imported solar modules.

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that additional funds be appropriated in the amount of \$955,000, from the Capital Improvement Program Sewer Improvement Fund, to increase the budgeted amount for the Solar Photovoltaic Project – Phase II from \$5,205,000 to \$6,160,000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



**CITY OF HAYWARD
UTILITIES & SERVICES DEPARTMENT**

Alameda County Clerk
1106 Madison Street, 1st Floor
Oakland, CA 94607

Subject: **Notice of intent to adopt a Mitigated Negative Declaration (MND) for the
City of Hayward Photovoltaic Renewable Energy Phase II Project**

Dear Sir/Madam,

Please post this letter with the attached Mitigated Negative Declaration and Initial Study for the listed review period to conform to CEQA Guideline 15072.

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

Project Title: City of Hayward Photovoltaic Renewable Energy Phase II Project

Lead Agency: City of Hayward
Utilities & Environmental Services Department
777 B Street, Hayward, CA 94541

Project Location: 3700 Enterprise Drive, Hayward, CA 94545

Project Description: The proposed Photovoltaic (PV) Phase II Solar Project is an expansion of the City's existing phase I solar system that was completed in 2010. The proposed 2MW solar PV system will double the energy performance of the existing 1.0MW solar PV system located at Water Pollution Control Facility (WPCF) in Hayward, CA. The proposed additional PV solar energy will be used to further offset city-wide facility usages through PG&E's Renewable Energy Self-generation Bill Credit Transfer (RESBCT) program and the excess energy will be exported to East Bay Clean Energy. The project footprint is about 9 acres and would consist of approximately 6,500 solar panels on top of single axis trackers. The project will substantially reduce greenhouse gas emissions and offsetting approximately 2,000 tons of CO₂ that would otherwise be emitted from a natural gas power plant each year. The overall construction period is estimated to be 6 months, targeted to start in May 2018, and reach completion by November 2018. There will be some area grading and PV foundation support installation on site that may disturb the soil. However, all construction activities are within fenced WPCF property. There is no substantial finding that the project may have a significant environmental impact.

Mitigated Negative Declaration: Notice is hereby given that the City of Hayward has completed preliminary review of the Environmental Checklist for the Water Pollution Control Facility Combined Heat and Power Cogeneration Project in accordance with the California Environmental Quality Act (CEQA).

Finding: The proposed project will not have significant impact on the environment, however mitigation measures will be incorporated to make sure potential environmental impact will be addressed to less significant. Therefore, the Mitigated Negative Declaration has been prepared.

Hearing Date: The City of Hayward City Council will hear or may take action on this item on Tuesday, March 6th, 2018 at the Hayward City Hall, 777 B Street, Hayward, CA 94541, at 7:00pm.

Review Period: The public review period for the MND is January 26th, 2018 – February 26th, 2018.

Public Comments: Any individual, group, or agency wishing to comment on the project may submit written comments to the City of Hayward at the address listed below. All comments must be received by 5:00 p.m. on Monday, February 26th, 2018.

When submitting a comment, please include the name of a contact person in your agency or organization. Comments may be submitted by mail, e-mail, or fax to the address below:

City of Hayward, Utilities & Environmental Services Department
Attn: Terence Lai, Associate Civil Engineer
777 B Street
Hayward, CA 94541-5007
E-mail: Terence.lai@hayward-ca.gov
Phone: (510) 583-4719
Fax: (510) 583-3610

Availability of the Mitigated Negative Declaration: A copy of the Environmental Checklist/Mitigated Negative Declaration is available for review at Hayward City Hall, 777 B Street, Hayward on the First Floor Permitting Center, Monday through Thursday from 8 a.m. to 5 p.m.; at the Hayward Public Library located at 835 C Street and the Weekes Branch Library located at 27300 Patrick Avenue in Hayward. Please see the Library and Community Services webpage at <http://www.library.ci.hayward.ca.us/> for library days and hours.

 1/18/18

Terence Lai
Associate Civil Engineer
Utilities & Environmental Services Department
City of Hayward

 1/19/2018

Alex Ameri
Director of Utilities & Environmental Services
Utilities & Environmental Services Department
City of Hayward



CITY OF HAYWARD

**PHOTOVOLTAIC RENEWABLE ENERGY PHASE II
PROJECT**

Environmental Initial Study/
Mitigated Negative Declaration

January 2018

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Figure 3. Detailed PV System Layout

Figure 4. Existing 1MW PV Solar Array at the WPCF

List of Abbreviations and Acronyms

AC	Alternating Current
BAAQMD	Bay Area Air Quality Management District
BMP	Best Management Practice
CEQA	California Environmental Quality Act
City	City of Hayward
Developer	Selected Design-Build Solar Company (Developer)
DC	Direct Current
EBCE	East Bay Clean Energy
ECAP	East County Area Plan (2002 Alameda County General Plan)
EIR	Environmental Impact Report
GHG	Greenhouse Gas
IS	Initial Study

kW	Kilowatt (one thousand watts)
HARD	Hayward Area Recreation & Park District
MGD	Million Gallons Per Day
MMRP	Mitigation Monitoring and Reporting Plan
MND	Mitigated Negative Declaration
mW	Megawatt (one million watts)
NO _x	Nitrous Oxides
RES-BCT	Renewable Energy Self-Generation Bill Credit Transfer
PV	Photovoltaic
SWPPP	Stormwater Pollution Prevention Plan
WPCF	Water Pollution Control Facility

1.0 Introduction

The City of Hayward is located in the San Francisco Bay Area in the southern portion of Alameda County. The City has approximately 158,000 residents. There is a mixture of industrial parks, office parks, commercial areas, golf courses, recreational parks, residential areas, an airport, schools and open space throughout the City. The City has a large and diverse industrial section including food and beverage processors and high-technology manufacturing. The City boundaries extend from the San Francisco Bay on the west to the East Bay hills on the east. Figure 1 illustrates the project location. The City has a Mediterranean coastal climate, with mild dry summers and cool winters. Temperatures vary from average highs in September of 73.5 degrees Fahrenheit (deg F) to average lows in January of 42 degree Fahrenheit. Rainfall averages 18 inches annually with most rain occurring between October and April.

The City owns and operates a wastewater collection and treatment system that serves the City's residents. The Water Pollution Control Facility (WPCF) is rated for an average dry weather flow capacity of 18.5 million gallons per day (mgd) but is currently treating about 11.3 mgd. About 70% of the collected volume comes from residential origin; the remaining comes from commercial and light industrial sources. The WPCF treats incoming wastewater through a trickling filter/solids contact process. Raw sewage is first passed through vacuators for preliminary treatment and then through primary clarifiers prior to secondary treatment. Secondary effluent passes through final clarifiers before being disinfected with chlorine and finally discharged.

The WPCF also uses primary digesters to biologically stabilize solids removed from the treatment process. Solids are thickened using gravity belt thickeners and then air dried in sludge beds prior to landfill disposal. Gas from the digestion process is used to power an internal combustion engine (ICE) to generate energy that more than offsets the plant's energy usage with the excess exported to the grid. A one-megawatt (mW) solar array commissioned in 2010 provides additional energy that is exported to the grid. The cogeneration facility, along with the one-megawatt solar array, produce on average approximately 131% of the plant's total energy demands. The excess energy is exported to the grid and used to offset energy at other City facilities under PG&E's Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) program.

The City of Hayward is a leader in sustainability being one of the first cities in California to adopt a Climate Action Plan (2009) demonstrating its commitment to environmental protection and sustainability. The City's Climate Action Plan goals are to reduce municipal greenhouse gas emissions by 20% below 2005 baseline levels by 2020. In 2016, the City adopted a resolution establishing that all new municipal buildings, as well as significant retrofits of existing buildings, be zero net energy (ZNE) buildings. By 2025, the City will strive to achieve ZNE for its portfolio of facilities by producing more renewable energy at City facilities, and by increasing renewable energy production at the City's WPCF. The new solar project is key toward reaching the City's goals and efforts to reduce emissions of greenhouse gasses.

1.1 Purpose and Need for Project

The purpose of the Proposed Project is to expand the City's existing 1 MW solar facility by adding an additional 2 MW of generating capacity. There are several drivers as to why the City desires to expand the power generation from solar energy via photovoltaic cells at the WPCF including:

1. Provides the ability to expand the existing renewable energy self-generation bill credit transfer (RES-BCT) program by adding additional benefitting accounts further reducing the reliance on non-renewable energy sources such as energy generated by burning natural gas.

2. Provides the ability to contract with East Bay Community Energy (EBCE) to sell excess clean energy through a power purchase agreement further contributing to the reduction in reliance on fossil fuels county-wide.
3. Contributes substantially to the City's goals to reduce greenhouse gas (GHG) emissions and reach the zero-net energy goal by 2025.

The City plans to construct the new solar facility under a design-build contract, and will own, operate, and maintain the facility following project completion.

1.2 Background on Photovoltaic (PV) and Solar Energy Systems

Photovoltaic (PV) is one of four main types of solar energy technologies. A PV system is made up of different components including PV modules (groups of photovoltaic cells), commonly called PV panels; a charge regulator or controller system; inverters for converting DC energy to alternating current (AC); wiring; and mounting framework. A PV array is a linked collection of PV modules, which are in turn made of multiple interconnected solar cells.

Sunlight is made up of photons, or particles of solar energy. Photons contain various amounts of energy, corresponding to the different wavelengths of the solar spectrum. When photons strike a photovoltaic cell, they may be reflected or absorbed, or they may pass right through. Only the absorbed photons generate electricity. When this happens, the energy of the photon is transferred to an electron in an atom of the photovoltaic cell (which is a semiconductor). With its newfound energy, the electron escapes from its normal position in an atom of the semiconductor material and becomes part of the direct current (DC) in an electrical circuit. DC electricity is then converted by an inverter to alternating current (AC) power for use.

Photovoltaic systems produce power intermittently because they work only when the sun is shining. More electricity is produced on a clear, sunny day and with a more direct light angle, as when the sun is perpendicular to the photovoltaic modules. Cloudy days will reduce output, and no power is produced at night. photovoltaic systems work best during summer months when the sun is higher in the sky and the days are longer. In the style selected for this Project, a single-axis tracking structure will rotate the photovoltaic panels to track the position of the sun for maximum direct exposure. The rows of photovoltaic modules will be arranged such that their drive mechanism gradually rotates the rows of photovoltaic modules throughout the day from an east-facing direction in the morning to a west-facing direction in the afternoon.

2.0 CEQA Process

Pursuant to CEQA, the purpose of an Initial Study (IS) is to:

- Determine whether the project may have a significant effect on the environment. (i.e. whether an EIR or Negative Declaration should be prepared);
- Identify measures that mitigate project impacts to a less than significant level (mitigated negative declaration);
- Define the scope of the EIR, if one is required;
- Justify lead agency's decision to adopt a Negative Declaration, if one is prepared; and
- Determine whether to rely on a previously prepared EIR.

In accordance CEQA, a Mitigated Negative Declaration (MND) shall be prepared if the following criteria are met:

- There is no substantial evidence that the project may have a significant effect; or
- Where there may be a potentially significant effect, revisions to the project would avoid or mitigate the effects to a point where clearly no significant effects would occur.

The IS identified potentially significant impacts, and mitigation measures have been presented that will reduce those impacts to less than significant levels. The City has prepared this draft MND to provide the public, and Responsible and Trustee Agencies reviewing this project, with information about the Project and potential effects on the local and regional environment. This draft MND was prepared in compliance with Section 15070 of the CEQA Guidelines of 1970 (as amended). In accordance with Section 15073 of the CEQA Guidelines, this document is being circulated to local, state and federal agencies and to interested organizations and individuals who may wish to review and comment on the report.

This Document will be available for a 30-day public review period, during which written comments may be submitted to the following address:

Mr. Terence Lai
City of Hayward
3700 Enterprise Avenue
Hayward, CA 94545
Phone: 510.293.5098
Terence.lai@hayward-ca.gov

Responses to written comments received by the end of the 30-day public review period will be prepared and included in the final document to be considered by the City and/or the State Board prior to taking any discretionary decision/action on the Proposed Project.

3.0 Project Description & Construction

3.1 Project Location

Hayward's WPCF is located at the west end of Hayward, near the east shoreline of San Francisco Bay and a short distance north of Highway 92. The WPCF is separated from the shoreline by East Bay Regional Park District land, known as Cogswell Marsh. Figure 1 shows the regional location, and Figure 2 shows an aerial view of the WPCF and its immediate surroundings.

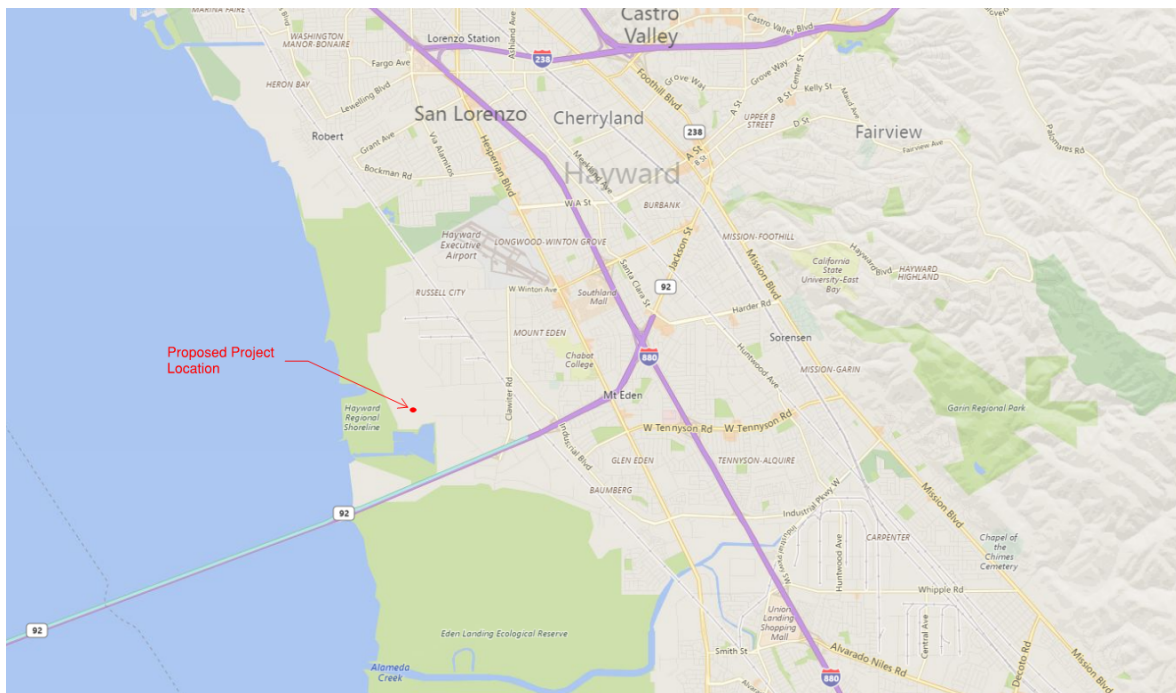


Figure 1. Vicinity Map - Proposed Project Location

The WPCF is a 24/7 operation with personnel on site at all times. The City employs a permanent staff that includes plant operation and maintenance personnel, mechanics, electricians, engineers, and chemists; approximately 10 such workers are on-site daily. The WPCF property is fenced with chain link fencing and locked gates. Public access is restricted without prior authorization.

The WPCF lies within and is surrounded by land zoned by the City of Hayward as Industrial (I). East Bay Regional Parks District lands lie to the west of the WPCF providing a buffer between the WPCF and the San Francisco Bay shoreline. The nearest hiking trail within the park is approximately ¼-mile from the fenced WPCF boundary.



Figure 2. Aerial View of City of Hayward Water Pollution Control Facility (WPCF)

3.2 Proposed Project Description

3.2.1 Project Footprint

The Project will occupy a permanent footprint of approximately 9 acres within the existing WPCF (see Figure 3). An additional 0.25 acres adjacent to the planned solar array area will be used during construction for temporary equipment storage and staging. The height of the new solar array above ground will change throughout the day; the maximum height will be approximately 12-feet above ground at panel full tilt angle.

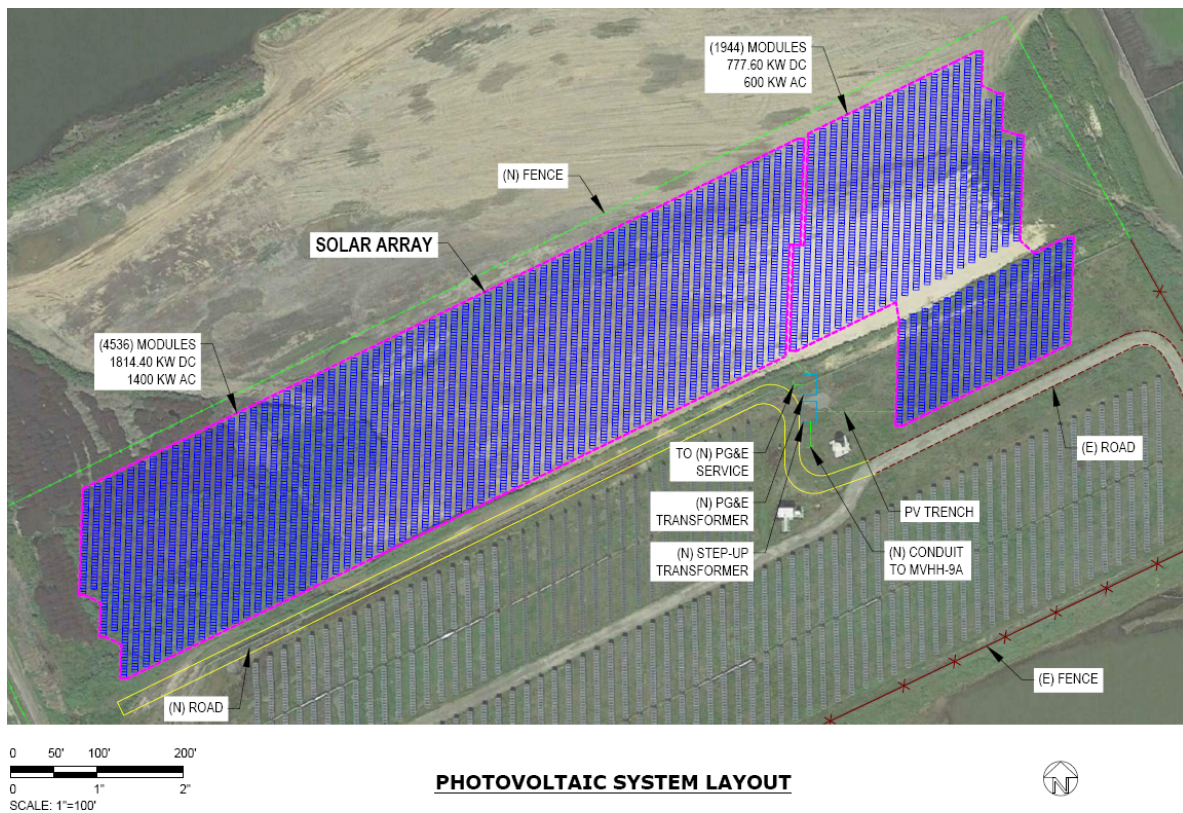


Figure 3. Detailed PV System Layout

3.2.2 System Components

The new solar system will consist of PV panels, transformers to convert the voltage from 480-volt to 12-kV, and inverters to change the amperage from direct current to alternating current. Key design features include the following:

- +/- 52 degree of rotation tilt angle
- Galvanized steel rack structure for PV module supports
- Distributed mechanical single axis tracker system
- Remotely/automatically operated and monitored
- Single axis tracking: East-West
- Seismic-rated
- 90 mph wind loading (non-stowed)

During system operation, inverters and trackers make minimal noise (<65 dBA) while operating, and the balance of system is silent. No new lighting is planned. With proper maintenance, the system will operate for 10 to 20 years or more before requiring major modification or replacement. Figure 4, below, shows the existing single axis photovoltaic system at City of Hayward WPCF site.



Figure 4. Existing 1MW PV Solar Array at the WPCF

3.3 Construction Activities

3.3.1 Project Sequencing and Schedule

Construction of the Proposed Project can commence only after the CEQA document is finalized and approved by the City of Hayward City Council. Construction of the system is planned to begin in the summer of 2018, and will last approximately 6 months. The system is planned to be operational by the end of 2018, with final calibration and site clean-up possibly occurring in January 2019.

The general construction sequence will be as follows (some activities will overlap):

- Site preparation and clearing/grading – 3 weeks
- Underground work (boring, trenching, installing conduit) – 4 weeks
- System installation – 10 to 12 weeks
- Testing – 1 to 2 weeks
- Clean up/restoration – 2 weeks

Construction will be scheduled to minimize impacts to operations at the WPCF. Tie-ins to the existing plant electric power distribution will require temporary shutdown of the plant operations. A standby power engine will be used as required during these tie-ins to maintain treatment systems in operation at all times. Construction will generally be between 7:00 a.m. and 4:00 p.m., Monday through Friday. Work on the weekend is not anticipated.

3.3.2 Site Clearing/Grading and Underground Work

The project site is generally flat and clear of major vegetation, and only requires minor clearing and grading prior to the installation of the photovoltaic system. The project area will be graded to facilitate drainage only, and as such no spoils will be generated. It is anticipated approximately 2,500 cubic yards of soil will be disturbed during the grading operation.

The majority of the underground work (electrical conduit) will be 24" deep. Piles for supporting the solar arrays will be drilled to approximately 8 feet below ground surface. The exact depth will be determined following a geotechnical investigation of the site.

3.3.3 Truck Trips and Haul Routes

There will be approximately 60 large truck deliveries at WPCF over the course of the 5-month construction period, including shipments of modules, inverters and related electrical wiring and balance of system components; concrete deliveries; and construction trailer delivery/pickup.

The WPCF lies road network, to the north, east, and south, lies within a light industrial area where truck traffic is common.

It is anticipated that the major haul route will ingress into the local roads from State Route 92 and egress the same way.

3.3.4 Construction Equipment and Workers

A range of large construction equipment will be used, including:

- bobcats (approx. 2)
- pick-up trucks (approx. 6)
- flatbed delivery trucks (approx. 2)
- small boom crane (approx. 2)
- auger (approx. 1)
- trencher (approx. 1)
- forklift (approx. 1)
- water truck (approx. 1)
- backhoe (approx. 1)
- drills (approx. 2)
- generators (approx. 2)

Additionally, there will be an average of approximately 10 temporary workers over the duration of the Project (ranging from 2 to 20 workers on any given day), all of whom will drive to and park their personal vehicles at the Project site each day.

3.3.5 Post-Construction Site Cleaning and Restoration

Immediately following construction, the construction area will be cleared of all unnecessary construction equipment and debris.

3.4 Operations and Maintenance Activities

The system will operate on 9-acres of land currently being used to store and dry biosolids within the existing wastewater treatment facility. It is expected that, with proper maintenance, the system will last 10-20 years or more before requiring major modification or replacement.

Ongoing, post-construction maintenance activities will include bi-annual system cleaning of the photovoltaic panels, annual mowing and landscaping maintenance, and annual equipment inspection and maintenance. These activities are typically conducted by two to four workers in a period of 4-8 hours. Bi-annual site cleaning may require the use of a water truck and spray hose. Minimal water will be used in panel washing with no runoff anticipated. No hazardous chemicals will be used or stored on site for these activities.

3.5 Permits and Approvals

The Project does not affect the wastewater treatment process at the WPCF and therefore, there will not be a need to modify the City's East Bay Dischargers Authority (EBDA) National Pollution Discharge Elimination System (NPDES) permit.

The Project will not result in any new sources of air pollution and therefore is not subject to Bay Area Air Quality Management District (BAAQMD) permit requirements.

The selected solar design-build company (developer) will need to obtain a building permit, grading permit, and prepare a surface water pollution prevention plan (SWPPP) pursuant to the State's General Construction activity Storm Water Permit Program.

3.6 Schedule

The City prepared and issued a Request for Proposal (RFP) for the WPCF Photovoltaic Energy System Phase II Project on October 30, 2017. The proposed project consists of a minimum 2,000 kW solar system. The City is also pursuing an interconnection agreement with PG&E to expand the existing RES-BCT system with a portion of the new solar array. The remaining portion will be provided under a separate interconnection agreement and will serve EBCE. Following approval of the IS/MND, the City will contract with the developer to begin design of the new solar array. Construction is anticipated to be completed by December 2018.

3.7 No Project Alternative

Under the No Project Alternative, the City's Proposed Project would not be constructed and therefore impacts as a result of this specific Proposed Project as described within this document would not be encountered. For this analysis, it is assumed that the existing baseline condition and the future No Project condition are the same. This No Project Alternative assumes that none of the Proposed Project facilities would be constructed. As a result, the impact description and summary compares the Proposed Project to the No Project. With that said, if the City does not implement the Proposed Project, the reduction in greenhouse gases will not be realized, and the City and County would not benefit from the renewable energy source that would be provided with the Project.

4.0 Environmental Setting

This section provides an overview of key environmental features of the project site. Additional information is included within the topical discussions in Section 5.2.

The proposed project is located within the City of Hayward city limits, Alameda County, California. The City is located along the eastern shore of San Francisco Bay. The physical setting consists of a 1- to 2-mile-wide band of wetlands along the Bay that are often referred to as “baylands”, and a flat to gently sloping Bay plain extending about 4 miles from the Bay to the base of the hills to the east. The WPCF is located in the City’s West Industrial Corridor, which lies between the open spaces of the baylands to the west and commercial and industrial area of the Bay plain.

Land in the industrial corridor surrounding the WPCF and its ancillary facilities have been developed at varying levels of intensity. Manufacturing facilities, fabrication shops, warehouses, trucking operations, and automotive salvage yards are all located in this Industrial Corridor. Many of the manufacturing and warehouse facilities are housed in relatively new, one-story tilt-up structures surrounded by industrial park-style landscaping.

Although much of the development in the Industrial Corridor is horizontal in character, consisting of one and two-story buildings, there are a number of prominent vertical features as well. Examples are the Russel City Energy Center’s power plant, KFAQ radio station’s four towers, a 180-foot high stack of the Rohm and Haas paint polymer facility, and the trickling filters and the solids handling building at the WPCF.

The proposed solar project will be located next to the existing 1MW solar array location about ½-mile from the San Francisco Bay east shoreline. The proposed solar array will be located entirely within the City’s WPCF property line. The nearest residential development is about 1-mile to the east of the Project.

The existing treatment plant’s facilities and operations occupy about 350 acres of land which have been owned by the City of Hayward for many years and used for sewage treatment and sludge drying operations. The bulk of the treatment plant process area lies within a narrow strip on the north side of Enterprise Avenue. The built-up treatment area is occupied by buildings, treatment structures, and paved surfaces while most of the remainder of the WPCF site are largely occupied by ponds, open channels, and beds for air-drying sludge developed in the treatment process. The ponds were once used for secondary treatment (oxidation ponds), but today are used to capture and retain excessive inflows to the plant. There are two open channels located just east of the proposed solar field. One is used to convey treated effluent to a disinfection station and then onward to the EBDA effluent pump station for final disposal in San Francisco Bay. The other is owned by Alameda Flood Control and conveys storm water runoffs to the Bay. The earthen pond berms are elevated to contain effluent wastewater during wet weather events.

There is very little vegetation on site other than landscape plantings along Enterprise Avenue. Volunteer grasses and forbs provide a ground cover in some areas that have not been recently graded. Some natural vegetation exists within the WPCF, along the pond berms and the open channels. Weed abatement is used to preserve the ability to conduct treatment operation activities. Thus, the amount of vegetation can be considered as sparse in the vicinity of the proposed solar field.

The proposed new solar facilities would be constructed on the existing site in the area that was the southern-most oxidation pond. This pond has been filled in with soils and is currently being used to dry biosolids prior to hauling to a landfill for use as daily cover.

While the plant's surroundings are for the most part industrial in character, it is bordered to the west by marshland. Several large restored wetlands areas are: Cogswell Marsh; Hayward Marsh; and Hayward Area Recreation Department (H.A.R.D.) Marsh. These areas provide significant habitat for a number of special status plant and animal species.

An Interpretive Center owned and operated by H.A.R.D. is located near the end of Breakwater Avenue in the Bay lands. This facility, built in 1986, provides exhibits related to the Bay and Bay land ecosystems. It provides ecological education programs for children, and serves as a staging area for visitors using the network of hiking and biking trails in the adjacent Hayward Shoreline Marsh and Hayward Regional shoreline.

The Interpretive Center building is surrounded by elevated wood decks that provide vantage points for views across the Bay lands. The center and surrounding Bay lands are visited by a moderately large number of people, and the focus of the activities at this location is to observe and appreciate nature. The facility is designed to provide views across the Bay lands and the sensitivity of the view from this observation point can be considered high.

The climate of Hayward is dominated by the San Francisco Bay and sea breezes predominantly from the west. The Bay cools the air with which it comes in contact during warm weather, while during cold weather the Bay warms the air.

The Project is consistent with the City's General Plan.¹ The General Plan notes that the WPCF is to treat wastewaters generated within the City. The PV solar system can be argued to be industrial in that a renewable input is converted to a desired and useful product.

No riparian habitat or wetlands lie within the WPCF property. The nearest major water body to the proposed project and the WPCF is the San Francisco Bay.

The proposed project site and the WPCF is located approximately four miles from the Hayward fault zone and is in an area identified for potential liquefaction.

¹

5.0 Environmental Impacts and Discussion

This chapter evaluates the potential for the Proposed Project/Action to have a significant effect on the environment. Using the CEQA Environmental Checklist Form per the CEQA Guidelines as a framework, the checklist identifies the potential environmental impacts of the Proposed Project/Action pursuant to CEQA. This document compares the Proposed Project/Action against the No Project/Action Alternative as is required by CEQA.

Environmental Impact Designations

For this checklist, the following designations are used to distinguish between levels of significance of potential impacts to each resource area:

Potentially Significant Impact. Adverse environmental consequences that have the potential to be significant according to the threshold criteria identified for the resource, even after mitigation strategies are applied and/or an adverse effect that could be significant and for which no mitigation has been identified. If any resultant potentially significant impacts are identified, an EIR/EIS may need to be prepared to meet CEQA and NEPA requirements, respectively.

Less-than-Significant Impact with Mitigation. Adverse environmental consequences that have the potential to be significant, but can be reduced to less-than-significant levels through the application of identified mitigation strategies that have not already been incorporated into the Proposed Project/Action description.

Less-than-Significant Impact. Potential adverse environmental consequences have been identified. However, they are not so adverse as to meet the significance threshold criteria for that resource. Therefore, no mitigation measures are required.

No Impact. No adverse environmental consequences have been identified for the resource or the consequences are negligible or undetectable. Therefore, no mitigation measures are required.

5.1 Environmental Factors Potentially Affected

The environmental factors checked below may be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following page.

<input type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture and Forestry Resources	<input checked="" type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input checked="" type="checkbox"/> Cultural Resources	<input checked="" type="checkbox"/> Geology/Soils
<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Hazards & Hazardous Materials	<input checked="" type="checkbox"/> Hydrology/Water Quality

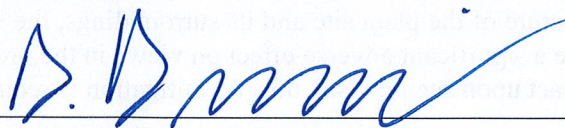
- | | | |
|---|--|---|
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Tribal Cultural Resources | <input type="checkbox"/> Utilities/Service System |
| <input type="checkbox"/> Mandatory Findings of Significance | | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature



Date

1/19/2018

5.2 Evaluation of Environmental Impacts

5.2.1 Initial Study Checklist

This checklist follows Appendix G of the CEQA guidelines, with the addition of specific consideration

I. AESTHETICS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion (Aesthetics):

Question a). The proposed project will be located within the existing WPCF property fenced property line (see Figure 3). The collector system will be silver and gray/black in color. The system's height above ground will change throughout the day; the maximum height will be approximately 16-feet above ground at its full tilt angle.

The sensitive view shed in the project vicinity would be visitors to the marshes of the East Bay Regional Park District marshes and from the H.A.R.D. Interpretive Center located next to Breakwater Avenue. However, the proposed project is within the fence line of the existing WPCF and will be visually consistent with the existing wastewater treatment facility and industrial buildings, particularly to the south of the WPCF along Enterprise Avenue.

The closest public viewpoint of the solar collection system would be from hiking trails within Cogswell Marsh. Because the terrain is relatively flat and the solar panels would be somewhat elevated, the panels would be visible from the hiking trails, as well as from the Interpretive Center. However, for the marshland visitors to see the collectors, they would have to also be oriented to see other structures of the Industrial Corridor. The panels would be a small impact compared to the other in-place features of the Industrial zone including the Russel City Energy Center.

Because of the general industrial nature of the plant site and its surroundings, the installation of the solar panels is not expected to have a significant adverse effect on views in the project area. The project will have a very minor impact upon scenic vista, thus no mitigation is required.

Question b). The Proposed Project is not located near or within a designated state scenic highway and

therefore would not damage scenic resources, including but not limited to trees, outcroppings, and historic buildings within a state scenic highway. The Proposed Project's construction activities would not be located within any area that has been designated as a scenic vista or scenic resource.

Question c). The existing visual character of the project area is industrial. The proposed project would be located on a site consisting of bare graded earth that is used for sludge drying. Processing equipment frequently traverse the site. There are no trees or riparian habitat that will need to be removed for installation and utilization of the solar panels. Therefore, the project does not have the potential to degrade the existing visual character of the site or the surrounding areas.

The only scenic resource is the open marsh land located west of the WPCF. Views from within the marshland to the west would see the open Bay, the San Mateo Bridge, and structural features of the Peninsula. Looking northward, southward, and particularly westward, one would view developed structures, generally low-lying, but also some with vertical perception such as the radio towers and the Russel City Energy Center.

The marshland west of the WPCF cannot be seen from the WPCF built-up area where the treatment processes are located. Thus the proposed solar array cannot interfere or degrade the marsh land view from the WPCF developed area. The pond area is not open to the public and will not have visitors. Thus the solar collectors will not spoil the views into Cogswell Marsh from the East Bay Regional Parks District land.

The solar collection panels will not have a significant impact upon the view shed for the reasons enumerated in Question a, thus no mitigation is required.

No impact is anticipated; thus no mitigation is required.

Question d). The proposed project does not include any new lighting that will affect nighttime views in the area. The photovoltaic panels are designed to absorb and capture sunlight rather than reflect sunlight, and the industry incorporates design features to further reduce reflectivity. Because the tracking structure does not contribute glare, the impact is considered less than significant and no mitigation is required.

Conclusion. The project is visually consistent with the existing industrial uses at the WPCF, and with the adjacent one megawatt solar array. No potentially significant impacts will occur and no mitigation measures are required.

Mitigation Measures. No mitigation measures are required.

II. AGRICULTURE AND FORESTRY RESOURCES:

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Agriculture and Forestry Resources):

Questions a) to e). The proposed project will be located within the WPCF fence line. The proposed project site has been part of the Treatment Plant for over 60 years and is not considered Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.

The project site is not zoned for agricultural use, nor is it under a Williamson Act Contract.

The project does not involve any development that would convert agricultural land to a non-agricultural use, nor interrupt on-going agricultural activity. It thus would not result in the conversion of farmland to non-agricultural use.

The site for the proposed project does not have any trees, therefore will not result in the loss of any forest land.

Conclusion. The proposed project is consistent with the General Plan and will not affect agricultural or

forest resources. It does not contain forest land or is zoned for Timberland Production. Construction and operation of the proposed project will not affect land designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. No impacts to agricultural resources, zoning or farmland conversion will occur.

Mitigation Measures. No mitigation measures are required.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Air Quality):

Question a). The proposed project is located within the San Francisco Bay Area Air Quality Management District (BAAQMD), which regulates air pollutant emissions in the nine-county San Francisco the Bay Area including Alameda County. The BAAQMD monitors air quality in the San Francisco Bay Air Basin for carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NOx), sulfur oxides (SOx) and particulates (PM10) pollutants. State and national ambient air quality standards are established for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, fine particulates matter and lead. The Bay Area is designated as a nonattainment area for the state and federal ozone standard and for the state Particulate Matter (PM10) standard (particulate matter less than 10 microns in size).

The proposed project will not conflict or obstruct the implementation of the applicable air quality plans since no new air pollutant sources will be created. This project will reduce reliance on traditional fossil fuels within the City of Hayward by expanding the RES-BCT program, and within Alameda County by providing energy for use by East Bay Community Energy.

The proposed project involves the construction of photovoltaic panel structures within the WPCF property. The project would not result in population growth; therefore, the project would not conflict with or prevent attainment of the local air quality management plan. In fact, this project will improve air quality because it will produce energy from a renewable resource.

Question b). Construction activities including grading could increase local concentrations of PM10. Fugitive dust emissions including PM10 will be a short-term impact. The amount of grading will be minimal and only to finish grade the site to promote drainage and eliminate ponding. Other than minor amounts of Class 2 aggregate base course for use under concrete foundations and to construct access roads at the new solar array, no additional soil will be brought to the site, nor will any be hauled off for disposal. During grading and trenching activities, the City will implement standard construction Best Management Practices to reduce fugitive dust generation, as identified in **Mitigation Measure AQ-1**.

Construction emissions from equipment use, including carbon monoxide and ozone precursors, are included in the BAAQMD's emission inventory which is used as the basis for the regional air quality plans and therefore construction emissions associated with the proposed project should not impede attainment or maintenance of ozone and carbon monoxide standards in the Bay Area (BAAQMD 1999). Construction of the proposed project would result in temporary emissions from construction vehicles during grading, trenching and while drilling support piers.

Operation of the proposed project will not violate any air quality standards or contribute to existing or projected air quality violations since no new air pollutant sources nor new employee vehicle trips will be created during operation of the facility. There will be no new emission sources associated with the facility. A negligible addition in vehicular traffic to the solar site will occur for routine maintenance (approximately 4 vehicle trips annually).

Question c). The project will not contribute to a cumulative net increase of NOX, PM10 or ozone, criteria pollutants since no new air pollutant sources will be created. The renewable (photovoltaic) project will reduce the City's reliance on traditional energy sources.

As was stated above, due to limited amount of earth-moving activities, use of heavy machinery is not required; thus, the project is not expected to generate construction emissions of NOX, PM10, or ozone precursors in excess of BAAQMD's thresholds, therefore the impact is less than significant and no mitigation is required.

Question d). The proposed project is located about 1.5 miles from the nearest sensitive receptor, a residence to the west of the WPCF. Because of the limited amount of earthwork and no new permanent source of emissions, the project will not expose sensitive receptors to substantial pollutant concentrations, thus no mitigation is required.

Question e). The solar array will not generate any odors that could affect WPCF staff, nearby residents or businesses. The proposed project will not change the way in which the sewage sludge is dried for disposal, and therefore will not generate any objectionable odors. The proposed project would not generate any odor, thus no mitigation is required.

Conclusion. Impacts to air quality are considered less than significant. With the implementation of Mitigation AQ-1, potential impacts to air quality during construction will be reduced to less than significant.

Mitigation Measures. The following mitigation measure is incorporated:

Measure AQ-1. Dust Abatement Program. The City will reduce fugitive dust generation during construction activities. At a minimum, the contractor(s) will be required to implement the following measures (adopted from BAAQMD's CEQA Guidelines for Assessing the Air quality Impact of Projects and Plans for PM10 (1991)). The following construction practices are included in the project and would be implemented during all phases of construction on the project site:

- Water all construction sites with active grading or trenching activities at least twice daily.
- Cover all trucks hauling soil or require all trucks to maintain at least two feet freeboard.
- Apply water three times daily on all unpaved access roads, parking areas, and staging areas at the construction site.
- Sweep daily with water sweepers all paved access roads, parking areas, and staging areas at the

construction site during earthwork activities.

- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand).
- Limit the speed of all construction vehicles to 15 miles per hour while on unpaved road at the project site.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Install wheel washers for all exiting trucks, or wash off the tires and/or tracks of all trucks and equipment used in the unpaved areas before leaving the site.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points
- Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator
- Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- Requiring all contractors use equipment that meets the California Air Resources Board's (CARB) most recent certification standard for off-road heavy-duty diesel engines.

IV. BIOLOGICAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian aquatic, or wetland habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion (Biological Resources):

Question a). No habitat for sensitive, or special status species including threatened and endangered species or candidate species in local or regional plans, policies, or regulations, in Title 14 of the California Code of Regulations, in Title 50 Code of Federal Regulation, or by the California Department of Fish and Game (CDFG) or US Fish and Wildlife Service (USFWS) occurs within the proposed project site or within the WPCF. While the WPCF occurs within the geographic range of several special status species, habitats for these species do not occur on the proposed project site due to the present industrial use of the site (WPCF). The project will be within the WPCF fenced boundary on bare ground largely free of vegetation and without trees, wetlands, or other habitat.

Question b). The proposed project is located within the WPCF fenced property in a bare-ground area used to air dry sludge. This area does not support vegetation or provide wildlife habitat. Vegetation within the WPCF is limited to landscaped areas along Enterprise Avenue and non-native grasses and weedy species. No sensitive habitats including wetlands occur within the WPCF. No riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFG or USFWS occurs within the WPCF and the proposed project site.

The proposed project would be located on a site that has been cleared, graded, and used for various treatment functions in a sustained manner over a period of more than 50 years. There is no sensitive habitat or natural community on this site, thus no mitigation is required.

Question c). No wetlands occur within the fenced WPCF property. Therefore, the project will have no effect on federally protected wetlands as defined by Section 404 of the Clean Water Act.

As described above, there are no federally protected wetlands on the project site, nor is it hydrologically-connected to adjacent wetlands. The proposed project would not involve any direct impacts or substantial adverse affects on such wetlands, thus no mitigation is required.

Question d). The proposed project site is within the fenced WPCF property. The proposed site is disturbed and vegetation is nearly absent and the WPCF is fenced. Therefore, the proposed project, which is within the fence line, will not obstruct or interfere with wildlife corridors or impede the use of wildlife nursery sites. The proposed project would not interfere with the movement, migration, or nursery sites of any fish or wildlife species because there is no suitable habitat of any kind on the proposed site.

Question e). The proposed project site is within the fenced WPCF property. No impacts to biological resources, including mature or heritage trees, will occur. No trees will be removed. There are no adopted Habitat Conservation Plans, Natural Community Conservation Plans, or other approved habitat conservation plans with which the proposed project could conflict.

Question f). Construction of the proposed project will be within the fenced WPCF property and will not affect wildlife habitats. Therefore, the proposed project will not conflict with any local policies, or ordinances protecting biological resources, or nay adopted local, regional, or state habitat conservation plans.

Conclusion. No potentially significant impacts to biological resources and are anticipated.

Mitigation. No mitigation measures are required.

V. CULTURAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion (Cultural Resources):

Question a).

There are no known historical resources on the project site. The site has been previously used as a wastewater treatment pond as well as a biosolids storage and drying area, and has been cleared and graded on a roughly annual basis for more than 60 years. Thus, there would be no impacts on historical resources from the proposed project.

Question b) and c).

The nearest known archeological resources are Historic Transmission line and Historic Rail Lines which are 0.5 miles and 1 miles away from the project site respectively. No paleontological, archaeological, or unique geologic sites are known to exist within the proposed project site or the WPCF. While it is unlikely that unknown paleontological or cultural resources will be encountered during site preparation grading, the potential for encountering and disturbing known or unknown cultural resources will be minimized with implementation of **Mitigation Measure CR-1**.

Mitigation Measures

Measure CR-1: The following measures will be implemented to minimize potential adverse impacts to unknown cultural resources during construction:

If cultural resources are encountered during construction of the solar array, the contractor shall be directed to avoid any further disturbance of the materials and immediately discontinue earthwork within 100 feet of the find. At that time, the City of Hayward will contact a qualified archaeologist, certified by the Registry of Professional Archeologists (RPA), to evaluate the situation. Any identified archaeological resources shall be recorded by the archeologist on form DPR 422 (archeological sites) and/or DPR 523

(historic properties), or similar forms. Project personnel shall not collect cultural resources. Procedures for stopping construction, in the event that cultural resources are exposed, shall be part of the project plans and documents. If upon discovering cultural deposits, procedures shall be in place so that the contractor can move on to another phase of work, thus allowing sufficient time to evaluate the nature and significance of the find and implement appropriate management procedures.

Question d).

No human remains are known to exist in the project vicinity. However, **Mitigation Measure CR-2** addresses the procedures that will be implemented if human remains are discovered during construction. The potential for encountering and disturbing human remains will be minimized with implementation of this Mitigation Measure.

Measure CR-2: The following measure will be implemented if human remains are unearthed during construction:

In the event that human remains are encountered, ground disturbing activities at that location shall cease immediately, and there shall be no further excavation or disturbance of the site, or any nearby areas reasonably suspected to overlie adjacent human remains, until the County Coroner makes a determination of whether an investigation of the cause of death is required or that the remains are Native American. If the coroner determines that the remains are Native American, then the Native American Heritage Commission in Sacramento shall be contacted within 24 hours (by County coroner), along with the Most Likely Descendant(s) of the deceased Native American (by Native American Heritage Commission), and disposition of the remains shall be in accordance with all applicable laws and regulations.

Conclusion. Impacts to cultural, historical or paleontological resources are unlikely because (1) there are no known resources within the existing WPCF; (2) the minimal amount of earthwork proposed; and (3) the proposed solar array is planned to be constructed on ground that has been disturbed for over 60 years by operations of the WPCF. However, the mitigation measures CR-1 and CR-2 will be followed in the event that such resources are present so as to not be adversely impacted by the Project.

VI. GEOLOGY AND SOILS

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- | | | | | |
|--|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion (Geology & Soils):

Question a).

According to the Alquist-Priolo Earthquake Fault Zoning Map, the project site is not located within a Fault Zone, and thus would not be subjected to ground rupture. The Hayward Fault oriented in a southeast-northwest trend is the closest known fault to the project site, passing approximately 4.0 miles to the northeast.

The proposed project is located in the seismically active San Francisco Bay Area, within approximately 2 miles of the Hayward Fault. According to the Working Group on California Earthquake Probabilities, there is a 62 per cent chance of a major earthquake in the Bay Area in the next 30 years, and a 27 per cent chance that that quake will occur along the Hayward Fault. Thus the project site, which is located on land fill, could be subjected to "Very Strong" ground shaking, with "Extremely High" amplification of shaking due to the composition of the fill on which it sits.

According to USGS susceptibility map of the California Geological Survey, the liquefaction potential at the site is moderate to low. The impacts at the project site due to seismic related ground failure due to liquefaction are considered less than significant.

The proposed photovoltaic project will be designed to meet the Uniform Building Code requirements. By its nature, the proposed project will be unlikely to expose people to risk of loss, injury or death from seismic ground shaking or seismic related ground failure.

The project site is located on flat terrain at the interface between the San Francisco Bay and the alluvial plain of the East Bay Hills. As a result, it is not at risk from landslides, and no mitigation is required.

Question b). The proposed project will not involve significant ground disturbance; therefore, the potential for loss of topsoil is low. There will be limited site preparation and grading activities associated with the construction of the Project. Hydrology and Water Quality **Mitigation Measure WQ-1**, will mitigate for erosion and soil loss in the area of disturbance during construction. Therefore, the impact of substantial soil erosion/loss of topsoil will be less than significant, based on the limited area of construction and the erosion / drainage control measures to be implemented during construction.

Question c). Published geologic maps (USGS 1981) and Dibblee (1980) show that older (Quaternary), non-marine alluvial terrace deposits underlie the project site. Subsurface exploration by MWH in July-August 2004 showed that the alluvial material generally consists of dense to very dense sands and gravels, and stiff to hard sandy clays. In addition, the groundwater at the site is relatively deep. Based on these site conditions, the potential for significant ground movements of native alluvial materials is considered less than significant.

In addition, solar array pier foundations will be designed based on a geotechnical investigation and be constructed with supervision of engineers and system designers to insure that the integrity of the system is

not compromised due to underlying soil characteristics. Thus, there will be no impact and no mitigation is required.

Question d)

The soils underlying the project site are expansive, which could damage pavement and foundations associated with the proposed project. In order to minimize the hazardous potential of expansive soils, the following mitigation measure would be implemented.

Mitigation Measure GEO-1: All structures and improvements needed to implement the Photovoltaic Project shall be designed and constructed in accordance with the guidelines for construction on expansive soils of the most current version of the Uniform Building Code.

Question e). The project will not include the installation of septic systems or alternative wastewater systems.

Conclusion. Potential substantial soil erosion or loss of top soil and issues associated with construction on expansive soils are anticipated to be less than significant with the implementation of Mitigation Measures WQ-1 and GEO-1.

Mitigation. Mitigation measures WQ-1 and GEO-1 are required.

VII. GREENHOUSE GAS EMISSIONS

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant No Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Greenhouse gas Emissions):

Question a-b).

The proposed project consists of construction and operation of photovoltaic solar arrays. Construction would involve transportation of material to the site, minor grading of the site, excavation to install drilled piers, and trench work to install electrical conduits. The emissions of greenhouse gases (GHG) during construction would only last several weeks. The operation of PV solar are typically automatic and only require minimal maintenance activities resulting in approximately 4 additional vehicle trips per year. The proposed 2 MW solar PV system is estimated to offset 3,973,000 pounds of carbon dioxide (a significant contributor to greenhouse gases) that would otherwise be emitted from a natural gas fired power plant each year. Therefore, construction and operation of this project would not result in a net increase of GHG emissions, but would in fact contribute significantly to lowering GHG emissions.

Conclusion. No potentially significant impacts are anticipated.

Mitigation. No mitigation measures are required.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Hazards and Hazardous Materials):

Questions a), b), and c).

The proposed project will not use, store, emit or transport of hazardous materials.

Question d).

The project site is developed into ponds for treating waste water and adjacent areas are partially constructed to be solar PV area. No underground storage tank (UST) has even been documented. The proposed project sites are in isolated areas would not create a significant hazard to the public or the

environment.

Questions e) and f).

The proposed Photovoltaic Project is located within two miles of the Hayward Airport, and beneath the flight path for the Oakland Airport. New construction associated with the proposed project will not result in a significant intensification of land use or employment density at the site, nor will it result in any light structures or towers taller than those currently found on the site. Therefore, no impacts on aircraft operations are expected.

Question g). The proposed project site is not part of any adopted emergency response plans or emergency evacuation plans. Therefore, no impacts will occur.

Question h). The proposed project is an addition to an existing water treatment facility and will not expose people or structures to wildfires. The proposed project will be isolated from potential wildfires by developed roads and existing ponds. Therefore, no impacts will occur.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

IX. HYDROLOGY AND WATER QUALITY

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion (Hydrology and Water Quality):

Question a)

Site preparation for the proposed project will require handling of approximately 2,500 cubic yards of native soil materials. Construction activities could result in erosion and siltation via the storm drain system.

In order to mitigate for potential discharges to surface waters associated with rain water, **Mitigation Measure WQ-1** will be implemented. the City will require the construction contractors to follow a Stormwater Pollution Prevention Plan (SWPPP) to prevent the discharge of pollutants to stormwater runoff to the maximum extent practicable by implementing Best Management Practices (BMPs) including installation of silt barriers during construction to avoid erosion and discharge of silty runoff offsite. With implementation of a SWPPP incorporating BMPs, the proposed project will not violate water quality standards resulting from construction activities, and therefore will reduce potential impacts to less than significant.

Question b).

The proposed project consists of installing a photovoltaic system in areas that were previously disturbed and graded, and will not adversely affect groundwater supplies, thus no mitigation is required.

Questions c), d), e).

The proposed project site is elevated some 4 feet above the close-by representative terrain elevation that is outside of the WPCF boundary. The project site will be graded to direct stormwater runoff to existing ponds abutting the north side of the fill where the PV panels will be located. Water in this pond is disposed of by evaporation, and the amount of runoff is not expected to cause the active pond to be overtopped. In the event that the pond approaches over topping, water can be removed via pumping and sent back to the treatment plant for processing. The proposed project will have no impact on the existing drainage patterns at the site, and all stormwater will would be retained on site for storage until dry season when it is removed by evaporation. The proposed project will not change the existing drainage pattern of the area or create an increase in the rate or amount of surface runoff in a manner that could result in flooding on- or off-site, thus no mitigation is required.

Question f). During construction of the proposed project, as described above, a SWPPP will be implemented that employ BMPs to avoid offsite discharges of surface water runoff.

Question g) The proposed project will not create any housing. Therefore, new housing will not be placed in a 100-year flood hazard zone.

Question h). The proposed project will be sited within the area identified as base flood elevation determined where special flood hazard areas subject to inundation by the 1% annual chance flood. All

electrical components of PV panels and electrical equipment will be elevated 2 feet above the flood plain. The proposed project does not include facilities that will cause flooding, or affect levees or dams. Therefore, the project will not impede or redirect 100-years flows, therefore no impacts on the 100-year flood will occur.

Question i). The proposed project is not associated with any levees or dams whose failure could subject people or structures to loss as a result of flooding, therefore, no mitigation is required.

Question j). Because of its location, the proposed project would not be at risk for seiche or mudflows. The existing treatment plant and the proposed project site are potentially at risk from a tsunami, however the tsunami risk at this area inside the Bay are similar to the risks from major flood events. The built-up area associated with the solar array would also protect against tsunami inundation, thus no mitigation is required.

Conclusion. With implementation of the mitigation measure below, potential impacts to hydrology and water quality will be reduced to a less than significant level.

Mitigation Measures.

Measure WQ-1: Stormwater Pollution Protection Plan (SWPPP). The contractor will be required to obtain coverage under the State Water Resources Control Board (SWRCB) General Permit for Storm Water Discharges Associated with Construction Activity (Construction General Permit (GCP) prior to commencing construction activities. The SWPPP will incorporate Best Management Practices (BMPs) for construction activities as appropriate in the Stormwater Best Management Practice Handbook (California Stormwater Quality Association) current edition and/or the Manual of Standards for Erosion and Sediment Control Measures (ABAG 1995). The BMPs include measures for management and operation of the construction site to control and minimize the potential contribution of pollutants to storm runoff from these areas. These measures address procedures for controlling erosion and sedimentation and management all aspects of the construction to ensure control of potential water pollution sources.

Erosion and sediment control practices include:

- installation of silt barrier
- stabilize stockpiled soils
- post construction stabilization or revegetation
- runoff control

The City will prepare a site-specific Stormwater Pollution Prevention Plan (SWPPP) and will require the construction contractor to incorporate the measures into all aspects of the project.

X. LAND USE AND PLANNING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the LARDP, general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

☐ ☐ ☐ ☒

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

☐ ☐ ☐ ☒

Discussion (Land Use and Planning):

Question a). The proposed project is located at the WPCF and is not surrounded by a community. The proposed project will be limited to construction and operation of a photovoltaic system within the existing WPCF fence line. Construction and operation of the proposed project will not physically divide an established community including residential, commercial or industrial uses, therefore no mitigation is required.

Question b). The WPCF lies within Hayward's city limits and is consistent with the City's General Plan, thus no mitigation is required.

Question c). There are no applicable habitat conservation or natural community conservation plans that apply to the project site, thus no mitigation is required.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XI. MINERAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Mineral Resources):

Questions a) and b). The project site is not designated as a locally-important mineral resource recovery site in any local plans, therefore no mitigation is required.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XII. NOISE

Would the project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in any applicable plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Noise) :

Questions a), b), c) and d). Noise generated at the proposed project and immediate vicinity is mostly from the existing WPCF equipment where noise levels are low and to a lesser extent noise from traffic along Highway 92 located some ¾-mile south of the treatment plant. Residences to the east are at least 1.5 miles from the project.

Construction of the proposed project could result in temporary increases in ambient noise levels in the project vicinity such as when excavating trenches, grading, or when driving piers into the ground. The closest sensitive receptors are more than one mile from the project site; the surrounding land uses are all industrial. Thus there would be no significant impacts from construction noise.

Once constructed, the project will not generate any audible noise, nor generate groundborne vibration or noise levels.

Question e) and f). The proposed project is located within two miles of the Hayward Airport, and within the airport land use plan referral area of the Oakland Airport. However, the proposed project would not increase the number of people exposed to aviation-related noise because it includes no housing, and would not generate any new jobs, thus no mitigation is required. The proposed project is not within the vicinity of a private airstrip.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XIII. POPULATION AND HOUSING

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Population and Housing):

Question a), b), and c). The proposed project will not result in population growth either directly or indirectly as it does not include construction of homes, businesses, or related infrastructure. The proposed project will not displace any existing housing or any people requiring construction of replacement housing.

Conclusion. No impact.

Mitigation. No mitigation measures are required.

XIV. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Public Services):

Question a). There will be no increase in the existing WPCF staff levels, nor any increase in the treated water service levels provided by City as a result of this Project. Therefore, no increases are expected in the demand for the public services that support new residents, schools, utilities, parks, fire or

police protection. In addition, the proposed project will be within the fenced and secured location that already exists for the WPCF, therefore there will be no increase in the demand for police and fire protection onsite.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XV. RECREATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Recreation):

Question a). Project construction will occur within the WPCF fence line, and will not affect existing neighborhoods or regional park areas or usage of those areas. The proposed project will not generate new jobs, housing or visitors, so it will not increase the use of existing neighborhood or regional parks or result in their deterioration

Question b). The proposed project would neither create new recreational facilities nor require the construction or expansion of existing recreational facilities.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XVI. TRANSPORTATION / TRAFFIC

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion (Transportation and Traffic):

Questions a) and b). Construction of the proposed project will involve a minor temporary increase in traffic during the 6-month construction period. The increase in vehicle trips will be associated with deliveries of construction materials and equipment (a total of approximately 40 large truck deliveries over 6 months), and construction worker daily trips to and from the construction site (an average of approximately 10 daily). The project does not include hauling of soil to or from the site. The temporary increase in vehicle trips will not cause long term degradation in level of service of roadways used for access to the WPCF.

Construction traffic will likely access the project via Highway 92 and then use local roads to access the plant. The amount of vehicle trips generated during construction is minimal in comparison to the existing traffic loads.

Various maintenance activities will take during operations, totaling approximately 4 round trip vehicle trips annually. There will not be an increase in on-site workers as a result of this project.

As described above, the proposed project will not significantly increase trip generation, so it will not exceed the level of service standards established by the Alameda County Transportation Commission's Congestion Management Program.

Question c). Although the proposed project is within or near the flight path of both the Oakland and Hayward Airports, it will not have any impact on air traffic patterns.

Question d). The proposed project will not alter the existing paved two-lane access road to the WPCF site, and no modifications are proposed. On-site, the project will not increase existing traffic hazards.

Question e). Emergency access to and within the WPCF will not be affected by the proposed project.

Question f). As there are no proposed improvements off-site, the proposed project would not conflict with any adopted policies, plans or programs regarding alternative transportation such as bus turnouts or bicycle racks.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XVII. TRIBAL CULTURAL RESOURCES

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

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b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

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Discussion (Transportation and Traffic):

Questions a) and b). There are no known historical resources located at the project site. The site has been previously under industrial use for more than 60 years and no known resource of tribal cultural resource was found previously. Therefore, no mitigation is required.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XVIII. UTILITIES AND SERVICE SYSTEMS

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

g) Comply with applicable federal, state, and local statutes and regulations related to solid waste?

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Discussion (Utilities and Service Systems):

Questions a) through g). The proposed project will not induce population growth and therefore, will not increase the volume of wastewater or solid waste, or increase the demand for potable water. The proposed project will not increase the amount of storm water runoff on the plant site, and therefore would not necessitate expanding any storm water conveyance, or storage facilities.

The existing pond just north of the proposed solar array will capture all storm water runoff generated from additional impermeable surfaces (e.g., solar panels, equipment pads) would be retained on site. Thus the project will not require the construction or expansion of storm water facilities on site, thus no mitigation is required.

Water for the proposed project will be provided to clean the PV module surfaces in order to retain optimal solar energy performance. Water will be provided from the City's water distribution system. Annual demand is expected to be less than five-thousand gallons.

Conclusion. No potentially significant impacts.

Mitigation. No mitigation measures are required.

XIX. MANDATORY FINDINGS OF SIGNIFICANCE

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

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b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

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c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

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Discussion (Mandatory Findings of Significance):

Question a). While the proposed project has the potential to degrade the quality of the environment in terms of air quality, cultural resources, and water quality, with implementation of the mitigation measures included in Section 5, all potentially significant adverse impacts will be reduced to a less-than-significant

level. No adverse impacts to plants, fish or wildlife habitat or species will occur. No impacts that will eliminate important examples of the major periods of California history or prehistory will be associated with the proposed Project.

Question b). The proposed project is not expected to create incremental effects that will result in a considerable contribution to cumulative impacts since adverse construction impacts will be short term and mitigated and there will be no long term impacts associated with the proposed project.

Question c). The proposed project will have adverse impacts on human beings without implementation of mitigation measures. Adverse impacts include short-term potential degradation of local air quality and water quality from construction activities, and a small short-term increase in construction traffic. These impacts will be minor and temporary, and are not considered significant. Implementation of the mitigation measures identified above and included in Section 6 will reduce all potential significant adverse impacts to a less-than-significant level.

6.0 Mitigation Monitoring and Reporting Plan

A mitigation monitoring and reporting plan (MMRP) follows.

Table 1. Mitigation Monitoring and Reporting Plan

<u>Mitigation Measure</u>	<u>Implementation Procedure</u>	<u>Monitoring and Reporting Actions</u>	<u>Monitoring Responsibility</u>	<u>Monitoring Schedule</u>
<p>Measure AQ-1. Dust Abatement Program. City will reduce fugitive dust generation during construction activities. At a minimum, the contractor(s) will be required to implement the following measures:</p> <ul style="list-style-type: none"> • Water all construction sites with active excavation at least twice daily. • Cover all trucks hauling soil or require all trucks to maintain at least two feet freeboard. • Apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. • Sweep daily with water sweepers all paved access roads, parking areas, and staging area at construction sites during earthwork activities. • Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). • Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand). • Limit the speed of all construction vehicles to 5 miles per hour while on unpaved road at the project site. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways. • Install wheel washers for all exiting trucks, or wash off the tires and/or tracks of all trucks and equipment used in the unpaved areas before leaving the site. • Install wheel washers for all exiting trucks, or wash off the tires and/or tracks of all trucks and equipment used in the unpaved areas before leaving the site. • Idling times shall be minimized either by shutting equipment 	<p>City reviews contractor specifications to ensure dust abatement requirements are included. Construction contractor implements measures in the program.</p>	<p>City reviews and approves dust abatement program. Construction contractor weekly documentation that measures are being implemented.</p>	<p>City Project Manager/Construction Supervisor</p>	<p>Prior to construction until to completion of construction</p>

Table 1. Mitigation Monitoring and Reporting Plan

<u>Mitigation Measure</u>	<u>Implementation Procedure</u>	<u>Monitoring and Reporting Actions</u>	<u>Monitoring Responsibility</u>	<u>Monitoring Schedule</u>
<p>off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <ul style="list-style-type: none"> Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM. Requiring all contractors use equipment that meets the California Air Resources Board's (CARB) most recent certification standard for off-road heavy-duty diesel engines. 				
<p>Measure CR-1. Procedures when Encountering Cultural Resources. The following measures will be implemented to minimize potential adverse impacts to unknown cultural resources during construction:</p> <p>If cultural resources are encountered during construction of the solar array, the contractor shall be directed to avoid any further disturbance of the materials and immediately discontinue earthwork within 100 feet of the find. At that time, the City of Hayward will contact a qualified archaeologist, certified by the Registry of Professional Archeologists (RPA), to evaluate the situation. Any identified archaeological resources shall be recorded by the archaeologist on form DPR 422 (archeological sites) and/or DPR 523 (historic properties), or similar forms. Project personnel shall not collect cultural</p>	<p>In the event that cultural resources are found, construction shall stop and a qualified archaeologist shall be consulted.</p>	<p>Notify Project Manager immediately.</p>	<p>Construction contractor's Construction Superintendent</p>	<p>During construction</p>

Table 1. Mitigation Monitoring and Reporting Plan

<u>Mitigation Measure</u>	<u>Implementation Procedure</u>	<u>Monitoring and Reporting Actions</u>	<u>Monitoring Responsibility</u>	<u>Monitoring Schedule</u>
resources. Procedures for stopping construction, in the event that cultural resources are exposed, shall be part of the project plans and documents. If upon discovering cultural deposits, procedures shall be in place so that the contractor can move on to another phase of work, thus allowing sufficient time to evaluate the nature and significance of the find and implement appropriate management procedures.				
<p>Measure CR-2. Procedures when Encountering Human Remains.</p> <p>The following measure will be implemented in the event that human remains are unearthed during construction:</p> <p>In the event that human remains are encountered, ground disturbing activities at that location shall cease immediately, and there shall be no further excavation or disturbance of the site, or any nearby areas reasonably suspected to overlie adjacent human remains, until the County Coroner makes a determination of whether an investigation of the cause of death is required or that the remains are Native American. If the coroner determines that the remains are Native American, then the Native American Heritage Commission in Sacramento shall be contacted within 24 hours (by County coroner), along with the Most Likely Descendant(s) of the deceased Native American (by Native American Heritage Commission), and disposition of the remains shall be in accordance with all applicable laws and regulations.</p>	In the event that cultural resources are found, construction shall stop and a qualified archaeologist shall be consulted.	Notify Project Manager immediately.	Construction contractor's Construction Superintendent	During construction
<p>Measure WQ-1: Stormwater Pollution Prevention Plan. Best Management Practices (BMPs) for construction activities as appropriate in the California Storm Water Best Management Practices Handbook will be implemented by the contractor. The BMPs include measures for management and operation of construction sites to control and minimize the potential contribution of pollutants to storm runoff from these areas. These measures address procedures for controlling erosion and sedimentation and management all aspects of the construction to ensure control of potential water pollution sources. Erosion and sediment control practices include:</p>	City reviews contractor specifications to ensure SWPPP/BMP requirements are included. Construction contractor implements measures in the program.	City reviews and approves SWPPP. Construction contractor weekly documentation that measures are being implemented.	Construction supervisor/City Project Manager	Prior to construction until to completion of construction

Table 1. Mitigation Monitoring and Reporting Plan

<u>Mitigation Measure</u>	<u>Implementation Procedure</u>	<u>Monitoring and Reporting Actions</u>	<u>Monitoring Responsibility</u>	<u>Monitoring Schedule</u>
<ul style="list-style-type: none">• installation of silt barrier• stabilize stockpiled soils• post construction stabilization or revegetation• runoff control <p>City will prepare a site-specific Stormwater Quality Protection Plan and will require the construction contractor to incorporate the measures into all aspects of the project.</p>				

7.0 References

- Far Western Anthropological Research Group, Inc. Geoarchaeological Study and Monitoring Plan for City of Hayward Recycled Water Project, Alameda County, CA. November 2017
- SMB Environmental, Inc. City of Hayward Recycled Water Project Cultural Resources Investigation Report. June 2015
- National Renewable Energy Laboratory. Life Cycle Greenhouse Gas Emissions from Solar Photovoltaics. April 21, 2014
- Calpine/Bechtel Joint Development. Application for Certification for the Russell City Energy Center, Volumes I and II. May 2001.
- California Geological Survey. Seismic Hazard Zone Report for San Leandro 7.5-Minute Quadrangle, Alameda County, California. October 2005.
- City of Hayward Community and Economic Development Department. City of Hayward General Plan. March 12, 2002
- BSK Associates Engineers & Laboratories. Geotechnical Investigation Hayward WPCF Solar Panel Array 3700 Enterprise Avenue, Hayward, California. May 28, 2010
- U.S. Department of Agriculture, Natural Resources Conservation Service. 2010. Soil Survey Geographic (SSURGO) database for Hayward, California
- Federal Emergency Management Agency (FEMA). Alameda County, California and Incorporated Areas Flood Insurance Rate Map FIRM Map 06001C0269G. August 3, 2009.
- East Bay Regional Park District. Hayward Regional Shoreline Online Publication. May 22, 2009.
- Habitat Agency Geobrowser Mapping Application. (<http://www.hcpmaps.com/habitat/>)
- City of Hayward Water Pollution Control Facility. 1,000kW Photovoltaic Renewable Energy Project Environmental Initial Study/Mitigated Negative Declaration. September 2009
- Oro Loma Sanitary District/Castro Valley Sanitary District. Recirculated Environmental Initial Study-Solar Arrays in Wastewater Treatment Plant- 500kW Photovoltaic Renewable Energy Project. April 2008
- California Natural Diversity Database (CNDDB) San Leandro General Plan. November 2001
- East Bay Municipal Utility District (EBMUD) Bayside Groundwater Project 2009



CITY OF HAYWARD

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

File #: RPT 18-043

DATE: March 6, 2018

TO: Mayor and City Council

FROM: Interim Development Services Director

SUBJECT

Informational Report on Tiny Homes

RECOMMENDATION

That the City Council reviews the informational report regarding Tiny Homes.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	HCD Bulletin
Attachment III	Ordinance No. 17-16
Attachment IV	Housing Type Matrix



DATE: March 6, 2018

TO: Mayor and City Council

FROM: Interim Development Services Director

SUBJECT: Informational Report on Tiny Homes

RECOMMENDATION

That the City Council reviews the informational report regarding Tiny Homes.

SUMMARY

This report provides information regarding the potential development of “tiny homes” within the City of Hayward with respect to building code requirements, zoning development standards, density restrictions, and other related issues.

BACKGROUND

Definition. Currently, the International Building and International Residential Code (IBC/IRC) does not have an officially adopted definition for “tiny homes.” However, the California Department of Housing and Community Development (HCD) has classified tiny homes as the following:

“Structures, which may range anywhere from 80 to 400 square-feet in size, may be built with a variety of standards and no construction standards; may or may not be constructed on a chassis (with or without axles or wheels); and usually are offered for use and placement in variety of sites.”

As such, tiny homes can be constructed and defined in a variety of configurations depending on and based upon their unit size, location, and the types of amenities available (living, sleeping, cooking, sanitation, etc.) within the structure. Recently, tiny homes have grown in popularity due to their potential as an affordable alternative for homeownership, transitional solution for homelessness, and a mechanism to alleviate the housing shortage. Individuals find the benefit of tiny homes to minimize financial obligations, reduce material possessions, and have a smaller environmental footprint. Figure 1 displays examples of common residential structures that have been characterized as tiny homes.

Figure 1: Tiny Homes Configurations and Characteristics.



Park Trailer – “Tiny Home”



Manufactured Home



Accessory Dwelling Unit

Tiny Home Bulletin. In May 2016, HCD published a bulletin related to the various construction methods and configurations of tiny homes within the State of California. The HCD bulletin (Attachment II) further clarified the legality of use, design, and construction of residential structures that are commonly referred to as tiny homes. Given that these structures are intended for human occupancy, tiny home structures shall receive one of several types of local or state government approvals depending on the unit type and its proposed location. According to the HCD bulletin, a tiny home may only be approved and constructed as one of the following types of structures listed below contingent on whether it is located inside or outside of a mobile-home park or special occupancy park. Any occupancy of a residential structure not conforming to the California Building Standards Code (CBSC) or the construction standards for those listed below are deemed as nonconforming structures which are illegal and subject to prosecution.

1. HUD-Code Manufactured Home (MH);
2. California Building or California Residential Code Dwelling Unit – CBSC Standards;
3. Factory-Built Home (FBH);
4. Recreational Vehicle (RV);
5. Park Trailer (PT); or
6. Camping Cabin (CC)

Normally, the City of Hayward Development Services Department would only maintain construction review and inspection authority over structures that are either compliant with CBSC standards or FBH. CBSC residential structures generally include single-family dwellings, duplexes, micro-units, accessory dwelling units (ADUs), townhouses, apartments, and efficiency units which are developed on a permanent foundation (no wheels) and include independent provisions for living, sleeping, eating, cooking, and sanitation. FBH units are assembled at off-site locations and include the same amenities as typical CBSC dwelling units; however, such residential structures are approved by HCD except for the installation and utility connection that is reviewed by local building departments. All other types of tiny home structures would be reviewed by outside government agencies for compliance, primarily the Federal Department of Housing and Urban Development (HUD). Furthermore, pursuant to the California Health and Safety Code (HSC) – RVs, PTs, and CCs are not permitted as permanent dwellings thereby precluding such tiny home structures from being used as dwelling units in urbanized areas.

DISCUSSION

Density Restrictions. With respect to planning and zoning law and local municipal codes, density is defined by the number of separate dwelling units with the independent provisions on a plot of land. Based on the various forms, configurations, and amenities that tiny homes may or may not include introduces a gray area of how to calculate density. For example, if a tiny home maintains sleeping and sanitation facilities but does not include a permanent cooking facility, it cannot be identified as one dwelling unit based on CBSC standards. Therefore, such tiny homes would be more closely aligned with single-room occupancy (SRO) units or similar to dormitories provided that communal sanitation and cooking accommodations exist.

Land Use. Another common issue related to the development of tiny homes is how they are defined in relation to land use, local zoning ordinances, and where they can be located as a primary, accessory, or conditional use – if at all. Currently, the Hayward Municipal Code (HMC) does not permit the use of detached, accessory structures to be constructed with sleeping and cooking facilities unless they are constructed as ADUs. On November 7, 2017, the City Council adopted Ordinance No. 17-16 (Attachment III) to allow for the development of ADUs on properties with existing single-family residences provided they comply with the standards set forth in the HMC. ADUs serve as dwelling units accessory and/or subordinate to primary residential structures that allow for appropriate infill development in either attached, detached, or internal configurations. Further regulations would have to be studied and developed to allow for the creation of tiny homes as primary uses on properties. Attachment IV provides a housing matrix explaining the various residential housing structures and types and how they comply with the applicable standards locally, statewide, and federally.

Proposed Micro-Unit Village in Hayward. On [December 4, 2017](#), the Council Economic Development Committee (CEDC) reviewed a [preliminary plan proposal](#) from Abode Services to develop a multi-family, high-density development comprised of 240-square foot micro-units on a 3.07-acre parcel located at 2595 Depot Road. The project will be a combination of modular and site built construction modeled on other successfully completed local projects of income restricted affordable and supportive housing. The micro-unit village will include supportive services teams that work closely with on-site property management to achieve a well maintained fiscally responsible property with residents who are stably housed and thriving. Residents of the micro-unit village will be extremely-low and very-low income and will receive support through funding sources identified and secured by Abode Services.

*Tiny Home Communities. Several cities and counties have allowed and zoned for the use of “tiny home communities” to increase affordable housing stock to the community. [“Caravan – The Tiny House Hotel”](#) is an example of a tiny home community located in Portland, Oregon that created rental and ownership units. The community was constructed as a commercial land use that allowed for the temporary residency of individuals with six units that ranged between 120-170 square-feet. Each unit was developed with all provisions for independent living. [“The Village of Wildflowers”](#) was a tiny lot subdivision located in Henderson County, North Carolina where the developer created thirty-two 400 square-foot permanent housing units that were also able to be rented or purchased.

*Emergency and Transitional Housing Villages. Other cities and counties have also allowed the development of tiny home villages to serve as emergency housing for the homeless or transitional homes. Seattle, Washington allowed the placement of 14 tiny homes less than 120 square-feet in size with a community kitchen and sanitation facilities to serve as an accessory land use to an existing church. [Eugene, Oregon](#) also allowed a similar establishment of a tiny home village focused on homeless individuals as emergency housing. In both cases noted above, a Conditional Use Permit (CUP) was obtained for local review which provided the ability for the City or County to implement a monitoring program of the site to ensure that proper maintenance was maintained, services were provided for such individuals, security was present, etc.

*Listed cities and counties cited in the case studies may have implemented different building code, alternative standards, or have declared a state of emergency for homelessness to allow for the development, placement, or operation of tiny home villages.

ECONOMIC AND FISCAL IMPACT

The policies, actions, and/or expenditures of this informational report do not have any economic or fiscal impact on the Hayward community.

STRATEGIC INITIATIVES

The allowance for tiny homes within Hayward could eventually meet some of the Council's objectives within the Complete Communities Initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This report provides an informational document on the various types of housing units and explains how such structures may or may not work within the limits of the Hayward Municipal Code or the California Building Standards.

Goal 1. Provide a mix of housing stock for all Hayward residents and community members, including the expansions of affordable housing opportunities and resources.

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

Objective 3: Increase supply of affordable, safe and resilient housing in Hayward.

PUBLIC CONTACT

This agenda item is an informational item and does not require a public notice.

NEXT STEPS

If the Council wishes to further discuss policy changes to allow for tiny home development within the City, staff can agendize this at a future meeting. If not, staff can review proposals received for tiny home developments on a case by case basis and determine the appropriate mechanisms for review and approval of these projects.

Prepared by: Marcus Martinez, Assistant Planner

Recommended by: Stacey Bristow, Interim Development Services Director

Approved by:



Kelly McAdoo, City Manager

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS**

2020 W. El Camino Avenue, Suite 250
Sacramento, CA 95833
(916) 263-2963 / FAX (916) 263-5348
www.hcd.ca.gov



May 9, 2016

INFORMATION BULLETIN 2016-01 (MH, FBH, SHL, MP/SOP, RT, OL) – Revised

**TO: City and County Building Officials
Mobilehome and Special Occupancy Park Enforcement Agencies
Division Staff**

FROM:  Richard Weinert, Deputy Director
Division of Codes and Standards

SUBJECT: Tiny Homes

Purpose

This Information Bulletin is intended to clarify the legality of use, design and construction approval of any residential structure that may be commonly referred to as a tiny home. Currently, neither the Department of Housing and Community Development (HCD) nor any other State or local agency has specific statutory or regulatory definition authority of construction approval for tiny homes as a specialty product. These structures, which may range anywhere from 80 to 400 square feet in size, may be built with a variety of standards or no construction standards; may or may not be constructed on a chassis (with or without axles or wheels); and usually are offered for use and placement in a variety of sites. It is the purpose of this Information Bulletin to describe when a tiny home fits the definition of one of the following and therefore would be legal to occupy: recreational vehicle (including park trailer), manufactured home, factory-built housing, or a site-constructed California Building Standards Code dwelling.

As residential structures, tiny homes must receive one of several types of State or local government approvals prior to occupancy, depending on the design of the structure and the location of its installation. While HCD supports efforts to make housing more affordable and efficient, State laws mandate that residential structures meet state standards. Failure to comply with these statutory requirements will result in the tiny home being a noncomplying residential structure in which occupancy is illegal and is subject to punitive action by the appropriate enforcement agency, including the U.S. Department of Housing and Urban Development (HUD).

Background

Due to confusion about which building code standards apply to tiny homes, they are often mischaracterized for purposes of enforcement. In order to be occupied, a tiny home must comply with the standards of, and be approved as one of the following types of structures: a HUD-Code manufactured home (MH), California Residential Code or California Building Code home, factory-built housing (FBH), recreational vehicle (RV), park trailer (PT) or camping cabin (CC). The approving agency will vary depending upon whether the tiny home is located inside or outside of a mobilehome park or special occupancy park.

The following information is intended to be used to determine whether a tiny home is subject to and must comply with the California Building Standards Code (CBSC) or may be required to comply with the RV, PT, MH, FBH or CC design and construction standards, or whether it is a nonconforming structure in which occupancy is illegal and subject to prosecution.

California Building Standards Code

Tiny homes, like all residential structures not classified as an MH, FBH, RV, PT or CC within California, are required to comply with the CBSC, Title 24, California Code of Regulations (CCR). Within the CBSC is the California Residential Code (CRC) and California Building Code (CBC) both of which contain the standards applicable statewide to R-3 Occupancies, one- and two-family dwellings, efficiency dwelling units, and townhouse structures. To access all parts of the CBSC, visit the California Building Standards Commission website at <http://www.bsc.ca.gov/>.

CRC Section R202, [CRC Chapter 2 Definitions](#), defines a dwelling as any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes. It also defines a dwelling unit as a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A tiny home that is site-constructed or mobile, and does not fit the definition of an MH, FBH, RV, PT or CC, is a dwelling unit and must comply with the CBSC in order to be legally occupied.

The CBSC includes, but is not limited to, a variety of structural, plumbing, electrical, energy, mechanical, and fire protection standards, as well as requirements for light, ventilation, heating, minimum room sizes, ceiling heights, sanitation, toilet, bath and shower spaces, emergency escape and rescue openings, means of egress, smoke alarms and carbon monoxide alarms. Dwelling units must meet all the minimum requirements found with the CBSC, including the following:

- Minimum ceiling height of 7 feet 6 inches, with several exceptions.
- A minimum of one room with at least 120 square feet of gross floor area.
- A net floor area of not less than 70 square feet for all other habitable rooms.

One exception to the general standards is found in CRC Section R304.5, [CRC Chapter 3 – Building Planning](#), which allows an Efficiency Dwelling Unit to comply with minimum requirements including, but not limited to, the following:

- A living room of not less than 220 square feet of floor area, and an additional 100 square feet of floor area for each occupant of the unit in excess of two.
- A kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches, and a separate closet.
- Light and ventilation conforming to the CRC.

Enforcement of construction and maintenance of housing units constructed to the CBSC/CRC standards are performed by local building departments pursuant to Health and Safety Code (HSC) Section 17960. Pursuant to State Housing Law (SHL), local governments may, by ordinance, adopt alternate construction standards in limited circumstances (HSC Section 17958.5), may approve alternate materials, methods and work under specified circumstances [HSC Section 17951(e)(2)] or may reduce the minimum square footage of efficiency units (HSC Section 17958.1).

Recreational Vehicles

Recreational Vehicles (RVs) are defined in [HSC Section 18010](#). RVs may include a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational, emergency or other occupancy. RVs are not intended for occupancy as a permanent dwelling. An RV meets all of the following criteria:

- It contains less than 320 square feet of internal living room area, excluding built-in equipment, such as wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.
- It contains 400 square feet or less of gross area measured at maximum horizontal projections.
- It is self-propelled, truck-mounted, or permanently towable on the highways without a permit and is built on a single chassis.

RVs constructed on or after January 1, 1999, but before July 14, 2005, must comply with the ANSI A119.5 standard. RVs manufactured on or after July 14, 2005, must be constructed in accordance with the NFPA 1192 standard. Compliance with these standards can be determined by an owner-provided label or insignia similar to those issued by the Recreational Vehicle Industry Association (RVIA) that is permanently affixed to the RV. However, an insignia issued exclusively by RVIA is not required (HSC Section 18027.3). For more information regarding RVIA certification, see <http://www.rvia.org/>.

Unless otherwise allowed by a local ordinance, RVs generally may be occupied only in mobilehome parks or special occupancy parks governed by the Mobilehome Parks Act (MPA), HSC Sections 18200, et seq., and Title 25, CCR Sections 1000, et seq., or the

Special Occupancy Parks Act (SOPA), HSC Sections 18860, et seq., and Title 25, CCR Sections 2000, et seq. Either HCD or a local enforcement agency which has assumed enforcement authority for the MPA and SOPA, pursuant to HSC Section 18300 or Section 18865, is obligated to ensure that any residential structures on an MPA or SOPA lot comply with statutory construction and maintenance code requirements.

Park Trailers

Park Trailers (PTs) are a type of recreational vehicle defined in [HSC Section 18009.3](#) and often are considered tiny homes built on a chassis with wheels. PTs, like RVs, are designed as temporary living quarters for recreational or seasonal use only, and not as a year-round or permanent dwelling. PTs are constructed to ANSI A119.5 and NFPA 1192 standards and are certified by the manufacturer with a label of approval, such as those provided by the RVIA, or owner-provided.

PT standards are specified by state law and include, but are not limited to, the following requirements:

- It contains 400 square feet or less of gross floor area when set up, excluding loft area space if that loft area space meets the requirements of HSC Sections 18009.3(b) and 18033. It may not exceed 14 feet in width at the maximum horizontal projection.
- It is built on a single chassis and may only be transported upon the public highways with a permit issued pursuant to Vehicle Code Section 35780.
- The loft area, in order to be excluded from the floor area standard, must meet all of the requirements of HSC Section 18033.

Structures that may resemble PTs but exceed 400 square feet are considered either a manufactured home (MH) if their design and construction are consistent with HUD's manufactured housing standards or will be determined to be a nonconforming structure (for which occupancy is illegal) unless they meet other permitted standards approved by HCD.

Unless otherwise allowed by a local ordinance, PTs generally may be occupied only in mobilehome parks or special occupancy parks governed by the MPA, HSC Sections 18200, et seq., and Title 25, CCR Sections 1000, et seq., or the SOPA, HSC Sections 18860, et seq., and Title 25, CCR Sections 2000, et seq. Either HCD or a local enforcement agency which has assumed enforcement authority for the MPA and SOPA, pursuant to HSC Section 18300 or Section 18865, is obligated to ensure that any residential structures on an MPA or SOPA lot comply with statutory construction and maintenance code requirements.

Manufactured Homes

HSC Section 18007, in part, defines a new manufactured home (MH) as a structure constructed on or after June 15, 1976; is transportable in one or more sections; is 8 body feet or more in width or 40 body feet or more in length; when erected on-site is

320 or more square feet; and includes use of a permanent chassis. It must meet all applicable federal standards (HSC Section 18025) as well as a number of state standards found in the Manufactured Housing Act of 1980, HSC Sections 18000, et seq., and Title 25, CCR Sections 4000, et seq.

MHs may be occupied outside or inside of mobilehome parks and installation and approval for occupancy is governed by the Mobilehome Parks Act (MPA), HSC Sections 18200, et seq., and Title 25, CCR Sections 1000, et seq. Either HCD or a local enforcement agency which has assumed enforcement authority for the MPA and installation of MHs inside or outside of mobilehome parks, pursuant to HSC Section 18300, is obligated to ensure that any residential structures on a park lot or outside of a park comply with statutory construction and maintenance code requirements.

Factory-Built Housing

Factory-built Housing (FBH) are residential structures generally designed, constructed, and installed pursuant to CBSC requirements in HSC Sections 19960, et seq., and Title 25, CCR Sections 3000, et seq. An FBH unit is a residential structure constructed in an off-site location for placement on a foundation and generally must comply with the same standards as those applicable to conventional (CBSC) housing units (HSC Section 19990). FBH may or may not be constructed and transported on a chassis. HCD is responsible for the development and enforcement of FBH standards, except that local building departments are responsible for approval of the installation of FBH. HCD has not approved any FBH units as tiny homes, and the ability in the future to approve such units would depend on their compliance with the statutory and regulatory requirements.

Camping Cabins

A camping cabin (CC) is a special relocatable hard sided structure with a floor area less than 400 square feet without plumbing designed to be used only within a recreational vehicle park. It may contain an electrical system, including electrical space conditioning, but is otherwise limited with respect to internal appliances and facilities. Standards for a CC are provided in HSC Sections 18862.5 and 18871.11 and Title 25, CCR Section 2327. Either HCD or a local enforcement agency which has assumed enforcement authority for the SOPA, pursuant to HSC Section 18865, is obligated to ensure that any residential structures on a park lot comply with statutory construction and maintenance code requirements.

Enforcement and Prosecution

If a structure called a tiny home or similar name is sold, offered for sale, leased, rented or occupied as a residential structure which does not comply with the standards for any of the units described previously, the enforcement authority having appropriate jurisdiction (as described) is responsible for pursuing the appropriate legal remedies to terminate the sales, rentals or occupancies.

The enforcement agency may initiate actions under the authorities listed previously and/or any other authority it has to abate the sale or occupancy of unpermitted structures including, but not limited to, the following:

- Prohibiting occupancy if the nonconforming structure violates local land use laws or violates any State or local public health, safety, fire, or similar authorities.
- Prohibiting the manufacture, sale, lease, rental or use in California.
- Mandating correction of any violations of applicable laws and regulations of a unit sold, leased, rented or occupied in California.

SUMMARY

While there is no current statutory definition, a tiny home sold, rented, leased or occupied with in California may be legal if used on an approved location, complies with all applicable laws, and is either:

- Built on a chassis with axles; contains 400 square feet or less of gross floor area (excluding loft area space); is considered an RV, CC or PT; is not under HCD's jurisdiction for the design and construction of the unit; and its construction and occupancy is enforced by local enforcement agencies with appropriate jurisdiction; or
- Not constructed on a chassis with axles; is placed on a foundation or otherwise permanently affixed to real property; and complies with CBSC or FBH standards; and may be enforced by local enforcement agencies having appropriate jurisdiction.

If you have any questions regarding this Information Bulletin on tiny homes, please contact the Manufactured Housing Program at (916) 445-3338 or email to Mitchel.Baker@hcd.ca.gov.

ORDINANCE NO. 17-16

AN ORDINANCE ADDING SECTION 10-1.2740 TO CHAPTER 10 (PLANNING, ZONING, AND SUBDIVISIONS) OF THE HAYWARD MUNICIPAL CODE TO REVISE AND UPDATE REGULATIONS RELATED TO THE DEVELOPMENT OF ACCESSORY DWELLING UNITS

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. 17-161 approving the text changes to the Hayward Municipal Code requested in Zoning Text Amendment Application No. 201701087.

Section 2. Chapter 10, Planning, Zoning, and Subdivisions of the Hayward Municipal Code, which establishes development standards and regulations for all zoning districts within City boundaries, is hereby amended to add certain text (as indicated by underline) and delete certain provisions (as indicated by strikethrough) in the attached Exhibit "A", related to the development of Accessory Dwelling Units (commonly referred to as in-law units, secondary dwellings, or granny flats), introduced herewith and as specifically shown in this Ordinance.

Section 3. 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 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, the Ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 30th day of October, 2017, by Council Member Mendall.


ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 7th day of November, 2017, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS: Zermeño, Mendall, Peixoto, Lamnin, Salinas
MAYOR: Halliday

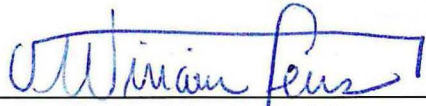
NOES: COUNCIL MEMBERS: Márquez

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED: 
Mayor of the City of Hayward

DATE: November 14, 2017

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:

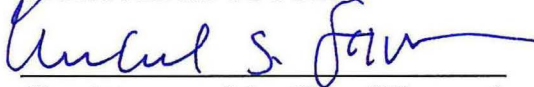

City Attorney of the City of Hayward

EXHIBIT A

CHAPTER 10 – PLANNING, ZONING, AND SUBDIVISIONS

ARTICLE 1 – ZONING ORDINANCE

SECTION 10-1.200 – SINGLE FAMILY RESIDENTIAL DISTRICT (RS)

SEC. 10-1.215 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the RS District:

(1) Residential Uses.

- (a) ~~Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245n., for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.
- (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc., can be met for each dwelling).

SEC. 10-1.245 - MINIMUM DESIGN AND PERFORMANCE STANDARDS.

~~n. Second Dwelling Unit, Attached ("Granny or in-law unit"). An attached second dwelling unit ("Granny or in-law unit") may be constructed in accordance with the following standards:~~

- ~~(1) An attached second dwelling unit may only be added to an existing detached single family dwelling on a parcel containing no other dwellings, and which has at least two covered parking spaces, with at least one common wall between the attached second dwelling unit and the living or garage area of the existing dwelling.~~
- ~~(2) An attached second dwelling unit shall contain no more than one bedroom, shall be a minimum of 400 square feet in area and shall not exceed 640 square feet in area. No additional covered parking shall be provided.~~
- ~~(3) Any separate entry constructed for an attached second dwelling unit shall be located only in the side, side-street (if approved by the Planning Director) or rear yard.~~
- ~~(4) An attached second dwelling unit shall be counted as part of the primary building coverage requirements and also shall conform to all required lot, yard, and height requirements.~~
- ~~(5) An attached second dwelling unit shall not be sold separately from the primary dwelling, but it may be rented.~~
- ~~(6) An attached second dwelling unit shall only be approved where the owner of the existing dwelling has applied for the building permit and where same owner resides in the primary dwelling at the time of application and occupancy of the attached second dwelling.~~

- ~~(7) Unless exempted, as determined by the Building Official, the primary or existing dwelling and the attached second dwelling unit shall conform to all applicable City code requirements; for example, building, fire, plumbing, electrical. A Certificate of Occupancy shall have been obtained for both units prior to occupancy of the attached second dwelling.~~
- ~~(8) An attached second dwelling unit shall not be located within the garage area or a converted garage area of the existing dwelling unless adequate substitute 2-car garage parking is provided outside required front, side, and side street yards.~~
- ~~(9) The exterior design of the attached second dwelling unit shall appear to constitute an integral part of the primary dwelling and not a separate dwelling unit.~~

SECTION 10-1.300 - RESIDENTIAL NATURAL PRESERVATION DISTRICT (RNP)

SEC. 10-1.315 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the RNP District:

(1) Residential Uses.

- (a) ~~Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245n., for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.

SECTION 10-1.400 - MEDIUM DENSITY RESIDENTIAL DISTRICT (RM)

SEC. 10-1.415 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the RM District:

(1) Residential Uses.

- (a) ~~Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245n., for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.
- (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc., can be met for each dwelling)

SECTION 10-1.500 - HIGH DENSITY RESIDENTIAL DISTRICT (RH)

SEC. 10-1.515 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the RH District:

(1) Residential Uses.

- (a) ~~Second dwelling unit attached to single family dwelling. (Also referred to as a "Granny Unit." See Section 10-1.545.g for criteria.)~~

SEC. 10-1.600 – RESIDENTIAL-OFFICE DISTRICT (RO)

SEC. 10-1.615 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the RO District:

(1) Residential Uses.

- (a) ~~Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245.n for criteria.)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.
- (b) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc.) can be met for each dwelling.

SEC. 10-1.1100 – COMMERCIAL OFFICE DISTRICT (CO)

SEC. 10-1.1120 – CONDITIONALLY PERMITTED USES.

a. Administrative Uses. The following uses, or uses determined to be similar by Planning Director, are permitted in the CO District subject to approval of an administrative use permit:

(4) Residential Uses.

- (c) ~~Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245.n for criteria.)~~
- (d) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc.) can be met for each dwelling.

SEC. 10-1.1520 – CENTRAL CITY – COMMERCIAL SUBDISTRICT (CC-C)

SEC. 10-1.1522 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the CC-C District:

- (1) Accessory buildings and uses. (See Section 10.1.1555.)
- (2) Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.
- ~~(2)~~(3) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735.d.)

~~{3}~~ (4) Home occupation. (See definitions)

~~{4}~~ (5) Household pets.

~~{5}~~ (6) Indoor storage. (Clearly subordinate to a primary or conditional use that is open to the public and which conforms to the policies and goals of the Redevelopment Agency and the Central City -Commercial Subdistrict

SEC. 10-1.1530 – CENTRAL CITY – RESIDENTIAL SUBDISTRICT (CC-R)

SEC. 10-1.1532 - USES PERMITTED.

a. Primary Uses. The following uses, or uses determined to be similar by the Planning Director, are permitted in the CC-R District as primary uses.:

(4) Residential Uses.

(a) Artist's loft. (Live above place of business)

(b) Boarding home.

(c) Group home. Within existing single-family dwellings. (6 or fewer residents, excluding staff).

(d) Multiple-family dwellings. (Density per Downtown Hayward Design Plan)

~~{e}~~ Second family dwelling, attached.

(f) Single-family dwelling. (Existing as of May 4, 1993, including their accessory structures and uses)

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the CC-R District:

(1) Accessory buildings and uses. (See Section 10.1.1555.)

(2) Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.

~~{2}~~(3) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735.d.)

~~{3}~~ (4) Home occupation. (See definitions)

~~{4}~~ (5) Household pets.

~~{5}~~ (6) Indoor storage. (Clearly subordinate to a primary or conditional use that is open to the public and which conforms to the policies and goals of the Redevelopment Agency and the Central City -Residential Subdistrict.

SEC. 10-1.1540 – CENTRAL CITY – PLAZA SUBDISTRICT (CC-P)

SEC. 10-1.1542 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the CC-P District:

(3) Accessory buildings and uses. (See Section 10.1.1555.)

(4) Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.

~~{2}~~(3) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735.d.)

~~{3}~~ (4) Home occupation. (See definitions)

~~(4)~~ (5) Household pets.

~~(5)~~ (6) Indoor storage. (Clearly subordinate to a primary or conditional use that is open to the public and which conforms to the policies and goals of the Redevelopment Agency and the Central City -Plaza Subdistrict

SEC. 10-1.1900 – AIR TERMINAL (AT-RM)

SEC. 10-1.1972 – AT-RM USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the AT-RM District:

(1) Residential Uses.

~~(a)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.

SEC. 10-1.2000 – AGRICULTURAL DISTRICT (A)

SEC. 10-1.2015 - USES PERMITTED.

b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the primary uses permitted in the A District:

(1) Residential Uses.

~~(b) Attached second dwelling unit. (Also referred to as a "Granny or in-law unit." See Section 10-1.245.n for criteria)~~ Accessory dwelling unit. (Also referred to as "Granny flat, in-law unit, second dwelling unit." See Section 10-1.2740 for criteria and standards.

(c) Second single-family dwelling. (Where one single-family dwelling already exists on a lot, one additional single-family dwelling may be constructed provided the minimum development standards (lot size, setbacks, height, etc.) can be met for each dwelling.

SECTION. 10-1.2740 - ACCESSORY DWELLING UNITS

SEC. 10-1.2741 PURPOSE.

The ordinance codified in this section establishes regulations for the construction of accessory dwelling units subordinate to single-family dwellings. Accessory dwellings units provide housing opportunities in a flexible manner to address the unmet demand for affordable housing and achieve the goals, objectives, and policies of the Housing Element and General Plan to provide a diverse mix of housing options for the community.

SEC. 10-1.2742 DEFINITIONS.

- a. "Accessory dwelling unit(s)" shall be defined as an attached, detached, or internal residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s).

SEC. 10-1.2743 LOCATION CRITERIA.

- a. Accessory dwelling units as detached, attached, or internal accessory uses shall be permitted in the Single-Family Residential (RS), Residential Nature Preservation (RNP), Medium-Density Residential (RM), Residential Office (RO), Agricultural (A) zoning districts, and in the T-3 Suburban transect zone in the Mission Boulevard Corridor Form-Based Code area, where one legally constructed single-family dwelling exists as the primary structure on the parcel.
- b. Accessory dwelling units limited exclusively to the internal conversion or repurpose of an existing structure shall be permitted in the following zoning districts: Central-City Commercial (CC-C), Central-City Residential (CC-R), Central-City Plaza (CC-P), and Airport-Terminal Medium Density Residential (AT-RM) zoning districts, provided one legally constructed single-family dwelling exists as the primary structure on the parcel.
- c. Planned Development Districts. The new construction of attached and detached accessory dwellings units shall not be permitted in Planned Development (PD) zoning districts, unless otherwise specified within the original development proposal as an amenity. Accessory dwelling units involving the internal conversion of an existing structure shall be permitted provided the proposed unit complies with the criteria set forth in Section 10-1.2743(b) and the remainder of this Article, as applicable.

SEC. 10-1.744 DESIGN AND DEVELOPMENT STANDARDS.

All proposed accessory dwelling units shall comply with the following design and development standards:

- a. Quantity. On any one parcel of land, no more than one accessory dwelling unit shall be allowed regardless of the number of single-family dwellings located on the lot.
- b. Unit Size. All proposed accessory dwelling units shall not exceed 50-percent of the habitable floor area of the existing single-family residence or 1,200 square-feet, whichever is less. Habitable floor area calculation shall not include garages, detached accessory structures, patio covers, porches, covered and uncovered balconies, and decks as determined by the Planning Director.

- c. Maximum Number of Bedrooms. Accessory dwelling units shall not exceed a maximum of two bedrooms as sleeping quarters.
- d. Attached Units. Accessory dwelling units proposed to be attached from the primary residence shall comply with the development standards set forth by the underlying zoning for the primary structure including, but not limited to, setbacks, lot coverage, height, and architectural compatibility.
- e. Detached Units. Accessory dwelling units proposed to be detached from the primary residence shall comply with the minimum design and performance standards set forth by the underlying zoning district for detached, accessory and secondary structures including, but not limited to, setbacks, lot coverage, height, distance between structures, location and architectural compatibility.
- f. Setbacks. Accessory dwelling units proposed to be constructed atop of existing, legal detached garages shall provide a minimum five-foot setback from the interior side and rear property lines, unless a greater setback is required pursuant to Building and Fire standards or the property is a corner lot which shall comply with the minimum street-side setback requirements. Accessory dwelling units proposed to be attached or detached shall conform to the development standards and performance standards set forth in the underlying zoning district.
- g. Height Restrictions. Accessory dwelling units shall comply with the following height restrictions based on the proposed location of the unit:
 - (1) Accessory dwelling units attached to the primary structure shall comply with the height limitations of the underlying zoning district for the principal structure.
 - (2) Accessory dwelling units to be detached from the primary structure shall be limited to the height restrictions set forth in the underlying zoning district for detached, accessory and secondary structures.
 - (3) Accessory dwelling units proposed to be constructed atop of legally constructed detached garages shall be subject to the review and approval of a discretionary Site Plan Review application in accordance with Section 10-1.3000 of the Hayward Municipal Code. In order to deny a Site Plan Review application, the Planning Director shall find that the accessory dwelling unit would be detrimental to the public health and safety or would introduce unreasonable privacy impacts to the immediate neighbors. In any instance, the accessory dwelling unit shall be limited to the maximum height restriction of the primary structure within the underlying zoning district
- h. Independent Exterior Access. Accessory dwelling units shall provide an independent exterior access separate from the primary residence. The separate entry constructed for the accessory dwelling unit shall not face the street or the public right-of-way.

- i. Owner Occupancy. The legal property owner of the lot shall be required to reside in either the primary residence or the accessory dwelling unit located on the parcel. At no time shall the property owner rent the primary dwelling and the accessory dwelling unit separately or allow the main house and the accessory dwelling unit to be sublet individually while the property owner resides elsewhere.
 - (1) The accessory dwelling unit shall not be sold separately from the principal residence. The rental and lease period for either unit shall be longer than a minimum of 30-days and shall not be utilized as a short-term rental.
- j. Fire Sprinklers. Accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinkler installation is required for the primary dwelling
- k. Park Dedication In-Lieu Fees. Each accessory dwelling unit whether detached, attached, or internal shall be required to pay the applicable Park-Dedication In-Lieu fee as set forth in Chapter 10, Article 16 of the Hayward Municipal Code (Property Developers – Obligations for Parks and Recreation) prior to the date of final inspection or the date the Certificate of Occupancy is issued for the development, whichever occurs first.
- l. Private Sewage System. If the accessory dwelling unit is proposed to incorporate or utilize a private sewage disposal system (e.g. septic tank or on-site wastewater treatment system), the applicant shall be required to provide documentation and proof by the Alameda County Department of Environmental Health at the time of application. No private sewage disposal shall be permitted where there is an available public sewer within 200-feet, measured along streets, alleys, or public right-of-way upon which a lot abuts pursuant to Chapter 11, Article 3 (Sanitary Sewer System) of the Hayward Municipal Code.

SEC. 10-1.2745 ADDITIONAL PROVISIONS FOR THE CONVERSION OF EXISTING STRUCTURES TO CREATE ACCESSORY DWELLING UNITS.

- a. Setbacks. No side or rear yard setback shall be required for an existing, legally constructed garage or accessory structure that is converted into an accessory dwelling unit provided it is sufficient for fire safety standards as determined by the Hayward Fire Department and Chief Building Official.
- b. Utility Connection Fees. Accessory dwelling units constructed within the building envelope of the existing principal residence, garage, or accessory structure shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.
- c. Parking. No additional parking shall be required if the accessory dwelling unit is located is within the existing building envelope of the primary residence or accessory structure, unless it involves the conversion of a garage or reduction of the off-street parking requirement for the parcel.

SEC. 10-1.2746 PARKING.

Accessory dwelling units shall be required to provide parking in accordance with the following requirements:

- a. Parking Requirement for Primary Residence. In any instance, the property shall be required to meet the minimum parking requirement as set forth in Chapter 10, Article 2, Off-Street Parking Regulations for the principal residence prior or concurrent to the application for an accessory dwelling unit.
- b. New Units. Accessory dwelling units shall be required to provide one (1) off-street parking space on the same lot as the unit in a covered, uncovered, or tandem configuration. Parking spaces may be located in the required setbacks provided the proposed location complies with the landscaping requirement in the front yard and minimum standards set forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Planning Director.
- c. Garage Conversions. Where garages are converted for the purpose of creating an accessory dwelling unit, replacement off-street parking shall be provided on the same lot as the unit in either a covered, uncovered, or tandem configuration provided the proposed location complies with the landscaping requirement in the front yard and the minimum standards set forth within the Off-Street Parking Regulations for open parking spaces, unless otherwise approved by the Planning Director.
- d. Parking Requirement Exemptions. Off-street parking shall not be required for accessory dwelling units if any of the following circumstances apply:
 - (1) The unit is located within one-half mile of public transit and bus stations.
 - (2) The unit is located within an architecturally and historically significant historic district.
 - (3) Where there is designated car-share vehicle parking within one block of the unit.

SEC. 10-1.2747 PERMIT REQUIRED.

Unless otherwise noted in this Ordinance, the applicant shall be required to obtain the approval of a Zoning Conformance Permit by the Planning Division prior to the submittal of a building permit application to the Building Division. Zoning Conformance Permits shall either be disapproved or approved within 120 days of the submission of a complete application. Application submittal requirements for an Accessory Dwelling Unit shall include the following items, in addition to the required fees for each accessory dwelling unit proposed in accordance with the adopted Master Fee Schedule:

- a. Project Plans. The applicant shall be required to provide a site plan, floor plan, elevations, and cross sections of the proposed accessory dwelling unit drawn to scale.

Plans shall include minimal project information, dimensions, and calculations including, but not limited to the proposed setbacks, lot coverage, height, distance between structures, square-footage, easements, materials, etc. as required by the Planning Director or his/her designee.

- b. Deed Restriction. Prior to the issuance of a building permit for the accessory dwelling unit, the property owner shall file with Alameda County Recorder a deed restriction approved by the City stating compliance with provisions of this Ordinance and Hayward Municipal Code and such deed is binding upon any successor in ownership of the property, and lack of compliance shall be grounds for Code Enforcement action and removal of the accessory dwelling unit.

SECTION 10-1.3500 – DEFINITIONS

SEC. 10-1.3510 - USES AND ACTIVITIES DEFINED.

DWELLING UNIT. One or more rooms with a single kitchen, arranged, designed, used, or intended to be used exclusively for living and sleeping purposes by one family as an independent housekeeping unit. Other definitions include the following:

- a. Accessory dwelling unit: An attached, detached, or internal residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s). See Section 10-1.2740 for criteria and standards.
- b. Apartment/multiple family dwelling(s): Any building, group of buildings, or portion thereof which includes two or more dwelling units, and which are intended as ownership units, or in the case of apartments, rental or for lease units. Apartment/multiple family dwelling projects may include private recreational facilities. See Sections 10-1.400 and 10-1.500 for requirements.
- c. Condominium dwelling(s): Any building, group of buildings, or portion thereof which includes two or more dwelling units, and for which there is a final map or parcel map. Condominium dwelling projects are usually governed by a Homeowners Association (HOA) with Covenants, Codes and Restrictions (CC&R's), and may include private recreational facilities. See Sections 10-1.400 and 10-1.500 for requirements. Within a condominium, ownership consists of the airspace within a unit and the building(s) and all land within the development are under common ownership.
- d. Single-family dwelling: A detached building containing only one dwelling unit. See Section 10-1.200 for requirements.

- e. Second Single-family dwelling: A second single-family dwelling permitted on a parcel where there is one existing single-family dwelling already, provided minimum lot size and setbacks can be met for both dwellings separately. See Section 10-1.215.b.(1)(b) for requirements.
- ~~f. Second dwelling unit, Attached: A second dwelling unit attached to an existing owner-occupied single-family dwelling which may be rented and contains no more than 640 square feet and no more than one bedroom. Also referred to as a "granny or in-law unit." See Section 10-1.245.n for requirements.~~
- g. Townhouse dwelling(s): Any building, group of buildings, or portion thereof which includes two or more attached dwelling units, and for which there is a final map or parcel map. Townhouse dwelling projects are usually governed by a Homeowners Association (HOA) with Covenants, Codes and Restrictions (CC&R's), and may include private recreational facilities. See Sections 10-1.400 and 10-1.500 for requirements. Townhouse ownership includes the building, the land beneath the building and typically a patio or small yard adjacent to the structure. The remaining land within the development is under common ownership.

ARTICLE 2 – OFF-STREET PARKING REGULATIONS

SECTION 10-2.310 - RESIDENTIAL USES.

The number of off-street parking spaces required for residential shall be:

USES	PARKING SPACES REQUIRED
SINGLE-FAMILY DWELLINGS:	2.0 covered per dwelling unit
If a lot abuts a public or private street that has no parking lane on either side of the street or is posted for no parking on both sides of the street.	2.0 covered per dwelling unit plus 2.0 open per dwelling unit, which shall not block access to the covered parking
If a dwelling with a single car garage was built prior to March 24, 1959	1.0 covered per dwelling unit
MULTIPLE-FAMILY DWELLING(S):	
Studio	1.0 covered and 0.50 open per dwelling unit
One-bedroom	1.0 covered and 0.70 open per dwelling unit
Two or more bedrooms	1.0 covered and 1.10 open per dwelling unit
* Ten percent of the multiple family parking spaces required shall clearly be marked for visitor's parking, at least 70 percent of which shall accommodate standard size vehicles. Where less than 10 parking spaces are required, a minimum of one standard parking space shall clearly be marked for visitor's parking.	* Included in the rental cost, a minimum of one covered parking space shall be assigned to each studio and one-bedroom unit, and a minimum of one covered and one uncovered parking space shall be assigned to each two or more bedrooms or more units. Assigned unused spaces may not be rented to any other party. Any uncovered space may be covered instead.
MOBILE HOMES	2.0 per mobile home space, plus 1.0 guest parking space per three mobile home spaces within a mobile home park
ATTACHED SECOND-FAMILY UNITS (Granny Units) <u>Accessory Dwelling Unit(s)</u>	No additional parking spaces are required for attached second-family units. <u>See Section 10-1.2740 for parking criteria and standards.</u>

ARTICLE 24 – SOUTH HAYWARD BART FORM BASED CODE

TABLE 9. SPECIFIC FUNCTION AND USE

	T4	T5	CS
a. Residential			
Multiple Family	P	P	-
Second Dwelling Unit	P -	P -	-
Live-Work	P	P	-
Small Group Transitional Housing	P	P	-
Large Group Transitional Housing	CU	CU	-
Small Group Supportive Housing	P	P	-
Large Group Supportive Housing	CU	CU	-
Emergency Homeless Shelter	P	-	-

(-) = Not Permitted, (P) = By Right, (AU) = Administrative Use Permit, (CU) = Conditional Use Permit

SEC. 10-24.230 BUILDING CONFIGURATION

- a. General to T4 and T5 Zones**
- i. Buildings on corner Lots shall have two Private Frontages as shown in Table 15. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages.
 - ii. All Facades shall be glazed with clear glass no less than 30% of the first Story.
 - iii. Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial Function, which shall be a minimum of 14 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional Story.
 - iv. In a Parking Structure or garage, each above-ground level counts as a single Story regardless of its relationship to habitable Stories.
 - v. Height limits do not apply to masts or belfries, clock towers, chimney flues, elevator bulkheads, church spires, cupolas, domes, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
 - vi. Attics shall not exceed 14 feet in height. Raised basements shall not exceed 3 feet in height up to the finished floor of the first story.

- vii. ~~The habitable area of a Second Dwelling Unit within a Principal Building or an Outbuilding shall not exceed 640 square feet, excluding the parking area.~~ an Accessory Dwelling Unit shall conform to the criteria and standards of Section 10-1.2740 of the Hayward Municipal Code.
- viii. Rooftop improvements shall be required to reduce visual impacts on future buildings that could impact views from existing buildings at higher elevations on the east side of Mission Boulevard, as determined by the Planning Director. Architectural features integral to the building design and solar energy systems should not be screened from view.

SEC. 10-24.500 – DEFINITIONS AND RULES OF INTERPRETATION

~~Second Dwelling Unit: a dwelling unit that is accessory, supplementary, and secondary to the principal dwelling, which may be constructed as an addition to the principal structure or as an accessory to the principal structure.~~ Accessory dwelling unit: An attached, detached, or internal residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s). See Section 10-1.2740 for criteria and standards.

ARTICLE 25 – MISSION BOULEVARD CORRIDOR FORM BASED CODE

TABLE 9. ALLOWED FUNCTIONS

	T3	T4-1	T4-2	T5	CS
a. Residential					
Multiple Family	CU	P/CU	P/CU	P/CU	-
Second Dwelling Unit	P	P/CU -	P/CU -	P/CU -	-
Single Family	P	-	-	-	-
Live-Work	-	P/CU	P/CU	-	-
Emergency Homeless Shelter	-	P/CU	P/CU	-	-
Single-Room Occupancy (SRO)	-	-	-	CU	-

(-) = Not Permitted, (P) = By Right, (AU) = Administrative Use Permit, (CU) = Conditional Use Permit

SEC. 10-25.230 BUILDING CONFIGURATION

- a. General to T3, T4-1, T4-2 and T5 Zones
- i. Buildings on corner Lots shall have two Private Frontages as shown in Table 15. Prescriptions for the second and third Layers pertain only to the Principal Frontage. Prescriptions for the first Layer pertain to both Frontages.
 - ii. All Facades shall be glazed with clear glass no less than 30% of the first Story.
 - iii. Stories may not exceed 14 feet in height from finished floor to finished floor, except for a first floor Commercial Function, which shall be a minimum of 14 feet with a maximum of 25 feet. A single floor level exceeding 14 feet, or 25 feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond 33% of the floor area shall be counted as an additional Story.
 - iv. In a Parking Structure or garage, each above-ground level counts as a single Story regardless of its relationship to habitable Stories.
 - v. Height limits do not apply to masts or belfries, clock towers, chimney flues, elevator bulkheads, church spires, cupolas, domes, ventilators, skylights, parapet walls, cornices, solar energy systems, or necessary mechanical appurtenances usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
 - vi. Attics shall not exceed 14 feet in height. Raised basements shall not exceed 3 feet in height up to the finished floor of the first story.
 - vii. ~~The habitable area of a Second Dwelling Unit within a Principal Building or an Outbuilding shall not exceed 640 square feet, excluding the parking area.~~ an Accessory Dwelling Unit shall conform to the criteria and standards of Section 10-1.2740 of the Hayward Municipal Code.
 - viii. Rooftop improvements shall be required to reduce visual impacts on future buildings that could impact views from existing buildings at higher elevations on the east side of Mission Boulevard, as determined by the Planning Director. Architectural features integral to the building design and solar energy systems should not be screened from view.

SEC. 10-25.600 – DEFINITIONS AND RULES OF INTERPRETATION

~~Second Dwelling Unit: a dwelling unit that is accessory, supplementary, and secondary to the principal dwelling, which may be constructed as an addition to the principal structure or as an accessory to the principal structure.~~ Accessory dwelling unit: An attached, detached, or internal residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation and shall be located on the same parcel an existing single-family dwelling is situated or to be situated with the proposed development of single-family dwelling(s). See Section 10-1.2740 for criteria and standards.

RESIDENTIAL STRUCTURES AND HOUSING TYPES						
	California Building Code Standards (CBSC)	Manufactured Home (MH)	Factory Built Housing (FBH)	Recreational Vehicle (RV)	Park Trailer (PT)	Camping Cabin (CC)
Characteristics	Structures include one- and two-family dwellings, ADUs, townhomes, apartments, etc.	Dwelling unit greater than 320 square-feet and is transportable in one or more sections.	Residential structure constructed in an off-site location for placement on a foundation.	Motor home, travel trailers, camper or camping trailer, with or without motive power.	Typical "tiny home" product. 400 square-feet or less designed for temporary living quarters.	Relocatable hard sided structure with a floor area less than 400 square-feet located in recreational vehicle park.
Permitted Location(s)	Appropriate Zoned Locations	May be occupied outside or inside or mobile home parks.	Appropriate Zoned Locations	Mobile home Parks or Special Occupancy Parks	Mobile home Parks or Special Occupancy Parks	Mobilehome Parks or Special Occupancy Parks
Permanent Foundation or Chassis	Permanent foundation required.	Built on permanent chassis designed to be with or without a foundation.	Permanent foundation required.	Built on a single chassis.	Building on a chassis with wheels.	Varies by Location.
Approving and/or Enforcing Authority	Local agencies.	HCD and/or local agencies.	HCD approves construction. Local agency inspects installation of FBH.	Recreational Vehicle Industry Association (RVIA) or Owner-Provided	Manufacturer Certified	HCD or local agencies.
Applicable Building Codes	CBSC	Federal HUD standards and Manufactured Housing Act of 1980.	Complies with CBSC requirements.	American National Standards Institute (ANSI) or National Fire Protection Act (NFPA)	American National Standards Institute (ANSI) or National Fire Protection Act (NFPA)	California Health and Safety Code (HSC)
Construction	On-site construction.	Constructed off-site for placement on project site.	Constructed off-site for placement on project site.	Manufactured	Manufactured	Manufactured
Utility Connection	Required to be connected to utilities based on local jurisdiction requirements.	Required to be connected to utilities based on local jurisdiction requirements.	Required to be connected to utilities based on local jurisdiction requirements.	On-site temporary location.	On-site temporary location.	May include electrical space conditioning. Varies by location.
Occupancy	Intended as a habitable permanent dwelling	Intended as a habitable permanent dwelling	Intended as a habitable permanent dwelling	<u>NOT</u> intended to be used as permanent dwelling	<u>NOT</u> intended to be used as permanent dwelling	<u>NOT</u> intended to be used as permanent dwelling