

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Revised Agenda

Tuesday, March 17, 2020

7:00 PM

Council Chambers

City Council

******* REVISED SPECIAL AGENDA *********BASED ON THE SHELTER IN PLACE ORDER, THE FOLLOWING ITEMS WILL
NOT BE HEARD THIS EVENING:
CITY COUNCIL ITEMS 6, 7 and 8
GHAD ITEMS 1 and 2**

DUE TO THE SHELTER IN PLACE ORDER, WE ARE REVISING THE AGENDA TO INCLUDE ONLY URGENT ITEMS. Additionally, attendance at the meeting will be limited to Council members, City of Hayward staff, and members of the news media. Public comment will be confined to items appearing on the agenda and will be limited to written and telephone communication. Written comments and questions may be submitted by email prior to or during the meeting at List-Mayor-Council@hayward-ca.gov or by calling (510) 583-4400. Members of the public can view the meeting proceedings online at <https://hayward.legistar.com/Calendar.aspx> or on Comcast Channel 15. Please include the agenda item number and title in the email's subject line. All emails will be shared with the City Council and will be considered part of the public record.

To participate remotely during the meeting, public members can call (510) 583-4400.

We are working rapidly to deploy technology to allow for this remote participation and may have to make adjustments up to the time of the meeting. We would encourage you to also submit your comments electronically just in case there are technical difficulties.

SPECIAL CITY COUNCIL MEETING

CALL TO ORDER Pledge of Allegiance: Council Member Mendall

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PUBLIC COMMENTS

The Public Comment Section is Limited to Items on the Agenda.

******* REVISED SPECIAL AGENDA *********BASED ON THE SHELTER IN PLACE ORDER, THE FOLLOWING ITEMS WILL
NOT BE HEARD THIS EVENING:
CITY COUNCIL ITEMS 6, 7 and 8****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 20-033](#) Approve City Council Minutes of the City Council Meeting on February 25, 2020

Attachments: [Attachment I Draft Minutes of 2/25/2020](#)
2. [MIN 20-034](#) Approve City Council Minutes of the City Council Meeting on March 3, 2020

Attachments: [Attachment I Draft Minutes of 3/3/2020](#)
3. [CONS 20-165](#) Adopt a Resolution Rejecting All Bids, Approving Revised Plans and Specifications, and Calling for Bids for the Sewer Line Replacement Project, Project No. 07694

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
4. [CONS 20-173](#) Adopt a Resolution Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Proclamation of Local Emergency](#)

LEGISLATIVE BUSINESS

5. [LB 20-010](#) FY 2020 Mid-Year Budget: FY 2020 Mid-Year Budget Review and General Fund Long Range Financial Model Update (Report from Finance Director Claussen)

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution for Operating Budget](#)
 [Attachment IIA Operating Budget Resolution Exhibits A & B](#)
 [Attachment III Resolution for Capital Improvement Program](#)
 [Attachment IIIA CIP Budget Resolution Exhibits A & B](#)
 [Attachment IV Adjustments Summary](#)
 [Attachment V General Fund Long Range Update](#)
 [Attachment VI Measure C 20-Year Financial Forecast Update](#)

6. [LB 20-012](#) Middle Income Affordable Housing Financing Program: Adopt a Resolution Approving a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorize the City Manager to Execute Purchase Option Agreements with CalCHA (Report from City Manager McAdoo)
 *** (CONTINUED UNTIL FURTHER NOTICE) ***

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III CalCHA - Executed JPA Agreement](#)

COUNCIL REFERRALS

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

7. [RPT 20-039](#) Consider an Item for Discussion on a Future City Council Agenda Regarding the “Preserve & Protect Our Neighbors” Annexation of the Unincorporated Areas of Alameda County by the City of Hayward (Report from Council Member Wahab) *** (CONTINUED UNTIL FURTHER NOTICE) ***

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

8. [RPT 20-040](#) Consider an Item for Discussion on a Future City Council Agenda Regarding “Emergency Stay in Place Ordinance” During a Declaration of an Emergency (Report from Council Member Wahab) *** (CONTINUED. Staff is already working collaboratively with other agencies to develop an ordinance for Council consideration that balances needs of the stakeholder groups/to be brought back to Council for emergency consideration as soon as practical.)

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

CITY MANAGER’S COMMENTS

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

COUNCIL REPORTS AND ANNOUNCEMENTS

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

******* REVISED SPECIAL AGENDA *********BASED ON THE SHELTER IN PLACE ORDER, THE FOLLOWING ITEMS WILL
NOT BE HEARD THIS EVENING :
GHAD ITEMS 1 and 2****PUBLIC COMMENTS**

The Public Comment section is Limited to Items on the Agenda.

CONSENT

1. [MIN 20-037](#) Approve GHAD Minutes of the Board Meeting on February 25, 2020 *** (CONTINUED UNTIL FURTHER NOTICE) ***

Attachments: [Attachment I GHAD Minutes of 2/25/2020](#)

PUBLIC HEARING

2. [PH 20-020](#) Resolution Approving a Right-of-Entry Agreement between the City of Hayward and the Hayward Geologic Hazard Abatement District (GHAD) Authorizing the City to Access GHAD-Owned Property to Maintain Lighting and Landscape District No. 96-1 Improvements (Report from GHAD Manager Harrell) *** (CONTINUED UNTIL FURTHER NOTICE) ***

Attachments: [Attachment I Staff Report](#)
[Attachment II GHAD Resolution No. 20-04](#)
[Attachment III Exhibit to Resolution \(Open Space Property\)](#)

ADJOURNMENT

NEXT MEETING, March 24, 2020, 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.

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



CITY OF HAYWARD

Hayward City Hall
777 B Street
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File #: MIN 20-033

DATE: March 17, 2020

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve City Council Minutes of the City Council Meeting on February 25, 2020

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on February 25, 2020.

SUMMARY

The City Council held a special meeting on February 25, 2020.

ATTACHMENTS

Attachment I Draft Minutes of 02/25/2020



**MEETING OF THE SPECIAL JOINT HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT BOARD OF DIRECTORS AND
CITY COUNCIL**
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 25, 2020, 7:00 p.m.

The City Council meeting of the Special Joint Hayward Geologic Hazard Abatement District (GHAD) Board of Directors and City Council was called to order by Mayor/Chair Halliday at 7:00 p.m., followed by the Pledge of Allegiance led by Council/Board Member Zermeño.

ROLL CALL

Present: COUNCIL/GHAD MEMBERS Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas
MAYOR/CHAIR Halliday
Absent: None

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:30 p.m., regarding the annual performance evaluation of the City Clerk pursuant to Government Code 54957. Mayor Halliday noted there was no reportable action.

PRESENTATION

Mayor Halliday acknowledged the donation of a check in the amount of \$83,000 from the Hayward Rotary Club Foundation for the Hayward Navigation Center. Mr. George Pacheco, Hayward Rotary Club Foundation member, presented the check to the City Council on behalf of Mr. Paul Martin, Hayward Rotary Club Foundation president and the Hayward Rotary Club Foundation.

PUBLIC COMMENTS

Mr. Charlie Peters, Clean Air Performance Professional representative, spoke about items related to voluntary ethanol and smog check.

Consent Items 3 and 7 were removed for discussion and separate vote.

CONSENT

1. Approve City Council Minutes of the City Council Meeting on January 28, 2020 **MIN 20-018**

It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council Meeting on January 28, 2020.

2. Approve City Council Minutes of the City Council Meeting on February 4, 2020 **MIN 20-019**

It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously, to approve the minutes of the City Council Meeting on February 4, 2020.

3. Adopt an Ordinance Adding Article 15 to Chapter 6 of the Hayward Municipal Code Relating to Payment of Minimum Wages by Employers **CONS 20-088**

Staff report submitted by City Clerk Lens, dated February 25, 2020, was filed.

Deputy City Manager Ott and City staff provided language clarification related to the proposed local ordinance, introduced on February 4, 2020; the effective dates and rates compared against State law, and the \$20,000 per year notification cost.

City Attorney Lawson noted the clarifying language for small employers specified that increases on July 1, 2021 and July 1, 2022 cannot exceed a total of \$15 per hour before it merges with the State rate in January 2023. City Attorney Lawson recommended the clarifying language be included in the motion.

Discussion ensued among Council members and City staff regarding further changes to the proposed ordinance and amending the ordinance after its adoption to have small and large employers match to the January date. It was noted that further amendments or clarifications could be brought before the Council Economic Development Committee.

There being no public speakers, Mayor Halliday opened and closed public comments, at 8:05 p.m.

It was moved by Council Member Mendall, seconded by Council Member Márquez, and carried unanimously with clarifying language, to approve the following:

Ordinance 20-03, "Ordinance of the City of Hayward, California adding Article 15 to Chapter 6 of the Hayward Municipal Code Relating to Payment of Minimum Wages by Employers"

4. Adopt a Resolution Accepting the Resignation of Fatima Lopez from the Hayward Youth Commission and Appointing Vanna Van to Fulfill the Unexpired Term Which Will Expire June 30, 2020 **CONS 20-080**

Staff report submitted by City Clerk Lens, dated February 25, 2020, was filed.

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

Resolution 20-026, "Resolution Accepting the Resignation of Fatima Lopez from the Hayward Youth Commission and Appointing Vanna Van to Fulfill the Unexpired Term Which will Expire June 30, 2020"



**MEETING OF THE SPECIAL JOINT HAYWARD
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5. Adopt a Resolution Approving Elimination of the Environmental Awards **CONS 20-079**

Staff report submitted by Public Works Director Ameri, dated February 25, 2020, was filed.

Council Member Lamnin highlighted that schools doing remarkable environmental work would be recognized during the awards presentation for the Earth Day Poster and Writing contest.

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

Resolution 20-027, "Resolution Approving the Elimination of the City's Environmental Awards Program"

6. Adopt a Resolution Approving Plans and Specifications, and Call for Bids for the Fiscal Year 2020 Sidewalk Rehabilitation Project No. 05285 **CONS 20-085**

Staff report submitted by Public Works Director Ameri, dated February 25, 2020, was filed.

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

Resolution 20-028, "Resolution Approving Plans and Specifications for FY 2020 Sidewalk Rehabilitation Project, Project No. 05285, and Call for Bids"

7. Adopt a Resolution Approving Plans and Specifications and Call for Bids for the Fiscal Year 2020 Pavement Improvement Project Nos 05222, 05224, 05226, 05232, and 05289 **CONS 20-087**

Staff report submitted by Public Works Director Ameri, dated February 25, 2020, was filed.

In response to Council Member Lamnin and Council Member Mendall's inquiry about the possibility of adding high speed fiber conduit as part of the proposed pavement improvement for a segment of Huntwood Avenue, City staff noted the proposal was not for full reconstruction of the pavement and laying conduit on Huntwood Avenue could be further discussed at a future Council Infrastructure Committee meeting.

There being no public speakers, Mayor Halliday opened and closed public comments, at 8:05 p.m.

Council Member Lamnin offered a motion per staff's recommendation with a strong request that laying of a conduit be reconsidered and that the Council Infrastructure Committee revisit the item as appropriate.

Council Member Mendall seconded the motion.

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

Resolution 20-030, "Resolution Approving Plans and Specifications for the FY20 Pavement Improvement Project, Project Nos. 05222, 05224, 05226, 05232, and 05289 and Call for Bids"

8. Adopt a Resolution Authorizing the City Manager to Execute an Amendment to the Agreements with The Metropolitan Group, and CSG Consultants, for Planning and Engineering Services Increasing the Not-to-Exceed Amount to \$125,000 Per Agreement
CONS 20-098

Staff report submitted by Development Services Director Simpson, dated February 25, 2020, was filed.

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

Resolution 20-029, "Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreements with Metropolitan Group and CSG Consultants, Inc., for Professional Planner Services Increasing the Not to Exceed amount to \$125,000 Per Agreement"

WORK SESSION

9. Affordable Housing: Review of a Potential Financing Model that Supports the Development of Middle-Income Housing (Report from City Manager McAdoo and Deputy City Manager Ott) **WS 20-006**

Staff report submitted by Deputy City Manager Ott, dated February 25, 2020, was filed.

Deputy City Manager Ott announced the report and introduced Housing Division Manager Morales who provided a synopsis of the staff report.

Discussion ensued among Council members, City staff and Mr. Jordan Moss with the Catalyst Housing Group (Catalyst) regarding: Regional Housing Needs Allocation (RHNA) goals; California Community Housing Agency's (CalCHA) role as the property owner and



**MEETING OF THE SPECIAL JOINT HAYWARD
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issuer of tax-exempt bonds known as Workforce Housing Revenue Bonds; CalCHA's Joint Exercise of Powers Act (JPA) and representation on the Board; Catalyst Housing Group's role as the asset manager of acquisitions and developments; temporary relocation assistance for existing tenants; housing programs involving issuance of municipal bonds; and the City Manager's authority to enter into purchase option agreements.

There being no public comments, Mayor Halliday opened and closed public comments at 8:34 p.m.

Members of the City Council were in general agreement to become a member of the California Community Housing Agency (CalCHA); support CalCHA's issuance of tax-exempt bonds for the production, preservation and protection of essential middle-income rental housing; and authorize the City Manager to execute purchase option agreements with CalCHA to acquire middle-income rental housing. Council members provided the following recommendations: ensure there is a mechanism in place to prevent displacement of existing tenants; evaluate ownership opportunities for existing tenants when the City has the option to purchase a property financed with the proposed financing model using tax-exempt bonds; provide information on CalCHA Board meetings to remain informed and involved; explore the opportunity to leverage mortgage/asset-backed securities into the proposed financing model; and make sure FPI Property Management will not manage properties acquired with the proposed financing model.

The City Council took a brief recess and reconvened the meeting at 9:19 p.m.

**10. Mission Boulevard Phase 2 Construction and Mission Boulevard Phase 3 Design:
Receive an Update on the Construction and Design Phases of the Mission Blvd Project
and Provide Comments (Report from Public Works Director Ameri) **WS 20-009****

Staff report submitted by Public Works Director Ameri, dated
February 25, 2020, was filed.

Public Works Director Ameri announced the report and introduced Senior Civil Engineer Hung who provided a synopsis of the staff report.

Mayor Halliday opened public comments at 9:38 p.m.

Ms. Susie Hufstader, Bike East Bay Advocacy Manager, expressed support for the Mission Boulevard Corridor improvements and proposed raised cycle track design, and encouraged to look for opportunity areas to create more pedestrian space.

Ms. Lacei Amodei, Hayward resident, supported the Mission Boulevard Corridor improvements from a climate change, quality infrastructure and equity perspective.

Mayor Halliday closed public comments at 9:45 p.m.

Council Member Salinas disclosed he resides near the Mission Boulevard Phase 3 improvement project and was advised he could participate in the discussion.

Discussion ensued among Council members and City staff regarding: cleaning of divider planter islands; plan for businesses during the construction of Mission Boulevard Phase 3 improvements; traffic at A Street and Mission Boulevard related to the new business; dimensions of designs and plant maintenance at Fairway Park Sign and Blanche Street Gateway; and the metal fence.

Council members expressed general appreciation for the update to the construction of the Mission Boulevard Improvements Phase 2 and the design of the Mission Boulevard Improvements Phase 3 projects. Council members offered the following recommendations: keep an eye for ACTC possible alternative consideration of moving stops for bus rapid transit from Mission Boulevard to Foothill Boulevard; after construction of the metal fence is complete, bring to a Council Infrastructure Committee meeting options for the green shade, possible art work and cost estimates; consider a light fixture that directs the light in an upward direction for the entry monument at Rose Street and Mission Boulevard; keep the “No Room for Racism” sign and confer with the business owners and the Fairway Park neighborhood about its placement; explore redesigning the signage at the corner of A Street and Mission Boulevard to match with other signs along Mission Boulevard; make sure all crosswalks are painted; ensure traffic lights are synchronized; make sure streets are well lit; make sure there are visible street reflectors to differentiate areas and at the beginning of divider planter islands; ensure upkeep and maintenance of sidewalks along Mission Boulevard; and make the area as safe as possible for bicyclists.

Bike East Bay was commended for its contribution to the projects’ improvements.

LEGISLATIVE BUSINESS

Mayor Halliday disclosed she had to recuse herself from participating and voting on Legislative Business Item 11 because she lives near the proposed development and left the Council Chambers. Mayor Pro Tempore Salinas presided over the meeting.

11. Adopt an Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map 8473, Application No. 201802159 for 25036-25096 Carlos Bee Boulevard (Report from City Clerk Lens and Development Services Director Simpson) **LB 20-007**

Staff report submitted by City Clerk Lens, dated February 25, 2020, was filed.



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Tuesday, February 25, 2020, 7:00 p.m.**

Mayor Pro Tempore Salinas indicated the adoption of ordinance was under Legislative Business because the introduction of the ordinance did not receive unanimous vote.

There being no comments, Mayor Pro Tempore Salinas opened and closed the public hearing at 10: 25 p.m.

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

Ordinance 20-04, “An Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map 8473, Application No. 201802159 for 25036-25096 Carlos Bee Boulevard”

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

Mayor Halliday returned to the Council Chambers.

INFORMATION ITEM

12. Informational Report to the City Council on the Process for Enacting Ordinances RPT 20-024

Staff report submitted by City Attorney and City Clerk Lens,
dated February 25, 2020, was filed.

The item was an informational report and no staff presentation and/or discussion was required.

CITY MANAGER’S COMMENTS

Assistant City Manager Hurtado made four announcements: 1) childcare services are now provided at City Council meetings by making a request to the City Clerk’s office by 5:00 p.m. the Friday prior to the meeting; 2) the demolition of buildings at B and Main Streets has been completed; 3) there will be a block party at the future Stack Center on March 21st; and 4) the free online utility payment option is now available to Hayward residents.

COUNCIL REPORTS AND ANNOUNCEMENTS

Council Member Márquez encouraged voters to use the Vote by Mail drop box on B Street to drop their ballots until 8:00 p.m., March 3rd; and commended Council Member Zermeno for his call out on Presidents' Day to help clean the B Street railroad tracks.

Council Member Zermeno congratulated the Chabot College Women's Basketball team for achieving a conference championship title.

ADJOURNMENT

Mayor Halliday adjourned the meeting in memory of Ms. Kathi Booth at 10:32 p.m.

Ms. Booth was a longtime Hayward resident; participated in various community activities, was part of the first graduating class of Sunset High School, was 1964 Miss Hayward and competed on the Miss California pageant, was involved in Hayward Unified School District (HUSD) matters and was an unofficial foster mother to Sunset High School students, served on the Personnel Commission, and was the wife of a former HUSD Board Trustee.

Mayor Halliday asked City staff to work with the Booth family to find a suitable place to plant a tree in memory of Kathi Booth.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

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

File #: MIN 20-034

DATE: March 17, 2020

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Approve City Council Minutes of the City Council Meeting on March 3, 2020

RECOMMENDATION

That the City Council approves the minutes of the City Council meeting on March 3, 2020.

SUMMARY

The City Council held a regular meeting on March 3, 2020.

ATTACHMENTS

Attachment I Draft Minutes of 3/3/2020



**MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 3, 2020, 7:00 p.m.**

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

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

The City Council convened in closed session at 5:00 p.m., regarding four items: 1) public employment pursuant to Government Code 54957 regarding the City Clerk's annual evaluation; 2) conference with legal counsel pursuant to Government Code 54956.9(d)(4) regarding one anticipated litigation; 3) conference with property negotiators pursuant to Government Code 54956.8 regarding Caltrans Parcel Group 6: Carlos Bee Boulevard and Overlook Avenue; APN: 455-0180-001-00; and 4) conference with legal counsel pursuant to Government Code 54956.9 regarding City of Hayward vs. Bay Area Property Developers, LLC, et al., Alameda County Case No. HG19046792.

Mayor Halliday noted there was no reportable action related to Item 1 and City Attorney Lawson reported there was no reportable action related to Items 2, 3, and 4.

PRESENTATION

Mayor Halliday read a proclamation declaring the month of March 2020 as American Red Cross Month in the City of Hayward. The proclamation was presented to the American Red Cross Bay Area Chapter, Alameda County Leadership Council. Mr. Michael Gregory, chair of the Alameda County Leadership Council, accepted the recognition.

PUBLIC COMMENTS

Mr. Charlie Peters, Clean Air Performance Professional representative, spoke about the Electrify Everything Workshop and the use of ethanol in gasoline, and provided related materials.

Mr. Basil Sherlock, Hayward resident, requested a feasibility study on the annexation of unincorporated Cherryland into the City of Hayward.

Council Member Wahab made a recommendation related to the coronavirus concern and also noted she was working on a referral related to the annexation of Cherryland.

Council Member Mendall announced he was not seeking re-election to his Council seat after his current term, ending November 2020, due to family reasons and a long commute to work across the bay. Mayor Halliday praised the service provided by Council Member Mendall during his tenure.

Mayor Halliday announced that Legislative Business Item 5 was going to be heard prior to Public Hearing Item 4. There were no objections.

CONSENT

1. Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Kimley-Horn and Associates in an Amount Not-to-Exceed \$154,750 for the Sulphur Creek Mitigation Design Project at Hayward Executive Airport **CONS 20-095**

Staff report submitted by Public Works Director Ameri, dated March 3, 2020, was filed.

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

Resolution 20-031, "Resolution Authorizing the City Manager to Execute an Agreement with Kimley-Horn and Associates, Inc., for the Sulphur Creek Mitigation Design Project at Hayward Executive Airport in an Amount Not-to-Exceed \$154,750"

2. Adopt a Resolution Approving the Workplan to Incentivize Housing Production in the City of Hayward **CONS 20-120**

Staff report submitted by Deputy City Manager Ott, dated March 3, 2020, was filed.

Council Member Wahab asked staff that there be equity focus on the workplan as each item comes back to the Council.

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

Resolution 20-032, "Resolution Approving the Workplan to Incentivize Housing Production in the City of Hayward"



**MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 3, 2020, 7:00 p.m.**

WORK SESSION

3. Downtown Hayward Improvement Association (DHIA): Receive the Annual Report on DHIA Activities (Report from City Manager McAdoo and Development Services Director Simpson) **WS 20-011**

Staff report submitted by Development Services Director Simpson, dated March 3, 2020, was filed.

Development Services Director Simpson announced the report and Planning Manager Buizer introduced New City America Executive Directors, Marco Li Mandri and Dominic Li Mandri, who presented the Fiscal Year 2018-2019 Annual Report for the Downtown Hayward Improvement Association.

Mayor Halliday opened public comments at 7:46 p.m.

Mr. Charlie Peters, Clean Air Performance Professionals representative, applauded the joint effort by the City and the Downtown Hayward Improvement Association.

Mayor Halliday closed public comments at 7:47 p.m.

Discussion ensued among Council members and Downtown Hayward Improvement Association (DHIA) representatives regarding: the role of DHIA Board of Directors, its membership, and the top priorities (vacancy, internet, and managing the downtown); sidewalk operations and camera system in key areas; policy for hardship reimbursement for property owners with demonstrated economic hardship; and the integration of the Downtown Streets Team into the DHIA.

Council members offered the following recommendations: work with the Hayward Chamber of Commerce and City staff to spread the DHIA model to South Hayward; ensure the makeup of the DHIA Board of Directors includes small business owners, new businesses and long standing businesses; encourage the owners of the property at Main Street and B Street to maximize the space to transit oriented development; be mindful to cover a broader area of businesses beyond B Street; work with Hayward vendors; hold community meetings to engage businesses; evaluate the Downtown Ambassador Program and the managing of message boards; use local resources such as the Interfaith Council, City staff and the youth to have artwork that is reflective of the community to ensure equity and inclusion regarding seasonal decorations; and having the City and DHIA share the cost to bring back the downtown police patrol.

The City Council complimented the DHIA for the improvements in downtown, specifically as it relates to its cleanliness.

PUBLIC HEARING

Council Member Salinas disclosed that because he is the Kids' Breakfast Club Executive Director and his office is within 500 feet of the proposed dispensary, he had to recuse himself from participating and voting on Item No. 4 and left the Council Chambers at 8:53 p.m.

4. Cannabis Retail Dispensary - Aunty Honeys: Adopt a Resolution Approving the Proposed ±3,578 Commercial Cannabis Retail Dispensary with Ancillary Retail Delivery within an Existing Building Located at 1147 B Street (Assessor Parcel No. 427-0011-021-00), Requiring Approval of Conditional Use Permit Application No. 201806127 and Exempt from the California Environmental Quality Act (CEQA) Pursuant to Section 15301 (Class 1); Esther Lopez (Applicant); Gregory Varr (Property Owner) (Report from Development Services Director Simpson) **PH 20-015**

Staff report submitted by Development Services Director Simpson, dated March 3, 2020, was filed.

Development Services Director Simpson announced the report and introduced Associate Planner Maravilla who provided a synopsis of the staff report.

Mayor Halliday, Council Member Lamnin, Council Member Márquez, Council Member Zermeno and Council Member Mendall disclosed having individually met with the applicant. Council Member Wahab disclosed she did not meet with the applicant.

Discussion ensued among Council members and City staff regarding: the transfer ownership or operational control of a commercial cannabis business; Conditional Use Permit No. 36 regarding signage; buffer zone between retail dispensaries and commercial cannabis use; Security Plan for the proposed cannabis retail; annual renewal of permit and process for submitting any complaints; dispensary hours of operation; collaboration with the Downtown Streets Team; staff parking; and Condition of Approval No. 12 regarding a Community Benefits program.

Mayor Halliday opened the public hearing at 9:16 p.m.

The following individuals spoke in support of the Conditional Use Permit Application for Aunty Honeys.

Mr. Kim Huggett, Hayward Chamber of Commerce President and CEO
Ms. Stephanie Vizcaino, Executive Director at Women and Men on the way Recovery Center
Ms. Roberta Moniz, Hayward resident
Mr. Mark Jaegel, Alameda County cannabis stakeholders group member
Ms. Stephanie Ritchon, Hayward resident



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777 B Street, Hayward, CA 94541
Tuesday, March 3, 2020, 7:00 p.m.**

Mr. Richard Ng, cannabis social equity technical assistance consultant
Ms. Laura Balcita, Hayward resident
Mr. John Alston, Hayward resident

Ms. Theresa Rezendes, Hayward resident, spoke against the location for the proposed retail cannabis dispensary.

Ms. Jennifer Gonsalves, Hayward teacher, was concerned there were three cannabis retail dispensaries considered for downtown and recommended the proceeds go toward education/youth and that preferential be given to local applicants.

Ms. Esther Lopez, Hayward resident and applicant for the Cannabis Retail Dispensary - Aunty Honeys, requested approval of the Conditional Use Permit application.

Mayor Halliday closed the public hearing at 9:41 p.m.

Council Member Wahab noted she visited cannabis businesses and spoke favorably about the security in place at cannabis businesses, expressed she did not believe all retail dispensaries should be in downtown, and supported the community benefits.

Council Member Wahab moved staff's recommendation. Council Member Mendall seconded the motion.

Mayor Halliday asked if the motion could include the modification to Conditional Use Permit Application No. 6 regarding Cannabis Dispensary Use & Operations by changing the time from 6am-10pm to 9am-8pm, as requested by the applicant.

Council Member Wahab and Council Member Mendall were agreeable to the modification.

Council Member Márquez expressed she would be supporting the motion noting the applicant was a long-standing community member, had a consistent record running successful businesses, and was now requesting to open a cannabis dispensary business.

Council Member Mendall noted the voters had approved Proposition 64 to legalize the adult use of marijuana and Hayward voters had passed Measure EE related to cannabis tax and it was the Council's responsibility to ensure businesses are well regulated and was reassured by the conditions in place and the annual review.

Council Member Zermeño noted there were enough checks and balances within the industry and the applicant had gone through a two-year process to get the proposed business approved.

Council Member Lamnin expressed she would be supporting the motion and noted the applicant had been involved in the community and would be working with downtown non-profit agencies and communities of interest.

Mayor Halliday disclosed she was a member of the church near the proposed dispensary and noted her concerns had dissipated based on the discussion, the support from the community and the assurance that the business would operate correctly.

It was moved by Council Member Wahab, seconded by Council Member Mendall, and carried with the following vote, to approve staff's recommendation with a modification to Conditional Use Permit Application No. 6 regarding Cannabis Dispensary Use & Operations by changing the time from 6am-10pm to 9am-8pm, as requested by the applicant:

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

Resolution 20-034, "Resolution Approving a Conditional Use Permit for a Cannabis Retail Dispensary with Ancillary Retail Delivery at 1147 B Street; Esther Lopez on Behalf of Aunty Honeys/Gregory Varr (Applicant/Owner)"

LEGISLATIVE BUSINESS

5. Electrification Reach Codes: Adopt a Resolution and Introduce an Ordinance to Adopt Electrification Reach Codes for the 2019 California Energy Code and California Green Building Standards Code (Report from Public Works Director Ameri and Development Services Director Simpson)

Staff report submitted by Public Works Director Ameri and Development Services Director Simpson, dated March 3, 2020, was filed.

Public Works Director Ameri announced the report and introduced Environmental Services Manager Pearson who provided a synopsis of the staff report. Mr. Pearson noted there was a revised resolution outlining revised subsections 5 and 6 of Section 1: Findings and Determinations.

Discussion ensued among Council members, City staff, Beckie Menten, Building Electrification and Energy Efficiency program manager, and an East Bay Community Energy consultant regarding: cost to build all-electric; resiliency planning and how East Bay Community Energy (EBCE) can support resiliency; emergency planning considering the number of people who might be affected; outreach to the development community and



**MEETING OF THE CITY COUNCIL
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, March 3, 2020, 7:00 p.m.**

input; residential solar and storage program; housing affordability; and battery backup for all-electric homes.

Mayor Halliday opened the public hearing at 8:36 p.m.

Mr. Ben Granholm, Western Propane Gas Association (WPGA) representative, noted WPGA was supportive of decarbonizing efforts and noted that residents should have access to diverse energy options and disagreed with the cost-effective study.

Mr. Charlie Peters, Clean Air Performance Professionals representative, spoke about natural gas and expressed concern about who would benefit from all energy suppliers.

Ms. Beckie Menten, Building Electrification and Energy Efficiency program manager, applauded the City for bringing forward electrification reach codes and spoke about the need for electric buildings and the affordability.

Mayor Halliday closed the public hearing at 8:46 p.m.

Council Member Mendall offered a motion per staff's recommendation, including revisions to the resolution regarding subsections 5 and 6 of Section 1: Findings and Determinations.

Council Member Wahab seconded the motion.

Council Member Mendall noted the proposal would make the building inspection process faster and smoother, cost less to build, have less risk of a catastrophic explosion from gas lines, and help meet greenhouse gas reduction goals.

Council Member Zermeño expressed support for the motion noting the reach codes would help make Hayward greener and meet zero-carbon production.

Mayor Halliday expressed she would be supporting the motion noting she was impressed by the EBCE's grant of \$10,000 to help offset staff time and disagreed that an environmental impact report did not need to be prepared to satisfy the requirements of the California Environmental Quality Act (CEQA).

Members of the Council Sustainability Committee, Council Members Mendall, Zermeño, and Marquez, as well as City staff, were commended for helping prepare building and vehicle electrification reach codes.

It was moved by Council Member Mendall, seconded by Council Member Wahab, and carried unanimously, to approve the resolution including revisions regarding subsections 5 and 6 of Section 1: Findings and Determinations:

Resolution 20-033, "Resolution Finding and Determining the Need for Adoption of Modifications to the 2019 California Building Standards Code"

Introduction of Ordinance 20-_, "An Ordinance Establishing Reach Codes for the City of Hayward; Amending Part 6 (California Energy Code) and Part 11 (California Green Building Standards Code) of the California Building Standards Code (Title 24 of the California Code of Regulations)"

CITY MANAGER'S COMMENTS

City Manager McAdoo made three announcements: 1) noted the U.S. Census Bureau will start sending information from March 12 to March 20, 2020, reiterated the importance for every community member to be counted and spoke about City efforts to disseminate public information; 2) announced the Help Shape the Future of Main Street community meetings on March 12 and March 22, 2020 at City Hall; and 3) shared she was out of the office for a few weeks because she was in India attending a conference in her role as the chair of the ICMA international committee and she was also taking vacation time.

COUNCIL REPORTS AND ANNOUNCEMENTS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:10 p.m.

APPROVED

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



CITY OF HAYWARD

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

File #: CONS 20-165

DATE: March 17, 2020

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Adopt a Resolution Rejecting All Bids, Approving Revised Plans and Specifications, and Calling for Bids for the Sewer Line Replacement Project, Project No. 07694

RECOMMENDATION

That Council adopts a Resolution (Attachment II) rejecting all bids for the Sewer Line Replacement Project, Project No. 07694, approving the revised plans and specifications incorporating revised bidding requirements and Addendum No. 1, and calling for construction bids to be received on April 7, 2020.

SUMMARY

This project will replace approximately 4,300 linear feet of 6-inch to 10-inch vitrified clay pipe (VCP) with 8-inch and 10-inch polyvinyl chloride (PVC) pipe by traditional open-cut method. In addition, approximately 660 linear feet of 12-inch asbestos cement pipe (ACP) will be rehabilitated by a cured-in-place pipe liner. On March 3, 2020, four (4) bids were received ranging from \$1,747,520 to \$2,038,000. On March 6, 2020, the second lowest bidder informed the City that the low bidder did not include Department of Industrial Relations (DIR) registration numbers with their listing of subcontractors. Upon review of Public Contract Code 4104, the City is required to provide in the specification a requirement for bidders to include public works contractor registration numbers with the bid. For this project, two of the four bidders did not include DIR registration numbers including the low bidder. Therefore, staff is requesting Council approval to reject all bids, approval of the revised plans and specifications incorporating revised bidding requirements and Addendum No. 1, and authorization calling for construction bids to be received by April 7, 2020.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: March 17, 2020

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Rejecting All Bids, Approving Revised Plans and Specifications, and Calling for Bids for the Sewer Line Replacement Project, Project No. 07694

RECOMMENDATION

That Council adopts a Resolution (Attachment II) rejecting all bids for the Sewer Line Replacement Project, Project No. 07694, approving the revised plans and specifications incorporating revised bidding requirements and Addendum No. 1, and calling for construction bids to be received on April 7, 2020.

SUMMARY

This project will replace approximately 4,300 linear feet of 6-inch to 10-inch vitrified clay pipe (VCP) with 8-inch and 10-inch polyvinyl chloride (PVC) pipe by traditional open-cut method. In addition, approximately 660 linear feet of 12-inch asbestos cement pipe (ACP) will be rehabilitated by a cured-in-place pipe liner. On March 3, 2020, four (4) bids were received ranging from \$1,747,520 to \$2,038,000. On March 6, 2020, the second lowest bidder informed the City that the low bidder did not include Department of Industrial Relations (DIR) registration numbers with their listing of subcontractors. Upon review of Public Contract Code 4104, the City is required to provide in the specification a requirement for bidders to include public works contractor registration numbers with the bid. For this project, two of the four bidders did not include DIR registration numbers including the low bidder. Therefore, staff is requesting Council approval to reject all bids, approval of the revised plans and specifications incorporating revised bidding requirements and Addendum No. 1, and authorization calling for construction bids to be received by April 7, 2020.

BACKGROUND

The City's current Capital Improvement Program includes funding to replace the City's undersized and/or structurally damaged sewer mains through annual sewer line replacement projects. The City's sanitary sewer collection system was mostly constructed after World War II. Among its 325 miles of sewer pipelines, approximately 9% of the sewer mains are four or six inches in diameter. As the City grew over subsequent decades, sewer flows have increased and as a result, a majority of these small size sewer mains are now undersized. Industry experience has shown that these small diameter pipes are more likely to cause

overflows and blockages in the system than 8-inch pipes. Therefore, the City has adopted a standard minimum sanitary sewer main size of eight inches.

The Utilities Division staff performs regular sewer main cleaning and has an ongoing program to monitor and inspect the condition of the City's sanitary sewer collection system using closed circuit television (CCTV) technology. The inspection is performed by placing a camera, mounted on tracks, inside a sewer pipe and remotely guiding it through the length of the pipe. As the camera moves forward, it sends back video to a TV monitor that enables the staff to inspect the condition of the pipe. These inspections are used to identify structurally damaged sewer mains for repair or replacement. The sewer mains selected for this project were identified as having structural defects or being undersized.

Approximately 4,300 linear feet of existing pipe will be replaced with 8-inch and 10-inch polyvinyl chloride (PVC) pipe by traditional open-cut method. Traditional open-cut sewer repair involves excavating a trench of approximately two to four feet in width and to the depth of the damaged or undersized pipe. Once the sewer main is exposed, the damaged or undersized section is removed and replaced with new PVC pipe. At the same time a portion of the existing sewer laterals that connect to the sewer are replaced and service restored. When the repair is complete, the opened trench is backfilled, compacted, and paved to match the original pavement section. The locations of open-cut replacement are on E Street, 1st Street, Armstrong Street, Main Street, Vallejo Street, Sunset Boulevard, and Fletcher Lane.

The remaining 660 linear feet will be rehabilitated by a trenchless pipe replacement technique known as cured-in-place pipe (CIPP). CIPP involves inserting a resin-impregnated flexible tube into the pipe, inflating, and curing with hot water or steam forming a structurally sound, water-tight new pipe within-a-pipe that has all the structural properties of a stand-alone pipe.

This project also includes installation of new manholes in areas where there is a distance more than 350 feet between manholes to facilitate future maintenance, as Hydro cleaning and CCTV equipment operate best within a range of 350 feet.

DISCUSSION

On July 16, 2019, Council approved the plans and specifications for the project and called for bids to be received on August 20, 2019. Shortly after approval to advertise for bids, staff discovered that a portion of one of the pipelines originally included in the project was in private property. In addition, another pipeline was identified by CCTV video to have a severely eroded base with a portion of the pipeline potentially at risk for imminent collapse. Staff dropped the pipeline in the private easement from the project and added the severely eroded pipeline to the project resulting in a delay in advertising and opening bids. Subsequently, Staff decided to delay the project to advertise and bid in early 2020 to allow the City to take advantage of a traditionally more competitive bidding climate and spring/summer construction period. This also provided the opportunity to allow construction to proceed on E Street in front of Bret Harte Middle School during summer break resulting in less disruption to the school caused by construction activities. Subsequently, the bid date was postponed to March 3, 2020.

On March 3, 2020 the City received four (4) bids for the project, ranging from \$1,747,520 to \$2,038,000. Andes Construction Inc. submitted the low bid in the amount of \$1,747,520, which is approximately 19% below the Engineer's estimate of \$2,152,000.

On March 6, 2020 the City was informed by the second to low bidder that the low bidder did not list the Department of Industrial Relations (DIR) registration numbers for the listed subcontractors on the bid form. Upon review of Public Contract Code 4104, the City must require bidders include public works contractor registration numbers with the bid. Because the City's bidding instructions did not explicitly require the DIR registration numbers be listed in the bid form, two of the four contractors did not include the registration numbers for their subcontractors including the low bidder. Therefore, Staff is requesting Council's approval to reject all bids, approve revised plans and specifications incorporating revised bidding requirements and Addendum No. 1, and authorization calling for bids to be received by April 7, 2020.

ECONOMIC IMPACT

Construction of this project would be subject to the requirements of the Community Workforce Agreement, which provides potential local economic benefits, such as the hiring of Hayward residents.

FISCAL IMPACT

The adopted FY2020 Capital Improvement Program (CIP) includes \$2,620,000 for the Sewer Line Replacement Project, Project No. 07694. Staff anticipates rebidding the project should not materially affect the bid results and the project should be well under the budgeted amount for the FY2020 sewer line replacement CIP.

STRATEGIC ROADMAP

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

Project 15: Upgrade sewer collection system by replacing 3-4 miles of sewer lines annually.

A separate CIP project will be implemented later this year to incorporate upgrades to additional sewer collection system pipelines.

SUSTAINABILITY FEATURES

The repair and replacement of deteriorating sewer lines reduces the risk of sewer overflows, which can cause untreated wastewater to flow into public waterways.

PUBLIC CONTACT

This project is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA) Section 15282(k), which allows for the repair and restoration of an existing subsurface pipeline, provided the project does not exceed one mile in length.

NEXT STEPS

If Council adopts the attached resolution, staff will send a formal rejection notice to all four bidders. Staff will then modify the specifications to include the requirement for bidders to list the DIR registration number for the bidder, and all subcontractors on the bid form. If Council approves re-advertising the project for public bidding, staff will return to Council for the award of the construction contract after construction bids have been received and reviewed.

The following schedule has been developed for this project:

Advertise for Bids	March 18, 2020
Receive Bids	April 7, 2020
Award of Construction Contract	April 21, 2020
Notice to Proceed	May 15, 2020
Construction Completion	October 2020

Prepared by: Suzan England, Senior Utilities Engineer

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 20-

Introduced by Council Member _____

RESOLUTION REJECTING ALL BIDS FOR THE SEWER LINE REPLACEMENT PROJECT, PROJECT NO. 07694, APPROVAL OF REVISED PLANS AND SPECIFICATIONS, AND CALL FOR BIDS.

WHEREAS, by Resolution No. 19-174 on July 16, 2019, the City Council approved the plans and specifications for the Sewer Line Replacement Project, Project No. 07694, and called for bids to be received on April 7, 2020; and

WHEREAS, the bid date was extended to March 3, 2020; and

WHEREAS, Addendum No. 1 was issued to make minor revisions to the specifications; and

WHEREAS, on March 3, 2020, four (4) bids were received ranging from \$1,747,520 to \$2,038,000. The low bid, submitted by Andes Construction Inc., is approximately 19% below the engineer's estimate of \$2,152,000; and

WHEREAS, the City's bidding instructions and bid form did not require bidders to list Department of Industrial Relations (DIR) registrations numbers which is required per Public Contract Code 4104.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the above listed bids, and all other bids for the Project are hereby rejected.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to return the bids and bid bonds submitted by all bidders.

BE IT FURTHER RESOLVED that Addendum No. 1, revised instructions to bidders, and bid form is hereby approved and adopted as part of the plans and specifications for the project.

BE IT FURTHER RESOLVED, that those certain plans and specifications for the Sewer Line Replacement Project, Project No. 07694, on file in the Office of the City Clerk, are hereby adopted as the plans and specifications for the Project.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law.

BE IT FURTHER RESOLVED, that sealed bids will therefore be received by the City Clerk's office at City Hall, 777 B Street, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday, April 7, 2020, and immediately thereafter publicly opened and declared by the City Clerk in Conference Room 2B, City Hall, Hayward, California.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2020

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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

File #: CONS 20-173

DATE: March 17, 2020

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Adopt a Resolution Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

RECOMMENDATION

That Council adopts a Resolution (Attachment II) ratifying the Proclamation of Local Emergency made on March 11, 2020 by the City Manager in her capacity as Director of Emergency Services.

SUMMARY

On March 11, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to the ongoing spread of a severe acute respiratory illness in Alameda County caused by a novel coronavirus (Covid-19). This report requests that the City Council approve a resolution ratifying the Proclamation of a Local Emergency (Attachment III), which empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Proclamation of Local Emergency



DATE: March 17, 2020

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Adopt a Resolution Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

RECOMMENDATION

That Council adopts a Resolution (Attachment II) ratifying the Proclamation of Local Emergency made on March 11, 2020 by the City Manager in her capacity as Director of Emergency Services.

SUMMARY

On March 11, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to the ongoing spread of a severe acute respiratory illness in Alameda County caused by a novel coronavirus (COVID -19). This report requests that the City Council approve a resolution ratifying the Proclamation of a Local Emergency (Attachment III), which empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency.

BACKGROUND AND DISCUSSION

On March 1, 2020, the Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 11, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to the spread of COVID-19, including several confirmed cases in Alameda County and many more in the San Francisco Bay Area.

The City Manager is empowered to proclaim a local emergency pursuant to California Government Code Section 8630 and Hayward Municipal Code Section 3-2.12. When a local emergency is proclaimed by the Director of Emergency Services, the Council must ratify the

proclamation within seven (7) days or the proclamation has no further effect. This item requests that the City Council ratify the resolution for the Proclamation of Local Emergency due to COVID-19.

A Proclamation of Local Emergency allows the Director of Emergency Services to make rules and regulations related to the protection of life and property, obtain vital supplies and equipment needed for the protection of life and property, and require emergency services of City officers and employees in their roles as designated Disaster Services Workers.

FISCAL IMPACT

This resolution enables the City to request certain emergency funds from State and Federal sources as they become available and enables the City Manager and assigned staff to efficiently allocate resources due to the ongoing and imminent threat to public safety.

Recommended by: Garrett Contreras, Fire Chief

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 20-

Introduced by Council Member _____

RESOLUTION RATIFYING THE PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, the Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630 such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Hayward Municipal Code section 3-2.12 provides that the City Manager, serving as the Director of Emergency Services, may request the City Council to proclaim the existence of a local emergency; and

WHEREAS, under provision of local law, if the City Council cannot be convened and, in the judgment of the Director of Emergency Services, the circumstances warrant it, a proclamation of local emergency may be issued which must be ratified or nullified by the City Council within seven days of issuance; and

WHEREAS, the City Council does find that the City Council could not be convened at that time, and that these conditions did warrant and necessitate the proclamation of a local emergency.

WHEREAS, in accordance with authority granted under the above provisions of state and local law, the Director of Emergency Services beginning on March 11, 2020 did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including confirmed cases in the San Francisco Bay Area and Alameda County prompting the County to declare a local health emergency; and

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Hayward that it is hereby proclaimed and ordered that the Proclamation of Local Emergency, issued by the Director of Emergency Services, is hereby ratified and confirmed; and

BE IT FURTHER RESOLVED that during the existence of this local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, and the Charter, ordinances, resolutions and approved plans of the City of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2020

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



**PROCLAMATION OF LOCAL EMERGENCY
BY DIRECTOR OF EMERGENCY SERVICES**

BE IT PROCLAIMED by the Director of Emergency Services of the City of Hayward as follows:

WHEREAS, the California Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630 such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Hayward Municipal Code section 3-2.12 provides that the City Manager, serving as the Director of Emergency Services, may request the City Council to proclaim the existence of a local emergency; and

WHEREAS, under provision of local law, if the City Council cannot be convened and, in the judgment of the Director of Emergency Services, the circumstances warrant it, she may issue a proclamation of local emergency which must be ratified or nullified by the City Council within seven days of issuance; and

WHEREAS, in accordance with my authority under the above provisions of state and local law as Director of Emergency Services; and

WHEREAS, the circumstances of extreme peril to public safety described below are so severe and require immediate remedial action that there is not sufficient time to call an emergency meeting of the City Council; and

WHEREAS, as Director of Emergency Services, I have determined that the proclamation of a local emergency is warranted by virtue of the extreme peril to the safety of persons and property in the City caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus ("COVID-19"), including several confirmed cases in Alameda County and dozens more in the San Francisco Bay Area, prompting the County to declare a local health emergency.

BE IT FURTHER PROCLAIMED that this proclamation shall be in effect for a period of seven days, by which time it must be ratified by the Council of the City of Hayward, pursuant to Government Code section 8630.

NOW, THEREFORE, I HEREBY PROCLAIM that, effective immediately, a local emergency now exists in the City as a result of the circumstances described above.

BE IT FURTHER ORDERED THAT all City officers and employees take all steps requested by the City Manager to prevent the spread of COVI D-19 and to prevent or alleviate illness or death due to the virus; and

BE IT FURTHER ORDERED THAT all City officers and employees take all steps requested by the City Manager to qualify the City for reimbursement from the Federal Emergency Management Agency and for other state and federal relief as may be available to reimburse the City for the expenses it incurs in addressing this emergency.

Dated:

3/11/2020

By:



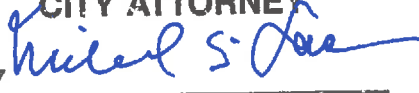
Kelly McAdoo

City Manager/Director of Emergency Services

FORM APPROVED

CITY ATTORNEY

BY





CITY OF HAYWARD

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

File #: LB 20-010

DATE: March 17, 2020

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

FY 2020 Mid-Year Budget: FY 2020 Mid-Year Budget Review and General Fund Long Range Financial Model Update

RECOMMENDATION

That Council 1) reviews the FY 2020 Mid-Year Budget; 2) adopts resolutions providing amendments to the previously adopted City of Hayward Operating and Capital Improvement Budgets for Fiscal Year 2020; and 3) prioritizes remaining Council supported revenue strategies.

SUMMARY

This report presents the mid-year review of the FY 2020 Adopted Budget, and an update to the General Fund Long Range Financial Model (model) presenting proposed changes and projected year-end results based on current trends and data. While staff considers the entire City budget in its mid-year review, this report focuses primarily on the General Fund. On January 15, 2020, an update to the General Fund Long Range Financial Model was presented to the Council Budget and Finance Committee for review and feedback.

Proposed FY 2020 mid-year expenditures net a total increase of \$5.7 million in General Fund expenses. Of this amount, \$5.1 million is related to previously authorized and approved appropriations, and proposed FY 2020 mid-year expenditure requests total increase of \$0.6 million. The proposed FY 2020 mid-year expenditures are largely one-time in nature. Table 1 and Table 2 below detail the key changes in General Fund expenditures related to previous Council authorized and approved appropriations, and proposed new FY 2020 mid-year requests:

Table 1: Previous Council Authorized and Approved Appropriations

Previous Council Approved Appropriations	FY 2020 Impact (\$)
Illegal Tobacco Sales Enforcement Program - Overtime	\$9,703
Salary Plan Update	\$243,039

Personnel Expenses	\$252,742
City Center Demolition	\$4,401,150
City parking enforcement vehicle/equipment	\$95,000
Security Services - Maple/Main Development Site	\$142,000
Byrne Grant Appropriation	\$42,492
Delinquency Prevention Network (DPN) Contract	\$8,950
Contract Services - Strategic Planning Services	\$108,881
Community Development Block Grant	\$4,000
Non-Personnel Expenses	\$4,802,473
Previous Council Approved Appropriations Subtotal	\$5,055,215

Table 2: Proposed New FY 2020 Mid-Year Requests

Proposed Mid-Year Request (NEW)	FY 2020 Impact (\$)
Delete/Add Finance Tech. (1.0) for Admin. Secretary (1.0) (Finance)	(\$6,474)
Personnel Expenses	(\$6,474)
Latent Print Case Management Software (Police)	\$33,000
Contract Services (Finance)	\$20,000
Contract Services (Human Resources)	\$59,000
Software - NeoGov Implementation (Human Resources)	\$22,000
Hayward Area Shoreline JPA - Contribution (Development Services)	(\$12,000)
Consultant Services (Development Services)	\$400,000
PERB Settlement Adjustment	\$7,393
Library Expenses to be Reimbursed by Literacy Council	\$7,184
Transfer-Out to Facilities Management Fund for Library Expenses	\$70,000
Transfer-Out to Facilities Capital	\$28,000
Transfer-Out to Hayward Area Shoreline JPA	\$12,000
Non-Personnel Expenses	\$646,577
Proposed Mid-Year Requests (NEW) Subtotal	\$640,103
TOTAL GENERAL FUND EXPENSES	\$5,695,318

General Fund revenues are expected to exceed the originally projected FY2020 amount by \$3.5 million. Changes in revenue projections are detailed in Table 4 of the attached report. Key changes in the General Fund revenues are as follows:

Projected increase in Sales Tax over budgeted amounts	\$3,711,881
Projected decrease in Cannabis Tax below budgeted amount	(\$240,000)

If mid-year requests are approved as proposed, the FY 2020 Revised Budget would result in a projected shortfall, requiring the use of \$1.8 million in General Fund Reserves for FY 2020.

This report provides an overall update to the City's General Fund long-term outlooks, and review of strategies to assist in achieving long-term fiscal sustainability.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution for Operating Budget
Attachment IIA	Operating Budget Resolution Exhibits A & B
Attachment III	Resolution for Capital Improvement Program
Attachment IIIA	CIP Budget Resolution Exhibits A & B
Attachment IV	Adjustments Summary
Attachment V	General Fund Long Range Update
Attachment VI	Measure C 20-Year Financial Forecast Update



DATE: March 17, 2020

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: FY 2020 Mid-Year Budget: FY 2020 Mid-Year Budget Review and General Fund Long Range Financial Model Update

RECOMMENDATION

That Council 1) reviews the FY 2020 Mid-Year Budget; 2) adopts resolutions providing amendments to the previously adopted City of Hayward Operating and Capital Improvement Budgets for Fiscal Year 2020; and 3) prioritizes remaining Council supported revenue strategies.

SUMMARY

This report presents the mid-year review of the FY 2020 Adopted Budget, and an update to the General Fund Long Range Financial Model (model) presenting proposed changes and projected year-end results based on current trends and data. While staff considers the entire City budget in its mid-year review, this report focuses primarily on the General Fund. On January 15, 2020, an update to the General Fund Long Range Financial Model was presented to the Council Budget and Finance Committee for review and feedback.

Proposed FY 2020 mid-year expenditures net a total increase of \$5.7 million in General Fund expenses. Of this amount, \$5.1 million is related to previously authorized and approved appropriations, and proposed FY 2020 mid-year expenditure requests total increase of \$0.6 million. The proposed FY 2020 mid-year expenditures are largely one-time in nature. Table 1 and Table 2 below detail the key changes in General Fund expenditures related to previous Council authorized and approved appropriations, and proposed new FY 2020 mid-year requests:

TABLE 1: PREVIOUS COUNCIL AUTHORIZED AND APPROVED APPROPRIATIONS

Previous Council Approved Appropriations	FY 2020 Impact (\$)
Illegal Tobacco Sales Enforcement Program - Overtime	\$9,703
Salary Plan Update	\$243,039
Personnel Expenses	\$252,742
City Center Demolition	\$4,401,150
City parking enforcement vehicle/equipment	\$95,000
Security Services - Maple/Main Development Site	\$142,000
Byrne Grant Appropriation	\$42,492

Delinquency Prevention Network (DPN) Contract	\$8,950
Contract Services - Strategic Planning Services	\$108,881
Community Development Block Grant	\$4,000
Non-Personnel Expenses	\$4,802,473
Previous Council Approved Appropriations Subtotal	\$5,055,215

TABLE 2: PROPOSED NEW FY 2020 MID-YEAR REQUESTS

Proposed Mid-Year Request (NEW)	FY 2020 Impact (\$)
Delete/Add Finance Tech. (1.0) for Admin. Secretary (1.0) (Finance)	(\$6,474)
Personnel Expenses	(\$6,474)
Latent Print Case Management Software (Police)	\$33,000
Contract Services (Finance)	\$20,000
Contract Services (Human Resources)	\$59,000
Software - NeoGov Implementation (Human Resources)	\$22,000
Hayward Area Shoreline JPA - Contribution (Development Services)	(\$12,000)
Consultant Services (Development Services)	\$400,000
PERB Settlement Adjustment	\$7,393
Library Expenses to be Reimbursed by Literacy Council	\$7,184
Transfer-Out to Facilities Management Fund for Library Expenses	\$70,000
Transfer-Out to Facilities Capital	\$28,000
Transfer-Out to Hayward Area Shoreline JPA	\$12,000
Non-Personnel Expenses	\$646,577
Proposed Mid-Year Requests (NEW) Subtotal	\$640,103
TOTAL GENERAL FUND EXPENSES	\$5,695,318

General Fund revenues are expected to exceed the originally projected FY2020 amount by \$3.5 million. Changes in revenue projections are detailed in Table 4 of the attached report. Key changes in the General Fund revenues are as follows:

Projected increase in Sales Tax over budgeted amounts	\$3,711,881
Projected decrease in Cannabis Tax below budgeted amount	(\$240,000)

If mid-year requests are approved as proposed, the FY 2020 Revised Budget would result in a projected shortfall, requiring the use of \$1.8 million in General Fund Reserves for FY 2020.

This report provides an overall update to the City's General Fund long-term outlooks, and review of strategies to assist in achieving long-term fiscal sustainability.

BACKGROUND

On May 21, 2019, Council adopted the FY 2020 Operating Budget projecting a net positive position at fiscal year end and an increase to the General Fund Reserves of \$0.3 million¹. Since the time of adoption of the FY 2020 Budget, the City's projected fiscal position has changed significantly. As a result of additional Council approved appropriations and proposed mid-year requests, the City's General Fund net position decreased, projecting a use of \$1.9 million in reserves to balance the budget. The largest of these appropriations is related to demolition expenses for the recently acquired City Center building. In December, Council authorized a General Fund appropriation of \$4.4 to fund hazardous materials abatement and demolition of the City Center building². Demolition of the City Center building is considered a one-time expense. It is expected that expenses related to the acquisition and demolition of the City Center building could potentially be fully recovered upon the sale of the property. The Council has approved an additional \$0.7 million in other appropriations related to contract services and grant appropriations since the adoption of the FY 2020 Operating Budget.

On January 15, 2020, an update to the General Fund Long Range Financial Model was presented to the Council Budget and Finance Committee for review and feedback.

This report includes an update to the model as part of the FY 2020 mid-year review, reflecting the proposed changes in revenue projections and expenditure adjustments.

DISCUSSION

GENERAL FUND REVENUES

FY 2020 General Fund revenues are projected to be \$3.5 million higher than originally projected. This is primarily attributed to projected increases in sales tax revenues and Cannabis Tax revenue projections.

The following analysis highlights key revenue variances as it pertains to FY 2020 mid-year projections and the impact on future year projections as outlined in the model.

Sales Tax (increase of \$3.7 million) – The amount projected at the time of adoption did not anticipate continued growth in the economy. Previous forecasts projected a slowing of the economy in FY 2020. Preliminary projections also did not account for significant short-term growth in the transportation industry.

Cannabis Tax (decrease of \$250,000) – The FY 2020 Adopted Budget projected Cannabis Tax revenue at \$250,000. Many of the approved cannabis business operators are still working to complete the entitlement process. This adjustment is to reflect actual Cannabis Tax receipts received thus far.

GENERAL FUND EXPENDITURES

¹ City of Hayward Council on May 21, 2019

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3952693&GUID=7C3FB881-BCFB-431E-862D-7916B6C6811B>

² City of Hayward Council on December 3, 2019

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4263965&GUID=635A7662-752A-43D6-BC31-328887055949>

FY 2020 General Fund total adjustments include FY 2019 carryforwards, previous Council authorized and approved appropriations, and mid-year requests. FY 2020 General Fund expenditures, including proposed mid-year requests and previous Council authorized and approved appropriations are projected to be \$5.7 million higher than anticipated at the time the City adopted its budget. Of this amount, \$5.1 million is related to previously authorized and approved appropriations, and proposed FY 2020 mid-year expenditure requests total an increase of \$0.6 million. The proposed FY 2020 mid-year requests are largely one-time in nature. FY 2019 budget carryforwards total \$1.4 million and were approved with the FY 2019 Operating Budget. The following analysis highlights key expenditure variances as it pertains to FY 2020 mid-year projections and the fiscal impacts on future year projections, as illustrated in the model.

Staffing Expense

Overall, the staffing expense budget will increase by a net total of \$246,268. The following provides detail on the changes in the staffing expense budget:

- Staffing Changes (decrease of \$6,474) – A net change of 0.0 FTE in the Finance Department is included as part of the mid-year review. In order to better serve the business needs of the department, staff proposes that one (1.0) Finance Technician position be deleted and replaced by one (1.0) Administrative Secretary position. Table 3 below summarizes the fiscal impact. This change results in a net salary savings.

TABLE 3: STAFFING CHANGES SUMMARY

POSITION CHANGE	FY 2020
<u>Finance Department</u>	
Delete 1.0 FTE Finance Technician	\$ 142,635
Add 1.0 FTE Administrative Secretary	\$136,141
TOTAL IMPACT TO GENERAL FUND	(\$6,474)

- Overtime Expense (increase of \$9,703) – Appropriation to increase overtime expenses for activities related to illegal tobacco sales enforcement, offset by a California State Department of Justice grant.
- Salary Plan Update (increase of \$243,039) – An update to the Salary Plan was approved by Council on December 17, 2019. The Salary Plan update included equity adjustments per the SEIU MOU on a recent salary survey completed in accordance with the terms as outlined in the negotiated agreement with SEIU, and additional adjustments to other specific job classifications.

Operating Expenses

A number of adjustments are needed at mid-year to fund necessary and/or unanticipated expenditures, and to appropriate prior year carried forward requests into FY 2020.

Carryforward Requests (increase of \$1.4 million):

A carryforward is unspent budget that is linked to a commitment such as a contract, requisition, or purchase order. The carryforward of commitment to a new fiscal year carries with it the unspent budget associated with the balance of the commitment. Carryforward represent budget amounts that were previously authorized and approved by Council during the prior fiscal year.

Previous Council Approved Appropriations - FY 2020 (increase of \$4.8 million):

City Council previously authorized and approved appropriations totaling \$4.8 million. Previously authorized and approved appropriations are as follows:

- City Center Demolition (increase of \$4,401,150);
- City parking enforcement vehicle/equipment (increase of \$95,000);
- Security measures/services at Maple/Main development project site (increase of \$142,000);
- Byrne Grant Award allocation (increase of \$42,492)
- Delinquency Prevention Network (DPN) contract award appropriation (increase of \$8,950); and
- Contract Services for Strategic Planning Services (increase of \$108,881)

Proposed FY 2020 Mid-Year Requests – New (Increase of \$646,577):

- Transfer In/Out (increase of \$110,000): \$12,000 transfer-out to Hayward Area Shoreline JPA fund (HASPA); \$70,000 transfer-out to Facilities Management Fund for unanticipated PG&E costs for the Library; and \$28,000 transfer-out to Facilities Capital for Space Planning project
- PERB Settlement (increase of \$7,393) – Increase of \$7,393 for final PERB Settlement.
- Contract Services (net increase of \$467,000) – Additional contract services are necessary in multiple departments. Development Services is requesting \$400,000 for consultant services for outside plan check, inspection, and permit technicians with anticipated offsetting revenue; a reduction of \$12,000 for annual HASPA contributions (General Fund); an increase of \$25,000 for executive search services for a key executive position vacancy in Human Resources; \$14,000 for consulting services for new technology pilot program in Human Resources; and \$40,000 for contract services related to additional audit work.
- Office/Operating Supplies (increase of \$62,184) – The Police Department is requesting an increase of \$33,000 for latent print software previously approved by City Council (General Fund). The Human Resources department is requesting \$22,000 for the purchase of NeoGov performance management software (General Fund). Library is requesting an increase of \$7,184 in expenses to be reimbursed by the Literacy Council. All expenses related to Literacy Council are fully reimbursable.

The amounts shown below in Table 4 demonstrate the General Fund impact of the changes being proposed as part of the City's FY 2020 Mid-Year Budget Review from the time that Council adopted the City's Operating Budget in May of 2019. In total, the changes presented for consideration will require the projected use of \$1.8 million in General Fund reserves.

TABLE 4: SUMMARY OF PROPOSED MID-YEAR CHANGES

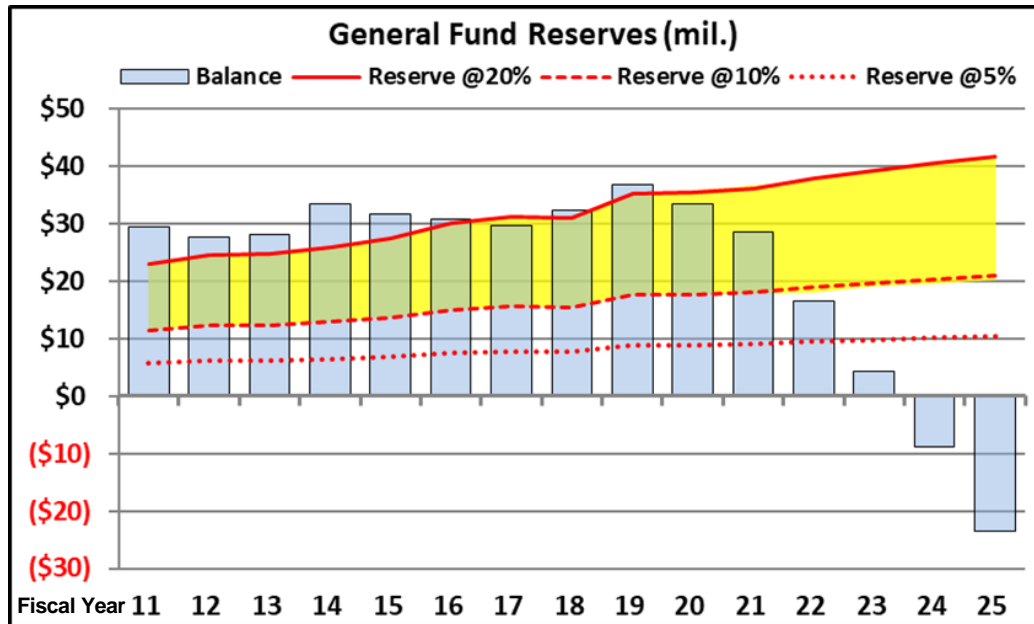
<i>\$ in thousands</i>	FY 2020 Adopted	Change	FY 2020 Mid-Year Revised
Revenue			
Sales Tax		\$3,711	
Cannabis Tax		(\$240)	
Intergovernmental Revenue		\$39	
Total Revenue	\$172,439	\$3,511	\$175,950
Expenditures			
Delete/Add Finance Tech. (1.0) for Admin. Secretary (1.0) - Finance		(\$6)	
Previous Council Approved Appropriation - Personnel Expenses		\$253	
Net Staffing Expenses	\$135,448	\$247	\$135,695
Latent Print Case Management Software (Police)		\$33	
Contract Services (Finance)		\$20	
Contract Services (Human Resources)		\$59	
Software - NeoGov Implementation (Human Resources)		\$22	
Hayward Area Shoreline JPA - Contribution (Development Services)		(\$12)	
Consultant Services (Development Services)		\$400	
PERB Settlement Adjustment		\$7	
Library Expenses to be Reimbursed by Literacy Council		\$7	
Previous Council Approved Appropriation - Non-Personnel Expenses		\$306	
Net Operating Expenses	\$27,798	\$843	\$28,641
Transfer-Out to Facilities Management Fund for Library Expenses		\$70	
Transfer-Out to Facilities Capital		\$28	
Transfer-Out to Hayward Area Shoreline JPA		\$12	
Previous Council Approved Appropriation - Transfer-Out		\$4,496	
Transfers to Other Funds	\$8,858	\$4,606	\$13,464
Total Expenditures	\$172,104	\$5,696	\$177,800
Total Surplus/(Shortfall)	\$335		(\$1,849)

GENERAL FUND LONG RANGE FINANCIAL MODEL UPDATE

Attachment V is an updated version of the model that includes projected changes in revenue and expenses impacting the City's projected year-end fiscal position for FY 2020. The FY 2020 Adopted Budget assumed an increase in General Fund Reserves of \$0.3 million by the end of the fiscal year. The model projected that General Fund Reserves would remain above 20% of the City's budgeted General Fund expenditures until the end of FY 2022, at which time reserve levels would dip to 15.9% of expenditures.

As part of the mid-year review process, the model has been updated to include current revenue projections, mid-year expenditure requests, and previous Council approved appropriations as discussed in this report. The updated model projects the use of \$1.8 million in General Fund Reserves. The significant change is primarily attributed to the Council approved appropriation of \$4.4 million for the City Center demolition. While the potential sale of the property could result in full cost recovery, the model does not include revenue assumptions should the sale of the property occur in the future.

Per current policy, General Fund Reserve should equal 20% of budgeted General Fund expenditures. Based on the updated model and current projections, the City is expected to fall short of compliance with the policy. Mid-year updates to the model project ending the fiscal year with a General Fund balance of 19.7% of FY 2020 General Fund expenditures. The graph below depicts revised General Fund revenues and expenditures based on updated FY 2020 projections.



MEASURE C FUND

Measure C Operating

The Council, as well as the ballot language for Measure C, established a number of spending priorities for these funds. These priorities include a mix of capital projects and funding allocations toward operating services. While Measure C revenues are to primarily be used to fund capital projects, operating activities, such as police services, addressing illegal dumping, litter control, and graffiti abatement also fulfill the promises of Measure C.

FY 2020 Measure C operating fund total adjustments include FY 2019 carryforwards, previous Council approved appropriations, and a mid-year request. Proposed FY 2020 Measure C expenditure related requests total an increase of \$83,518. Proposed FY 2020 Measure C revenue is projected to be approximately \$1.4 million higher than originally projected. The following details the additional requests:

- FY 2019 budget carryforwards (increase of \$8,152)
- Salary Plan Update (increase \$23,209)
- Transfer-Out to Measure C Capital Fund for EBRCS Radio – Final Lease Payment (increase of \$52,157).

Measure C Capital

While Measure C funds operating programs and related expenses, Measure C funds are primarily used to fund capital projects. FY 2020 Measure C capital total adjustments include prior year carryforwards.

FY 2020 Council adopted expenditure appropriations of \$30.9 million in the Measure C capital fund. Total adjustments included in the mid-year review are \$34.4 million. Included in these adjustments are:

- \$34.3 million in FY 2019 carryforwards; and
- \$52,157 in proposed mid-year request

The FY 2020 Measure C capital mid-year request is to make the final lease payment for EBRCs radios.

Attachment VI is an update to the Measure C 20-Year Financial Forecast that includes projected changes in revenue and expenses impacting the projected year-end fiscal position for FY 2020.

OTHER FUNDS

Total adjustments for FY 2020 Other Funds include FY 2019 carryforwards, previous Council approved appropriations, and mid-year requests. Expenditure increases in Other Funds total \$21.4 million. Of this total, FY 2019 budget carryforwards total \$15.1 million; and appropriations previously approved by City Council total \$5.7 million. Increase in expenditure requests at mid-year amount to \$0.6 million. Detail of mid-year requests are as follows:

Proposed Mid-Year Requests (increase of \$0.6 million)

- Staffing Changes (net-zero impact): A net change of 0.0 FTE in the Information Technology Department is included as part of the mid-year review. In order to better serve the business needs of the department, it is proposed that one (1.0) IT Analyst position be deleted and replaced with one (1.0) Programmer Analyst position.
- Water and Sewer Funds (decrease of \$200,000): Administrative cleanup to remove transfers completed in the prior fiscal year to complete the safety-gap analysis;
- Maintenance Operations (increase of \$265,000): Increase of \$45,000 for contract services for temporary staffing to support the ongoing janitorial needs at the library during operational hours (Facilities Management Fund); \$70,000 for unanticipated PG&E expenses at the library (Facilities Management Fund); and \$150,000 vehicle replacement of two patrol vehicles totaled in recent accidents;
- PERB settlements (increase of \$10,632): Water Fund (\$6,941) and Sewer Fund (\$3,691);
- Police Department (increase of \$43,000): Increase of \$38,000 in Asset Forfeiture fund for the purchase of schedule express software, and \$5,000 for CNOA conference attendance;
- City Manager (net increase of 35,769): a reduction of \$20,989 to match the FY 2020 Federal HOME award project allocation, a net zero impact between funds Measure B Paratransit, Federal Grants, Housing Authority, and Affordable Housing for personnel reallocation, and \$56,758 for CDBG Public Services Program with expenditures offset by congruent revenue.

- Hazmat Settlements (increase of \$410,365): Increase to appropriate prior year fund balances from hazmat settlements.
- Hayward Area Shoreline JPA (increase of \$12,000): Appropriation of the City's contribution to the Hayward Area Shoreline JPA.

CAPITAL IMPROVEMENT FUNDS

Total adjustments for FY 2020 Capital Improvement Funds include FY 2019 carryforwards, previous Council approved appropriations, and mid-year requests. The FY 2020 Capital Improvement Budget adjustments total a net increase of \$188.7 million. Of this amount, FY 2019 carry forwards total \$168.4 million; and prior Council authorized and approved appropriations total \$10.2 million. Proposed mid-year adjustments reflect an increase in projected expenditures in the amount of \$10.1 million. **Table 5** provides detail of the proposed FY 2020 CIP mid-year changes.

TABLE 5: PROPOSED FY 2020 MID-YEAR CIP CHANGES

Mid-Year CIP Changes	FY 2020 Mid-Year Changes
Capital Projects (Fund 405) - Employee Engagement Survey not included in FY 2020 budget	\$35,000
Rte. 238 Corridor Improvements (Fund 410) – Transfer-Out: Reallocate Maintenance Staff and Contract Services	\$70,284
Rte. 238 Settlement Admin (Fund 411) - Transfer-in from Fund 410	(\$70,284)
Rte. 238 Settlement Admin (Fund 411) - Reallocate Maintenance Staff from Rte. 238 Corridor Improvements (Fund 410)	\$66,784
Rte. 238 Settlement Admin (Fund 411) - Reallocate Contract from Rte. 238 Corridor Improvements (Fund 410)	\$3,500
Rte. 238 Settlement Admin (Fund 411)- Maintenance Services for Homeless Abatement, Landscape/Weed Abatement, and Property Management	\$285,284
Water Improvement (Fund 604) - Administrative cleanup of FY2020 Adopted Budget	\$498,432
Sewer Improvement (Fund 612) - Administrative cleanup of FY2020 Adopted Budget	\$3,276,817
Airport Capital (Fund 621) - Sulphur Creek Mitigation FY2018 unspent budget balance appropriation	\$266,279
Airport Capital (Fund 621) - Miscellaneous FY2018 unspent budget balance appropriation	\$482,260
Facilities Improvements (Fund 726) – Space Planning Project	\$28,000
Administrative Transfer-Out to Operating Budget Correction; FY 2020 CIP inadvertently not included (Fund 210)	\$983,000
Administrative Transfer-Out to Operating Budget Correction; FY 2020 CIP inadvertently not included (Fund 410)	\$129,000
Administrative Transfer-Out to Operating Budget Correction; FY 2020 CIP inadvertently not included (Fund 604)	\$3,765,000
Administrative Transfer-Out to Operating Budget Correction; FY 2020 CIP inadvertently not included (Fund 611)	\$270,000
Total Net Change	\$10,089,356

COUNCIL SUPPORTED FISCAL STRATEGIES - LONG-TERM FINANCIAL OUTLOOK:

On January 15, 2020³, staff presented the Council Budget and Finance Committee with an update to the General Fund model. Despite the successful passage of Measure T, the long-term projection showed a significant continued structural deficit. In response to the review of the model, staff reviewed the strategies presented to the City Council during the Fiscal Sustainability work session held in October 2017. During the work session, staff unveiled the updated Model, and Council discussed various strategies in four categories to address the City's structural budget deficit, which included (1) revenue generating strategies, (2) cost shifting strategies, (3) expenditure control strategies, and (4) changes in provision of services that Council could implement to assist in closing the City's long-term structural budget gap.

Table 6 is a summary of Council supported strategies at the October 2017 fiscal sustainability work session. A status of each strategy is included to provide Council with an update on strategies that have yet to be implemented and may be reviewed and recommended for the full Council to assist with closing the projected structural budget gap.

TABLE 6: FISCAL SUSTAINABILITY STRATEGIES (OCTOBER 2017)

Council Supported Fiscal Sustainability Strategies	Status
Revenue Generation Strategies:	
Real Property Transfer Tax (RPTT): \$8.5 per \$1,000 (Place ballot in 2018)	Complete - Voters' passed Measure T in November 2018.
Transient Occupancy Tax (TOT) @ 12% - Projected annual revenue to \$1,200,000 with new hotels	Option considered viable by staff; however, formal action from Council is necessary prior to further pursuing the option.
Business License Tax (BLT) (Up from \$19.06-\$26.02 per capita- Projected annual revenue from \$2.9M to \$4.0M	Option considered viable by staff; however, formal action from Council is necessary prior to further pursuing the option.
Cannabis Tax Revenue	Complete - While the City has not realized revenue from the source, the voters have approved a cannabis tax.
Expenditure Controls/Cost Shifts:	
Update Cost Allocation Plan	Staff is finalizing the cost allocation plan.

³ Council Budget and Finance Committee on January 15, 2020

<https://hayward.legistar.com/LegislationDetail.aspx?ID=4302591&GUID=76B2E29F-0F52-4248-99B0-F05F0F8BAA3F&Options=&Search=>

Council Supported Fiscal Sustainability Strategies	Status
In partnership with and through the collective bargaining process with our employee groups identify potential cost saving strategies related to wages, benefits, and working conditions	Complete.
Service Delivery Changes:	
Prioritized Use of Measure C Revenue after projects completed	Strategy Ongoing - Reviewed and discussed annually during the City's budget process.
Fleet Utilization Improvements (5% fleet removal) (\$39,675 annual maintenance + \$82,300 replacement cost)	In Progress - Fleet Utilization Study currently underway.

The long-term financial projections show a continued structural deficit. To address this issue, there are two remaining supported strategies that can be deployed to positively impact the long-term fiscal health of the City. Staff solicited feedback from the Committee on the remaining two revenue generating strategies - an increase to the City's TOT and/or an overhaul of the City's Business License Tax Ordinance. During the presentation of these two strategies, the Committee recommended that staff proceed with presenting an increase to the City's TOT to the full Council for consideration to include on the November 2020 ballot.

The City of Hayward's TOT rate of 8.5 percent is the twelfth lowest among sixteen Bay Area cities of 100,000 or more residents, according to analysis provided by Management Partners for the October 2017 work session. Staff analysis performed in 2018 estimated that an increase in TOT to a new rate of 12.0 percent would generate an additional \$986,000 annually.⁴ Assuming the passage of a ballot measure in 2020, the Model estimates that a 12.0 percent TOT rate will generate an additional \$519,240 in FY 2021 and an average of \$859,900 annually through FY 2030. Analysis of additional strategies and updates to the Model will be provided to Council on an ongoing basis for their continued policy leadership in helping to ensure fiscal sustainability for the City while ensuring the highest level of service availability to the Hayward community.

Based on the Committee's recommendation, staff is seeking Council's direction as to whether it would recommend the placing of the increase to the City's TOT on the November 2020 ballot. To assist in Council deliberations and a final decision on whether to proceed to the ballot with an increase in the TOT, staff have requested a proposal from the City's preferred public-opinion research firm, Fairbanks, Maslin, Maullin, Metz & Associates (FM3) for a survey, or poll, to gauge voter support and attitudes on the subject. FM3 is prepared to work with staff to draft a survey that could administered in April with results presented later that month or in early. Depending on survey length (15 or 20 minutes) and sample size (400 or 600 respondents), the survey cost would range from \$29,500 to \$37,500.

⁴ City of Hayward City Council Meeting on July 17, 2018

<https://hayward.legistar.com/LegislationDetail.aspx?ID=3553050&GUID=5504B467-533C-4C23-9243-448F969C92EB&Options=&Search=>

In addition to gauging voter support and attitudes about a potential TOT-rate increase, the survey also affords the City to test opinion on related and other fiscal matters. Staff recommends that Council proceed with the polling at this time to further inform decision making on a possible ballot measure.

STRATEGIC ROADMAP

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

Project 1, Part 1.a.: Evaluate an increase in the Transient Occupancy Tax

FISCAL IMPACT

The overall fiscal impact of the proposed mid-year adjustments is an increase to General Fund revenue of \$3.5 million, and an increase to General Fund expenditures of \$7.1 million (\$5.1 million in previously approved appropriations, \$0.6 million in proposed new requests; and \$1.4 million in carryforwards). All Other Funds (including Measure C) proposed adjustments will result in an increase of \$0.7 million in newly requested expenditures; and Capital Improvement Funds will result in a proposed net increase in expenditures of \$10.1 million in newly requested expenditures.

SUSTAINABILITY FEATURES

The actions in this report do not have an impact on sustainability. Sustainability elements are more directly identified with specific projects as they are carried out.

PUBLIC CONTACT/NEXT STEPS

Upon approval by Council of the recommendations contain herein, staff will post the budget amendments per the approved resolution. Staff will continue to refine the General Fund Long Range Model as part of the upcoming FY 2021 budget process. Staff will also proceed with polling on a potential November 2020 ballot measure, if directed by City Council to do so.

Prepared by: Nicole Gonzales, Deputy Director of Finance
Nicholas Mullins, Management Analyst I
Rick Rivera, Management Analyst I

Recommended by: Dustin Claussen, Director of Finance

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 20-__

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 19-103, AS AMENDED, THE BUDGET
RESOLUTION FOR THE CITY OF HAYWARD OPERATING BUDGET FOR FISCAL
YEAR 2020, RELATING TO AN APPROPRIATION OF FUNDS

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 19-103, as amended, the Budget Resolution for the City of Hayward Operating Budget for Fiscal Year 2020, is hereby amended by approving the changes indicated below.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following revenue estimate amounts are hereby amended:

I. CHANGE OF REVENUE ESTIMATE TO THE GENERAL FUND AND OTHER FUNDS AS
DISPLAYED IN EXHIBIT A.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following expenditure estimate amounts are hereby amended:

II. CHANGE OF EXPENDITURE ESTIMATE TO THE GENERAL FUND AND OTHER
FUNDS AS DISPLAYED IN EXHIBIT B

The Director of Finance is hereby authorized and directed to distribute the above revised revenue estimates and revised expenditure estimates to the various accounts of the City in accordance with generally accepted accounting principles and consistent with the purposes and objectives as outlined in the approved budget.

IN COUNCIL, HAYWARD, CALIFORNIA March 17, 2020

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

Fund #	Fund Name	Adopted Budget	Amendment	Total Adjusted Budget
100	General Fund Total	\$ 172,438,889	\$ 3,511,170	\$ 175,950,059
101	Measure C	\$ 15,883,140	\$ 1,380,860	\$ 17,264,000
220	Federal Grants	\$ 430,000	\$ 1,373,915	\$ 1,803,915
225	CDBG	\$ 1,330,000	\$ 56,758	\$ 1,386,758
230	State Grants	\$ 12,500	\$ 101,600	\$ 114,100
240	Local Grants	\$ -	\$ 1,828,211	\$ 1,828,211
266	LLD 1	\$ -	\$ 6,174	\$ 6,174
267	LLD 2	\$ -	\$ 10,346	\$ 10,346
268	LLD 3	\$ -	\$ 135,922	\$ 135,922
269	LLD 4	\$ -	\$ 21,435	\$ 21,435
270	MD 1	\$ -	\$ 41,721	\$ 41,721
271	MD 2	\$ -	\$ 107,233	\$ 107,233
272	LLD 5	\$ -	\$ 9,576	\$ 9,576
273	LLD 6	\$ -	\$ 13,188	\$ 13,188
274	LLD 7	\$ -	\$ 206,411	\$ 206,411
275	LLD 8	\$ -	\$ 4,273	\$ 4,273
276	LLD 9	\$ -	\$ 2,517	\$ 2,517
277	LLD 10	\$ -	\$ 141,951	\$ 141,951
278	LLD 11	\$ -	\$ 31,359	\$ 31,359
279	LLD 12	\$ -	\$ 161,221	\$ 161,221
281	LLD 13	\$ -	\$ 214,663	\$ 214,663
282	LLD 14	\$ -	\$ 71,787	\$ 71,787
284	LLD 16	\$ -	\$ 69,457	\$ 69,457
286	Rent Program	\$ -	\$ 637,650	\$ 637,650
605	Water	\$ 50,986,173	\$ 1,900,000	\$ 52,886,173
610	Wastewater (Sewer)	\$ 25,538,817	\$ (1,529,503)	\$ 24,009,314
725	Facility Management	\$ 4,618,965	\$ 70,000	\$ 4,688,965
850	Hayward Trust & Agency Fund	\$ -	\$ 500	\$ 500
851	Hayward Shoreline JPA	\$ -	\$ 12,000	\$ 12,000
	Other Funds Total	\$ 98,799,595	\$ 7,081,225	\$ 105,880,820
	Net Change to Non-General Fund		\$ 7,081,225	
	Total Change to City Revenues		\$ 10,592,395	

Fund	Expenditure	Adopted Budget	Total Amendment	Total Adjusted Budget
100	Net Change to General Fund	\$ 172,103,690	\$ 7,054,396	\$ 179,158,086
101	Measure C Fund	\$ 36,488,887	\$ 83,518	\$ 36,572,405
110	Fire Educational Training-MO	\$ -	\$ 59,415	\$ 59,415
214	Paratransit Fund - Measure BB	\$ 310,000	\$ 370,000	\$ 680,000
217	Paratransit Fund - Measure B	\$ 1,551,662	\$ 667,284	\$ 2,218,946
220	Federal Grants	\$ 503,938	\$ 1,566,192	\$ 2,070,130
225	Community Development Block Grant Fund	\$ 1,417,316	\$ 1,934,454	\$ 3,351,770
230	State Grants	\$ 37,396	\$ 668,932	\$ 706,328
231	Used Oil Fund	\$ 40,930	\$ 59,886	\$ 100,816
232	Recycling/Measure D Fund	\$ 537,575	\$ 535,224	\$ 1,072,799
240	Local Grants	\$ 25,000	\$ 1,976,369	\$ 2,001,369
245	Housing Authority	\$ 245,264	\$ 4,685,705	\$ 4,930,969
246	Affordable Housing Fund	\$ 407,431	\$ 24,532	\$ 431,963
250	Donation Fund	\$ -	\$ 509,701	\$ 509,701
265	Asset Forfeiture	\$ -	\$ 50,463	\$ 50,463
266	LLD Zone 1	\$ -	\$ 8,513	\$ 8,513
267	LLD Zone 2	\$ -	\$ 14,052	\$ 14,052
268	LLD Zone 3	\$ -	\$ 156,972	\$ 156,972
269	LLD Zone 4	\$ -	\$ 21,657	\$ 21,657
270	MD 1	\$ -	\$ 102,680	\$ 102,680
271	MD 2	\$ -	\$ 132,338	\$ 132,338
272	LLD Zone 5	\$ -	\$ 10,543	\$ 10,543
273	LLD Zone 6	\$ -	\$ 25,807	\$ 25,807
274	LLD Zone 7	\$ -	\$ 155,675	\$ 155,675
275	LLD Zone 8	\$ -	\$ 7,142	\$ 7,142
276	LLD Zone 9	\$ -	\$ 2,939	\$ 2,939
277	LLD Zone 10	\$ -	\$ 171,035	\$ 171,035
278	LLD Zone 12	\$ -	\$ 36,178	\$ 36,178
279	LLD Zone 11	\$ -	\$ 223,053	\$ 223,053
281	LLD Zone 13	\$ -	\$ 189,839	\$ 189,839
282	LLD Zone 14	\$ -	\$ 58,838	\$ 58,838
284	LLD Zone 16	\$ -	\$ 80,428	\$ 80,428
285	Inclusionary Housing	\$ 152,123	\$ 4,914,694	\$ 5,066,817
286	Rental Housing Program	\$ -	\$ 633,667	\$ 633,667
295	So. Hayward B.A.R.T. JPA	\$ 566,220	\$ 1,121,543	\$ 1,687,763
605	Water	\$ 53,656,095	\$ (1,823,858)	\$ 51,832,237
610	Sewer	\$ 24,500,523	\$ 67,210	\$ 24,567,733
615	Stormwater	\$ 3,037,177	\$ 39,057	\$ 3,076,234
620	Airport	\$ 4,089,651	\$ 22,931	\$ 4,112,582
630	Recycled Water Fund	\$ 133,938	\$ 2,483	\$ 136,421
705	Worker's Compensation	\$ 6,637,761	\$ 408,713	\$ 7,046,474
710	General Liability Insurance	\$ 4,942,629	\$ 353,826	\$ 5,296,455
725	Facilities	\$ 4,761,422	\$ 136,619	\$ 4,898,041
730	Information Technology	\$ 8,065,350	\$ 299,988	\$ 8,365,338
735	Fleet Management	\$ 4,262,624	\$ 187,354	\$ 4,449,978
815	Hayward Redevelopment Successor Agency	\$ 4,553,059	\$ 66,688	\$ 4,619,747
850	Hayward Trust & Agency Fund	\$ -	\$ 3,515	\$ 3,515
851	Hayward Shoreline JPA	\$ -	\$ 435,027	\$ 435,027
	Net Change to Non-General Fund	\$ 160,923,971	\$ 21,458,820	\$ 182,382,791
	Total Change to City Expenditures	\$ 333,027,661	\$ 28,513,216	\$ 361,540,877

HAYWARD CITY COUNCIL

RESOLUTION NO. 20-__

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 19-106, AS AMENDED, THE BUDGET RESOLUTION FOR THE CITY OF HAYWARD CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2020, RELATING TO AN APPROPRIATION OF FUNDS

BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 19-106, as amended, the Budget Resolution for the City of Hayward Capital Improvement Projects for Fiscal Year 2020, is hereby amended by approving the Capital Improvement Fund changes indicated below.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following revenue estimate amounts are hereby amended:

1. CHANGE OF REVENUE ESTIMATE TO THE FOLLOWING CIP FUNDS AS DISPLAYED IN EXHIBIT A

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the following expenditure estimate amounts are hereby amended:

- II. CHANGE OF EXPENDITURE ESTIMATE TO THE FOLLOWING CIP FUNDS AS DISPLAYED IN EXHIBIT B

The Director of Finance is hereby authorized and directed to distribute the above revised revenue estimates and revised expenditure estimates to the various accounts of the City in accordance with generally accepted accounting principles and consistent with the purposes and objectives as outlined in the approved budget.

IN COUNCIL, HAYWARD, CALIFORNIA March 17, 2020

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

Fund #	Fund Name	Adopted Budget	Amendment	Total Adjusted Budget
405	Capital Projects General	\$ -	\$ 4,461,150	\$ 4,461,150
406	Capital Projects Measure C	\$ -	\$ 26,867,157	\$ 26,867,157
410	Rte 238 Improvements	\$ -	\$ 4,086,267	\$ 4,086,267
411	Rte 238 Settlement Admin	\$ -	\$ 70,284	\$ 70,284
726	Facilities Capital	\$ 300,000	\$ 388,000	\$ 688,000
736	Fleet Capital	\$ 3,100,000	\$ 35,000	\$ 3,135,000
	CIP Funds Total	\$ 3,400,000	\$ 35,907,858	\$ 39,307,858

Fund	Expenditure	Adopted Budget	Total Amendment	Total Adjusted Budget
210	Special Gas Tax	\$ 2,944,000	\$ 1,616,688	\$ 4,560,688
211	RRAA (SB1)	\$ 2,750,000	\$ 753,932	\$ 3,503,932
212	Measure BB-Local Transportation	\$ 2,330,000	\$ 2,372,924	\$ 4,702,924
213	Measure BB-Ped & Bike	\$ 420,000	\$ 1,179,025	\$ 1,599,025
215	Measure B-Local Transportation	\$ 2,680,000	\$ 2,438,450	\$ 5,118,450
216	Measure B-Ped & Bike	\$ 580,000	\$ 1,286,984	\$ 1,866,984
218	Vehicle Registration	\$ 775,000	\$ 384,856	\$ 1,159,856
401	Strategic Initiative	\$ -	\$ 149,953	\$ 149,953
405	Capital Projects	\$ 23,955,000	\$ 8,970,513	\$ 32,925,513
406	Capital Projects Measure C	\$ 30,900,000	\$ 34,397,289	\$ 65,297,289
410	Rte 238 Corridor Improvements	\$ 335,000	\$ 25,794,143	\$ 26,129,143
411	Rte 238 Settlement Admin	\$ -	\$ 4,699,844	\$ 4,699,844
412	Rte 238 Property Management	\$ -	\$ 4,868	\$ 4,868
450	Street System Improvement	\$ 3,048,000	\$ 5,402,152	\$ 8,450,152
460	Transportation System Improvement	\$ 425,000	\$ 527,315	\$ 952,315
603	Water Replacement	\$ 5,554,000	\$ 21,985,139	\$ 27,539,139
604	Water Improvement	\$ 447,472	\$ 26,359,365	\$ 26,806,837
611	Sewer Replacement	\$ 10,006,243	\$ 23,311,816	\$ 33,318,059
612	Sewer Improvement	\$ 2,885,000	\$ 48,195,918	\$ 51,080,918
621	Airport Capital	\$ 2,074,098	\$ 4,216,087	\$ 6,290,185
726	Facilities Capital	\$ 600,000	\$ 584,837	\$ 1,184,837
731	Information Technology Capital	\$ 1,296,000	\$ 6,060,622	\$ 7,356,622
736	Fleet Management Capital	\$ 3,662,000	\$ 1,964,948	\$ 5,626,948
737	Fleet Management Enterprise	\$ 587,000	\$ 434,117	\$ 1,021,117
	Total Change to CIP Expenditures	\$ 98,253,813	\$ 223,091,785	\$ 321,345,598

FY 2020 MID-YEAR OPERATING BUDGET ADJUSTMENTS SUMMARY BY DEPARTMENT**Non-Departmental**

- ❑ Appropriation of \$4,401,150 for hazardous materials abatement and demolition of the City Center building – Reso 19-229 (General Fund).
- ❑ Appropriation of \$95,000 for the purchase of a parking enforcement vehicle and related equipment – Reso 19-201 (General Fund).
- ❑ Mid-Year request - Transfer Out to Facilities Management \$70,000 (General Fund).
- ❑ Mid-Year request - Transfer Out to Facilities Capital \$28,000 (General Fund).
- ❑ Mid-Year request – Transfer Out to Hayward Area Shoreline JPA Fund \$12,000 (General Fund).
- ❑ Mid-Year request – PERB Settlement Adjustment \$7,394 (General Fund).
- ❑ Mid-Year request – Transfer Out to Capital Projects Measure C for EBCRS final lease payment \$52,157 (Measure C Operating Fund).
- ❑ Mid-Year request – Budget Correction - reduction for Safety Gap Analysis program from prior year budget - \$100,000 (Water Fund).
- ❑ Mid-Year request – PERB Settlement Adjustment \$6,941 (Water Fund).
- ❑ Mid-Year request – Budget reduction to Safety Gap Analysis program \$100,000 (Sewer Fund).
- ❑ Mid-Year request – PERB Settlement Adjustment \$3,691 (Sewer Fund).
- ❑ Mid-Year request – Annual Hayward Area Shoreline Planning Agency Contribution \$12,000 (Hayward Area Shoreline JPA Fund).

City Manager's Office – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$13,686,397:
 - \$233,243 in the General Fund;
 - \$370,000 in the Measure B Paratransit Fund;
 - \$668,078 in the Measure BB Paratransit Fund;
 - \$478,130 in the Federal Grants Fund,
 - \$1,111,112 in the CDBG Fund;
 - \$4,697,577 in the Housing Authority Fund;
 - \$25,333 in the Affordable Housing Fund;
 - \$4,914,693 in the Inclusionary Housing Fund;
 - \$1,121,543 in the South Hayward BART JPA Fund; and
 - \$66,688 in the RDA Successor Agency Fund.
- ❑ Appropriation of \$108,881 for a professional services agreement with CivicMakers to develop a strategic plan – Reso 19-176(General Fund).
- ❑ Appropriation of \$4,000 to increase Arts & Music Social Services funding – Reso 19-095 (General Fund).
- ❑ Appropriation of \$52,636 as an Equity Adjustment for the Management Fellow position (General Fund).
- ❑ Appropriation of \$5,784 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Appropriation of \$935 for Equity Adjustments for Measure B – Paratransit positions (Measure B – Paratransit Fund).

- ❑ Appropriation of \$935 for Equity Adjustments for Community Development Block Grant (CDBG) positions (CDBG Fund).
- ❑ Appropriation of \$801 for Equity Adjustments for Affordable Housing positions (Affordable Housing Fund).
- ❑ Appropriation of \$605,496 to match FY 2020 CDBG Award – Reso 19-095 (CDBG Fund).
- ❑ Appropriation of \$1,776,339 in Homeless Emergency Aid Program funds for operation of the Hayward Housing Navigation Center – Reso 19-015 (Local Grants Fund).
- ❑ Appropriation of \$633,667 for administration of Rent Stabilization and Tenant Protection Ordinance and Mobile Home Space Rent Stabilization Ordinance – Reso 19-136 (Rental Housing Program Fund).
- ❑ Appropriation of \$500 in donations for Martin Luther King Jr. Day Event (Hayward Trust & Agency Fund).
- ❑ Mid-Year request – Budget reduction to match FY 2020 Federal HOME Award project allocation \$20,989 (Federal Grants Fund).
- ❑ Mid-Year request – Budget increase to CDBG Public Services program to match increased Housing Revolving Loan Fund revenues \$56,758 (CDBG Fund).

City Attorney's Office – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$353,826 for professional legal services (Liability Fund).
- ❑ Appropriation of \$5,773 for Equity Adjustments for General Fund positions (General Fund).

City Clerk – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$9,799; \$6,784 for contract services (General Fund); \$3,015 for Hayward Youth Commission & Hayward Youth at Large (Hayward Trust & Agency Fund).

Development Services Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$1,051,528; \$628,501 for building and plan check services; and long-range planning consultant services (General Fund); \$423,027 for Contract Consulting Services (Hayward Area Shoreline JPA Fund.)
- ❑ Appropriation of \$142,000 for contracted security services at the Maple Ave. and Main St. property – Reso 19-175 (General Fund).
- ❑ Appropriation of \$13,446 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Mid-Year request – Consultant services for outside plan check, inspection, and permit technician, to be offset by new revenue, up to \$400,000 (General Fund).
- ❑ Mid-Year request – Budget reduction for annual HASPA contribution reallocated to Hayward Area Shoreline JPA Fund -\$12,000 (General Fund).

Finance Department – (+0.0 FTE Net Change)

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$35,365; \$34,252 for ongoing City audit and financial advisor contracts (General Fund); and \$1,113 for Water (Enterprise Fund).
- ❑ Mid-Year request – Increase in contract services for MOU administrative review, to be shared with Human Resources \$20,000 (General Fund).
- ❑ Add/Delete Staff – Delete vacant Finance Technician (1.0 FTE) and add Administrative Secretary (1.0 FTE); budget savings of \$6,474 (General Fund).

Fire Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$190,047; \$4,531 in the General Fund; \$59,415 in the Fire Educational Training Fund; \$91,604 in the Federal Grants Fund; and \$34,497 in the Local Grants Fund.
- ❑ Appropriation of \$20,000 in Alameda County Homeland Security grant funds awarded to support CERT Program – Reso 18-225 (Local Grants Fund).
- ❑ Appropriation of \$5,532 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Mid-Year request – Appropriation of \$410,365 from prior year fund balance for Hazmat Settlements (Federal Grants Fund).
- ❑ Mid-Year request – Appropriation of \$11,000 for NERT Project (Local Grants Fund).

Human Resources Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$507,063; \$98,350 in the General Fund and \$408,713 in the Workers' Compensation Fund.
- ❑ Mid-Year request – Executive search services for vacancy in key executive position \$25,000 (General Fund).
- ❑ Mid-Year request – Purchase of NeoGov performance management software \$22,000 (General Fund).
- ❑ Mid-Year request – Consultant services for implementation of new performance management pilot \$14,000 (General Fund).
- ❑ Mid-Year request – Increase in contract services for MOU administrative review, to be shared with Human Resources \$20,000 (General Fund).

Information Technology Department – (+0.0 FTE Net Change)

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$296,705; all in the Information Technology Internal Service Fund.
- ❑ Appropriation of \$3,283 for Equity Adjustments for Information Technology positions (Information Technology Internal Service Fund).
- ❑ Add/Delete Staff – Delete vacant IT Analyst (1.0 FTE) and add Programmer Analyst (1.0 FTE); net-zero fiscal impact (Information Technology Internal Service Fund).

Library Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$337,775; \$5,000 in the General Fund; \$156 in the Measure C Fund; \$160,152 in the CDBG Fund; \$53,752 in the State Grants Fund; \$59,478 in the Local Grants Fund; and \$59,237 in the Donations Fund.

- ❑ Appropriation of South Hayward Neighborhood Promise sub-grant funds for second half of calendar year 2020 \$358,831 – Reso 18-115 (Federal Grants Fund).
- ❑ Appropriation of California State Library Funding for education services programs \$101,600 – Reso 19-163 (State Grants Fund).
- ❑ Appropriation of \$18,250 in Pacific Library Partnership grant funds to support branchlet program (Local Grants Fund).
- ❑ Appropriation of \$2,122 in Northnet LSTA grant funds for Career Visioning for New Adults in Rural California Event (Local Grants Fund).
- ❑ Appropriation of \$11,500 in Chabot-Las Positas Community College District funds to support tutoring program – Reso 18-716 (Local Grants Fund).
- ❑ Appropriation of \$10,494 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Mid-Year request – Operational expenses to be reimbursed by the Literacy Council, up to \$7,184 (General Fund).

Maintenance Services Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$96,250; \$9,837 in the General Fund; \$8,176 in the Lighting & Landscaping District Funds No. 1 through No. 16; \$29,636 in the Maintenance District (MD) Funds No. 1 and No. 2; \$3,215 in the Facilities Management Fund; and \$34,198 in the Fleet Management Fund.
- ❑ Appropriation of \$1,157,710 for operation of Consolidated Landscaping and Lighting District (LLD) Zone 1 through Zone 16 – Reso 96-123 to 96-128 (LLD Funds No. 1 through No. 16).
- ❑ Appropriation of \$74,112 for operation of Maintenance District No. 1 (Maintenance District No. 1 Fund).
- ❑ Appropriation of \$131,270 for operation of Maintenance District No. 2 (Maintenance District No. 2 Fund).
- ❑ Appropriation of \$42,384 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Appropriation of \$23,209 for Equity Adjustments for Measure C positions (Measure C Fund).
- ❑ Appropriation of \$13,187 for Equity Adjustments for Water positions (Water Fund).
- ❑ Appropriation of \$11,504 for Equity Adjustments for Stormwater positions (Stormwater Fund).
- ❑ Appropriation of \$18,240 for Equity Adjustments for positions in Maintenance Services, Facilities Management Division (Facilities Management Fund).
- ❑ Appropriation of \$2,933 for Equity Adjustments for positions in Maintenance Services, Fleet Management Division (Fleet Management Fund).
- ❑ Mid-Year request – Contract services required due to vacancies \$45,000 (Facilities Management Fund).
- ❑ Mid-Year request – Budget increase for unanticipated PG&E expenses at Library \$70,000 (Facilities Management Fund).
- ❑ Mid-Year request – Replacement of two patrol vehicles totaled in recent accidents \$150,000 (Fleet Management Fund).

Police Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$638,655; \$180,196 in the General Fund; \$7,996 in the Measure C Fund; \$443,000 in the Donation Fund for special programs; and \$7,463 in the Asset Forfeiture Fund.
- ❑ Reallocation of \$8,950 in existing funds from Youth and Family Services Bureau program to the new Delinquency Prevention Network program (General Fund).
- ❑ Appropriation of funds awarded by the California Department of Justice for enforcement of illegal tobacco sales \$10,203 (General Fund).
- ❑ Appropriation of funds to be reimbursed by the Byrne Justice Assistance Grant, based on 2017 award amount of \$42,492 (General Fund).
- ❑ Appropriation of \$94,268 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Mid-Year request – Purchase and implementation of latent print case management software \$33,000 (General Fund).
- ❑ Mid-Year request – Purchase and implementation of Schedule Express software for patrol scheduling \$38,000 (Asset Forfeiture Fund).
- ❑ Mid-Year request – Budget increase for expenses related to California Narcotics Officers' Association conference attendance \$5,000 (Asset Forfeiture Fund).

Public Works - Engineering & Transportation Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$167,665; \$166,831 for contract consulting services (General Fund); and \$833 in the Airport Fund.
- ❑ Appropriation of \$8,164 for Equity Adjustments for General Fund positions (General Fund).
- ❑ Appropriation of \$22,098 for Equity Adjustments for positions in Public Works Engineering and Transportation, Airport Division (Airport Fund).

Public Works - Utilities & Environmental Services Department – No Staffing Changes

- ❑ Contracts both encumbered and unencumbered carried forward from FY 2019 total \$995,675; \$223,048 in the Federal Grants Fund; \$513,580 in the State Grants Fund; \$59,886 in the Used Oil Fund; \$6,083 in the Measure D Recycling Fund; \$43,183 in the Local Grants Fund; \$76,034 in the Water Fund; \$39,047 in the Sewer Fund; and \$24,813 in the Stormwater Fund.
- ❑ Appropriation of \$527,984 in Waste Management franchise fee augmentation revenue (Recycling Measure D Fund).
- ❑ Appropriation of \$228,000 for the creation of a Water System Risk and Resilience Assessment and Emergency Response Plan (Water Replacement Fund).
- ❑ Appropriation of \$1,157 for Equity Adjustments for Measure D Recycling positions (Measure D Recycling Fund).
- ❑ Appropriation of \$77,564 for Equity Adjustments for Water positions (Water Fund).
- ❑ Appropriation of \$92,633 for Equity Adjustments for Wastewater positions (Wastewater Fund).
- ❑ Appropriation of \$2,217 for Equity Adjustments for Stormwater positions (Stormwater Fund).
- ❑ Appropriation of \$2,482 for Equity Adjustments for Recycled Water positions (Recycled Water Fund).

- ❑ Mid-Year request – Correction to FY 2020 Adopted Budget - revenue increase for projected water sales - \$1.9 million (Water Fund).
- ❑ Mid-Year request – Correction to FY 2020 Adopted Budget – reduction of \$1.5 million in Transfer-In (revenue) for Debt Service due to entry error (Wastewater Fund).

GENERAL FUND LONG RANGE FINANCIAL MODEL UPDATE
PROPOSED FY 2020 MID-YEAR

SUMMARY FORECAST (\$ in Thousands)	Actual	Actual	Actual	Actual	Actual	Adopted	Mid-Year	Adjusted	Projected	Projected	Projected	Projected	Projected	Projected	Projected
	2014-15	2015-16	2016-17	2017-18	2018-19	Budget	Adjustments	Budget	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Property Tax	\$42,128	\$44,159	\$47,196	\$51,236	\$54,468	\$56,949	\$ -	\$56,949	\$58,282	\$57,258	\$59,244	\$61,281	\$63,395	\$64,827	\$66,302
Sales Tax	31,058	33,059	34,839	33,389	\$35,024	35,122	3,711	38,833	36,862	38,457	40,065	41,708	42,762	43,846	44,961
UUT	15,681	22,041	20,754	17,488	16,935	18,135	-	18,135	18,271	18,705	19,149	19,604	19,996	20,396	20,804
Real Property Transfer Tax	5,710	7,849	8,350	9,168	12,256	15,500	-	15,500	15,035	15,561	16,106	16,670	17,003	17,343	17,690
Transient Occupancy Tax	2,033	2,591	2,560	2,808	2,823	2,600	-	2,600	2,806	3,188	3,300	3,415	3,483	3,553	3,624
Cannabis Revenue	-	-	-	-	-	250	(240)	10	250	270	292	315	340	367	397
Other Taxes/Franchises	14,618	14,915	14,337	14,531	14,750	16,044	-	16,044	16,091	16,451	16,820	17,197	17,508	17,825	18,148
Permits & Fees	9,939	12,218	14,917	8,486	10,298	9,205	-	9,205	9,092	9,391	9,699	10,017	10,243	10,474	10,711
Other Revenue	9,784	13,136	11,754	17,336	17,893	14,670	39	14,709	15,035	15,267	15,436	15,605	15,844	16,148	16,458
Transfer In-Other Funds	4,515	3,845	3,855	3,960	17,357	3,964	-	3,964	3,969	3,979	3,990	4,001	4,012	4,023	4,035
Transfer In-Measure C	-	213	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Revenues	135,466	154,026	158,561	158,401	181,804	172,439	3,511	175,950	175,693	178,527	184,100	189,813	194,586	198,803	203,131
Salaries/Wages	63,732	67,543	70,003	71,681	73,975	79,767	237	80,004	82,368	84,464	86,523	88,837	90,853	92,914	95,027
Overtime	6,973	8,592	9,254	10,370	9,574	3,320	10	3,330	3,415	3,498	3,577	3,657	3,740	3,824	3,911
Retirement	18,008	20,675	23,021	23,366	26,951	31,952	-	31,952	33,945	37,652	39,675	41,722	44,010	45,597	47,208
Health/Other Benefits	12,241	12,196	12,437	12,341	12,222	14,580	-	14,580	15,370	16,194	17,062	17,984	18,952	19,976	21,059
Retiree Medical	4,308	3,880	2,847	3,794	5,020	5,678	-	5,678	7,838	9,798	10,197	10,615	10,976	11,336	11,759
Workers Comp	5,324	5,732	6,284	6,207	6,786	7,142	-	7,142	7,375	7,562	7,746	7,954	8,134	8,319	8,508
Interdept Charges	(3,731)	(4,450)	(4,015)	(5,155)	(3,803)	(4,361)	-	(4,361)	(4,485)	(4,594)	(4,698)	(4,804)	(4,912)	(5,023)	(5,136)
Vacancy Savings	-	-	-	-	-	(2,631)	-	(2,631)	(2,068)	(2,124)	(2,182)	(2,247)	(2,331)	(2,393)	(2,457)
Subtotal Personnel	106,855	114,168	119,831	122,604	130,724	135,448	246	135,694	143,758	152,449	157,900	163,718	169,421	174,550	179,878
Supplies & Services	10,767	9,559	10,113	11,050	12,238	10,636	843	11,479	10,758	10,973	11,192	11,416	11,644	11,877	12,115
Internal Service Fees	11,553	13,336	14,413	11,863	15,504	17,162	-	17,162	17,506	17,856	18,213	18,577	18,949	19,328	19,714
Debt Service	3,299	3,445	3,572	3,283	2,857	3,434	-	3,434	2,790	2,790	2,790	2,790	2,790	2,790	2,790
Capital Outlay/Projects	1,924	2,141	1,653	2,858	8,784	1,935	4,524	6,459	2,265	2,625	2,665	2,610	2,615	2,615	2,585
Economic Development / Other Funds	350	-	350	350	3,550	350	82	432	350	350	350	350	350	350	350
Insurance	2,338	2,338	2,889	2,907	2,950	3,139	-	3,139	3,202	3,266	3,331	3,398	3,466	3,535	3,606
Additions/(Reductions)	-	6,023	3,977	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal O&M	30,230	36,843	36,967	32,310	45,884	36,656	5,450	42,106	36,870	37,859	38,541	39,140	39,813	40,494	41,159
Total Expense	137,085	151,011	156,798	154,914	176,608	172,104	5,696	177,800	180,628	190,308	196,441	202,858	209,234	215,045	221,037
Chng in Res-Surplus/(Shortfall)	(1,620)	3,015	1,763	3,487	5,196	336		(1,849)	(4,934)	(11,781)	(12,341)	(13,045)	(14,648)	(16,241)	(17,906)
Beginning Balance	33,420	31,684	30,829	29,679	32,385	36,877		36,877	35,028	30,093	18,312	5,971	(7,074)	(21,723)	(37,964)
CAFR Adjustments	(116)	(3,870)	(2,913)	(781)	(704)										
Ending Balance	31,684	30,829	29,679	32,385	36,877	37,213	-	35,028	30,093	18,312	5,971	(7,074)	(21,723)	(37,964)	(55,870)

Balance as % of Total Expense	23.1%	20.4%	18.9%	20.9%	20.9%	21.6%		19.7%	16.7%	9.6%	3.0%	-3.5%	-10.4%	-17.7%	-25.3%
Balance at 20% of Expenses	27,417	30,202	31,360	30,983	35,322	34,421		35,560	36,126	38,062	39,288	40,572	41,847	43,009	44,207
Amt Above or (Below) 20%	4,267	627	(1,681)	1,402	1,555	2,792		(532)	(6,032)	(19,750)	(33,318)	(47,646)	(63,570)	(80,973)	(100,078)

Measure C
20-Year Financial Forecast Update
Proposed FY 2020 Mid-Year

Updated February 2020																				
Measure C 20-Year Financial Forecast																				
Year Ref.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Fiscal Year	Actual FY 2015	Actual FY 2016	Actual FY 2017	Actual FY 2018	Actual FY 2019	Estimated FY 2020	Projected FY 2021*	Projected FY 2022*	Projected FY 2023*	Projected FY 2024*	Projected FY 2025*	Projected FY 2026*	Projected FY 2027*	Projected FY 2028*	Projected FY 2029*	Projected FY 2030*	Projected FY 2031*	Projected FY 2032*	Projected FY 2033*	Projected FY 2034*
Revenues																				
Measure C	8,090,470	13,436,227	14,189,607	15,216,260	16,906,772	17,264,000	17,771,000	18,265,000	18,748,000	18,747,000	18,680,000	19,084,000	19,465,680	19,854,994	20,252,093	20,657,135	21,070,278	21,491,684	21,921,517	22,359,948
Bond Issuance		65,789,797																		
Chabot Commitment						20,000,000														
Total Revenues	8,090,470	79,226,024	14,189,607	15,216,260	16,906,772	37,264,000	17,771,000	18,265,000	18,748,000	18,747,000	18,680,000	19,084,000	19,465,680	19,854,994	20,252,093	20,657,135	21,070,278	21,491,684	21,921,517	22,359,948
Expenditures																				
Capital Expenditures																				
Library/Learning Center		10,607,338	17,372,241	17,051,095	11,255,976	1,773,786														
Fire Facilities Design		930,859	1,285,242	284,537	149,600															
Fire Station 1			358,293	618,851	33,618															
Fire Station 2			587,183	1,571,806	115,294															
Fire Station 3			472,826	1,622,186	101,437															
Fire Station 4			114,900	1,609,051	187,088															
Fire Station 5			75,973	1,207,322	333,621															
Fire Station 6				65,762	277,514	2,656,724	6,500,000	4,000,000												
Fire Training Academy			681,043	2,025,836	732,088	9,061,034	26,500,000	23,500,000												
Street Rehabilitation		490,845	10,554,232	652,521	32,113					2,000,000								2,000,000		
Police Building Rehab										2,000,000	4,000,000	3,000,000								
EBRCS Radios					1,314,719	1,337,438														
Other Projects*				15,809	226,221	350,000	200,000	125,000					4,000,000	4,000,000	4,000,000					
Subtotal	-	12,029,042	31,501,932	26,724,776	14,759,288	15,178,982	33,200,000	27,625,000	-	4,000,000	4,000,000	3,000,000	4,000,000	4,000,000	4,000,000	-	-	2,000,000	-	-
Operating Expenditures																				
Police Services		569,836	1,793,135	1,935,134	2,888,328	2,819,329	3,016,682	3,227,850	3,453,799	3,695,565	3,954,255	4,231,053	4,527,227	4,844,132	5,183,222	5,546,047	5,934,270	6,349,669	6,794,146	7,269,736
Maintenance Services	205,969	708,249	601,999	614,581	774,354	1,295,629	1,386,323	1,483,366	1,587,201	1,698,305	1,817,187	1,944,390	2,080,497	2,226,132	2,381,961	2,548,698	2,727,107	2,918,004	3,122,265	3,340,823
Other Department Services					143,403	134,116														
Subtotal	205,969	1,278,084	2,395,134	2,549,715	3,806,085	4,249,074	4,403,005	4,711,215	5,041,001	5,393,871	5,771,441	6,175,442	6,607,723	7,070,264	7,565,182	8,094,745	8,661,377	9,267,674	9,916,411	10,610,560
Debt Service Expenditures																				
		2,326,436	2,859,637	2,732,875	5,430,063	5,424,813	5,420,938	5,419,563	5,415,313	5,407,938	5,425,488	5,419,188	5,436,938	5,434,838	5,434,063	5,426,800	5,424,913	5,420,657	5,379,350	5,372,350
Total Expenditures	205,969	15,633,562	36,756,704	32,007,366	23,995,436	24,852,869	43,023,943	37,755,778	10,456,313	14,801,808	15,196,929	14,594,630	16,044,661	16,505,102	16,999,245	13,521,545	14,086,290	16,688,330	15,295,761	15,982,910
Annual Cash Flow	7,884,501	63,592,462	(22,567,097)	(16,791,106)	(7,088,664)	12,411,131	(25,252,943)	(19,490,778)	8,291,687	3,945,192	3,483,071	4,489,370	3,421,019	3,349,892	3,252,848	7,135,590	6,983,988	4,803,353	6,625,756	6,377,038
Cumulative Fund Balance	7,884,501	71,476,963	48,909,867	32,118,760	25,030,095	37,441,226	12,188,283	(7,302,495)	989,192	4,934,384	8,417,455	12,906,825	16,327,845	19,677,737	22,930,585	30,066,175	37,050,163	41,853,517	48,479,273	54,856,311

*The amounts identified for capital projects in future fiscal years of this projection are conceptual only and have not been approved or appropriated. Appropriation and allocation of these funds will occur annually with adoption of the City's Operating and Capital budgets.



CITY OF HAYWARD

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

File #: LB 20-012

DATE: March 17, 2020

TO: Mayor and City Council

FROM: City Manager

SUBJECT

Middle Income Affordable Housing Financing Program: Adopt a Resolution Approving a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorize the City Manager to Execute Purchase Option Agreements with CalCHA

RECOMMENDATION

That Council adopts a Resolution (Attachment II) authorizing participation in a financing model to fund the acquisition and/or development of affordable housing for middle income households that will require the City to:

- 1) Become a member of the California Community Housing Agency (CalCHA);
- 2) Support CalCHA's issuance of tax-exempt bonds for the production, preservation, and protection of essential middle-income rental housing; and
- 3) Authorize the City Manager to execute purchase option agreements with CalCHA to acquire (or assign to a non-profit affordable housing provider) the middle-income housing as a public benefit

SUMMARY

Catalyst Housing (Catalyst) has developed a financing model to create affordable housing for the essential middle-income workforce and proposes using Essential Housing Revenue Bonds issued by CalCHA to finance the acquisition or development of essential middle-income housing. This housing will be deed restricted for low-income and moderate-income households in the City of Hayward. To satisfy the public purposes for which the bonds will be authorized to be issued, the owner, CalCHA, commits, through the execution of a regulatory agreement, to support, preserve, and provide low-income, median-income, and moderate-income rental housing. Additionally, as a term of the regulatory agreement, Catalyst will not displace existing tenants that are over-income for the program. CalCHA will also satisfy the public purposes of the bonds by granting all surplus project revenues to the City as a term of the Purchase Option Agreement.

Staff recommends approval of a resolution that limits the City Manager's authority, requires verification of displacement prevention provisions in the regulatory agreement, excludes FPI from participating in the project, and evaluates the option of transferring ownership to tenants. The resolution will authorize

the City to:

- Become a member of CalCHA;
- Support and approve CalCHA's issuance of tax-exempt bonds for the acquisition of existing rental properties or development of new units as a means towards the production, preservation and protection of essential middle-income rental housing within the City limits; and
- Enter into a Purchase Option Agreement with CalCHA.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	CalCHA Executed JPA Agreement



DATE: March 17, 2020

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Middle Income Affordable Housing Financing Program: Adopt a Resolution Approving a Financing Model that Supports the Development of Middle-Income Affordable Housing and Authorize the City Manager to Execute Purchase Option Agreements with CalCHA

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SUMMARY

Catalyst Housing (Catalyst) has developed a financing model to create affordable housing for the essential middle-income workforce and proposes using Essential Housing Revenue Bonds issued by CalCHA to finance the acquisition or development of essential middle-income housing. This housing will be deed restricted for low-income and moderate-income households in the City of Hayward. To satisfy the public purposes for which the bonds will be authorized to be issued, the owner, CalCHA, commits, through the execution of a regulatory agreement, to support, preserve, and provide low-income, median-income, and moderate-income rental housing. Additionally, as a term of the regulatory agreement, Catalyst will not displace existing tenants that are over-income for the program. CalCHA will also satisfy the public purposes of the bonds by granting all surplus project revenues to the City as a term of the Purchase Option Agreement.

Staff recommends approval of a resolution that limits the City Manager's authority, requires verification of displacement prevention provisions in the regulatory agreement, excludes FPI

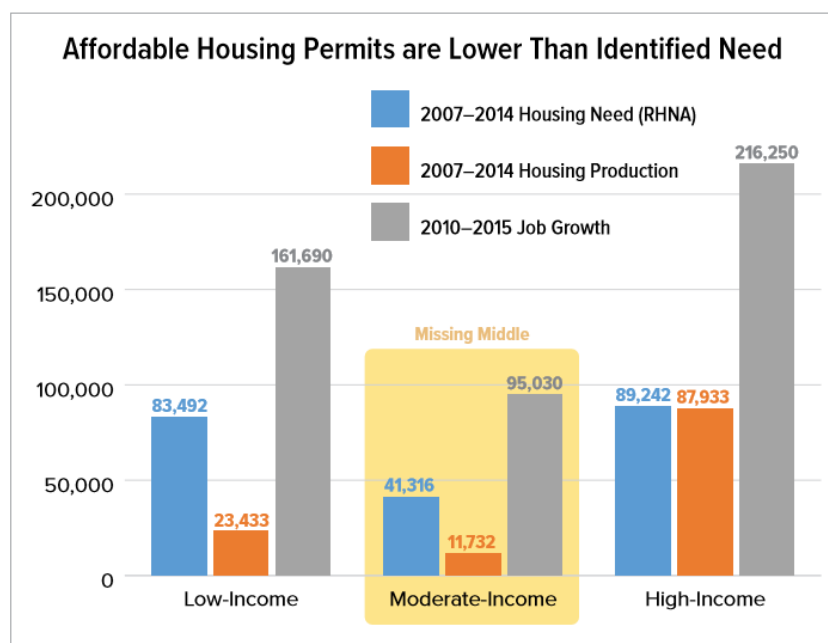
from participating in the project, and evaluates the option of transferring ownership to tenants. The resolution will authorize the City to:

- Become a member of CalCHA;
- Support and approve CalCHA's issuance of tax-exempt bonds for the acquisition of existing rental properties or development of new units as a means towards the production, preservation and protection of essential middle-income rental housing within the City limits; and
- Enter into a Purchase Option Agreement with CalCHA.

BACKGROUND

Hayward, like other cities in the Bay Area, is experiencing rising housing prices, severe housing instability for its most vulnerable populations, displacement of existing residents, and increasing homelessness. The increase in Hayward's and the Bay Area's population, absent a corresponding increase in housing units, has caused rents and prices to rise as supply has failed to meet demand. **Figure 1** illustrates the disparity between job growth in the region and housing production, which has increased demand for housing throughout the Bay Area and the low housing production rates for moderate-income households¹.

Figure 1. Regional Housing Production Compared to Job Growth.



Source: Casa Compact¹

The City has been actively pursuing policies and programs to help alleviate the issues facing the Hayward community due to the housing crisis. Over the past three years, the City Council

¹ [Casa Compact](#)

has subsidized the development of 259 units of affordable housing, adopted a new Residential Rent Stabilization and Tenant Protection Ordinance, updated the Affordable Housing Ordinance, and approved numerous residential developments that include on-site affordable units or are exclusively affordable.

On February 25, 2020², Council held a work session to discuss the proposed financing model that supports the development and/or preservation of middle-income housing. Council was generally supportive of the items, but identified topics for further review including:

- Add limitations to the City Manager's authority to ensure periodic review of the program by Council.
- Ensure that there is a mechanism to prevent displacement of the existing tenants if the program is used to acquire occupied rental housing.
- Ensure that FPI Property Management will not be responsible for managing properties acquired utilizing the financing.
- Ensure that, when the City exercises its option to purchase, that it evaluates the possibility of transferring ownership to existing residents.

On March 3, 2020, Council approved a workplan to incentivize housing production in the City of Hayward, which included a proposal to pilot a moderate-income affordable housing financing model. This model would utilize tax-exempt bonds to finance the development and/or acquisition of essential middle income housing and would require that the City join the newly formed CalCHA, support CalCHA's issuance of tax-exempt bonds for the production, preservation and protection of essential middle-income housing, and authorize the City Manager to execute purchase option agreements with CalCHA for each housing project.

The purpose of this staff report is to discuss items posed by Council for further review and seek authorization to participate in the financing model.

Housing Element Compliance and Progress Reports.

Local jurisdictions report their progress meeting their RHNA goals. **Table 1** (below) reflects the progress made towards meeting Hayward's RHNA goal as of the last report year (2018), estimated progress based on number of units entitled, and progress based on projects seeking approval, for the period between 2015-2023. **Table 2** provides the income limits associated with each income category for Alameda County. Permits to construct the units must be issued in order to count toward the City's RHNA goals.

² February 25, 2020 Staff Report and Attachments:

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

Table 1. 2015 -2023 RHNA Goal Progress in the City of Hayward

Income Category	Unit Goal	Reported 2018		Approved		Pending Approval		Estimated Compliance		Estimated Deficiency	
		Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal	Units	% of goal
Very low	851	40	5%	224	26%	103	12%	367	43%	484	57%
Low	480	19	4%	241	50%	22	5%	282	59%	198	41%
Moderate	608	0	0%	40	7%	21	3%	61	10%	547	90%
Above Moderate	1981	873	44%	2,617	132%	318	16%	3,808	192%	0	N/A

Table 2. Income limits by Income Category and Household Size for Alameda County as Established by California Department of Housing and Community Development

Income Category	Household Size							
	1	2	3	4	5	6	7	8
Extremely Low 30% AMI*	\$26,050	\$29,750	\$33,450	\$37,150	\$40,150	\$43,100	\$46,100	\$49,050
Very low 50% AMI*	\$43,400	\$49,600	\$55,800	\$61,950	\$66,950	\$71,900	\$76,850	\$81,800
Low 80% AMI*	\$69,000	\$78,850	\$88,700	\$98,550	\$106,450	\$114,350	\$122,250	\$130,100
Median 100% AMI	\$78,200	\$89,350	\$100,550	\$111,700	\$120,650	\$129,550	\$138,500	\$147,450
Moderate 120% AMI	\$93,850	\$107,250	\$120,650	\$134,050	\$144,750	\$155,500	\$166,200	\$176,950

* Percent area median income (AMI) is used to identify income and rent levels; however, the method for calculating income limits involves assessment of multiple data points and is not necessarily a percent of the median income. For more information see <https://hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits/docs/Income-Limits-2019.pdf>

Hayward's progress towards meeting the current RHNA goals identifies the need to incentivize housing for very low-, low-, and moderate-income households. The City has the lowest compliance rate for moderate income households. Over the last Housing Element cycle, most cities did not meet their RHNA goals. In order to meet the RHNA goals, the City will have to approve a mix of 100% affordable housing properties and large mixed-income properties. Small mixed-income properties will not provide enough units to meet the goal. Additionally, the City needs to explore new financing mechanisms that can be used to fund moderate income housing to incentivize housing for the missing middle.

California Community Housing Authority (CalCHA)

In January 2019, the County of Kings and the Housing Authority of Kings County formed the CalCHA under the Joint Exercise of Powers Act. The purpose of CalCHA is to issue tax exempt bonds to finance affordable housing developments. Specifically, CalCHA has the authority to

acquire, construct, improve, operate, and dispose of real property. A copy of the original Joint Exercise of Powers Agreement can be found in Attachment III. To date, the cities of Burlingame, Fairfield, Larkspur, Menlo Park, Mountain View, Napa, and Santa Rosa, and the County of Marin, have joined as members of CalCHA.

DISCUSSION

The purpose of this staff report is to address comments from the City Council from the February 25, 2020³ work session about the proposed financing model and to seek authorization to participate in the financing model to support the development of middle-income housing. A brief summary of the proposed financing model follows. More information can be found in the February 25, 2020 staff report.

Summary of Proposed Financing Model

The proposed financing model will use Essential Housing Revenue Bonds to fund the development of rental housing or acquisition of existing housing. The use of these bond funds reduces the projects financing costs and eliminates property tax burden. This enables the owner to charge lower rents and target middle income households. However, to utilize these bond funds, the owner must provide a public benefit.

Public Benefit. Public benefit is achieved through the execution of a regulatory agreement which restricts the use of the property, and by granting all surplus project revenues to the City. The regulatory agreement that restrict use of the property will

- Restrict the occupancy to low-income, median-income, and moderate-income households,
- Limits rent increases to the lesser of the applicable rent limits or 4% of tenants rent, and
- Prevents displacement of existing residents that do not meet the income eligibility requirements.

City's Role. The City's participation in the project is required to create a public benefit. In order for Catalyst to use the proposed financing model in the City of Hayward, the City would need to:

- Become a member of CalCHA;
- Approve CalCHA's issuance of tax-exempt bonds for the acquisition of existing rental properties or development of new housing as a means towards the preservation and protection of essential middle-income rental housing within City limits;
- Enter into a Purchase Option Agreement with CalCHA; and
- Accept any surplus cash or sales proceeds generated by the property to ensure its use as a public benefit.

³ February 25, 2020 Staff Report and Attachments:

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

Terms of the Purchase Option Agreement. To formalize the City's participation in the project and ensure that these public funds will be used for public benefit, the City will need to enter into a Purchase Option Agreement for each property. The terms of the Purchase Option Agreement include:

- **Purchase Option:** Grants the City the right to purchase the property 15 years after the acquisition of a property or at any time thereafter for the remaining term of the 30-year bond. The City can transfer the option to an affordable housing provider with approval from the owner. Entering into this agreement does not obligate the City to purchase the property at any time.
- **Option Price:** The future acquisition price shall be the sum of the amount sufficient to pay all project debt, encumbrances, amounts due to other parties to the transaction, and transaction costs. The price can be reduced by assuming existing project debt or applying project revenue.
- **Surplus Cash:** Any surplus cash will be held by the trustee and then distributed to the City upon acquisition/transfer of ownership.
- **Terms of Conveyance:** City to purchase the property in as is condition with all faults.

Under the CalCHA arrangement, the City is not a direct party to the real estate transaction nor financial transaction. The bonds to be issued by the CalCHA for the project will be the sole responsibility of CalCHA, and the City will have no financial, legal, moral obligation, liability, or responsibility for the project or the repayment of the bonds. The City will have no responsibility for managing or maintaining the property unless it chooses to exercise its options and acquire the property.

Comments from City Council

The Council was generally supportive of the financing model but identified topics for further review. The items identified by Council are listed below and staff's response is provided in italics.

- **Unlimited Authority.** Add limitations to the City Manager's authority to ensure periodic review of the program by the Council.

Staff has added language to the authorizing resolution that limits the City Manager's authority to enter into Purchase Option Agreements for up to four properties totaling no more than 1,000 units for essential middle-income housing during the next five years and excludes projects that received their certificate of occupancy after 2019. Additionally, the City Manager is to evaluate the location of the property to promote equitable access to affordable housing and community amenities. In the event that the financing model is successful, staff can request additional authority based on actual performance of the model.

- **Anti-displacement.** Ensure that there is a mechanism to prevent displacement of the existing tenants if the program is used to acquire occupied rental housing.

Catalyst provided sample recorded regulatory agreements that include language that states that at the time of admission to the project, no tenant shall be denied continued occupancy of a unit in the project because their income exceeds the qualifying limit. The authorizing resolution has been revised to require that prior to entering into a Purchase Option Agreement, the City Manager shall ensure that the corresponding regulatory agreement includes such language that enables existing residents to remain in the property even if their income exceeds the qualifying income limits.

- **Exclusion of FPI Property Management.** Ensure that FPI property management will not be responsible for managing any properties acquired utilizing the proposed financing model.

The authorizing resolution has been revised to require that prior to entering into a Purchase Option Agreement, the City Manager shall ensure that the corresponding regulatory agreement prohibits hiring FPI Property Management from managing the property.

- **Ownership Opportunities for Existing Residents.** Evaluate the possibility of transferring ownership to existing residents when the City exercises its option to purchase a property financed with this model.

The authorizing resolution has been revised to state that prior to exercising the option under the Purchase Option Agreement, Council will consider options to acquire the property, assign the City's option including transfer of ownership to the tenants, or to decline the option to purchase and determine use of any surplus revenues.

FISCAL IMPACT

While the project will stabilize much needed middle-income housing and has the potential for generating revenue from operating revenue or sales proceeds, the City will lose property tax revenue received from any existing rental properties acquired using this model. While the City does not wish to reduce its property tax base, it is the Council's goal to create housing units in the Hayward community. Staff feels that the benefit of being able to offer additional low- and moderate-income housing during the regional housing shortage and beyond is of greater value to the City. While there is no near-term fiscal impact for joining CalCHA or executing a future Purchase Option Agreement, future fiscal impact may arise out of executing a purchase agreement, which may be mitigated via the excess revenue fund. During the 15-year option period, the City would have to evaluate its capacity to acquire the property or explore the option of assigning its option to a nonprofit housing provider or transferring ownership to the tenants. The agreement does not create an obligation on the part of the City to purchase or acquire the property, in the event the City chooses not to purchase the property.

STRATEGIC ROADMAP

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

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

NEXT STEPS

If Council adopts the resolution (Attachment II), Catalyst will begin to identify potential sites in the City to acquire. Once sites have been identified, staff will work with Catalyst to negotiate the Purchase Option Agreements for approval by the City Attorney's office. Staff will also verify that the corresponding regulatory agreements include all required language, and the City Manager will execute the Option Purchase Agreement consistent with the requirements established in the resolution.

Prepared by: Christina Morales, Housing Division manager

Recommended by: Jennifer Ott, Deputy City Manager

Approved by:

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

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 20-_____

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD AUTHORIZING THE CITY TO BECOME A MEMBER OF THE CALIFORNIA COMMUNITY HOUSING AGENCY (“CALCHA”); SUPPORTING CALCHA’S ISSUANCE OF TAX-EXEMPT BONDS FOR THE PRODUCTION, PRESERVATION AND PROTECTION OF ESSENTIAL MIDDLE-INCOME RENTAL HOUSING; AND AUTHORIZING THE CITY MANAGER TO ENTER INTO PURCHASE OPTION AGREEMENTS WITH CALCHA FOR ESSENTIAL MIDDLE-INCOME RENTAL HOUSING CREATED WITHIN CITY LIMITS

WHEREAS, one of the primary goals of the City of Hayward (the “City”) is to meet the growing housing needs of its residents by actively supporting the production, preservation and protection of market-rate and affordable rental housing for all; and

WHEREAS, no existing federal, state or local subsidies, programs or motivations currently exist to meaningfully address the growing shortfall of protected middle-income rental housing; and

WHEREAS, CalCHA is a Joint Powers Authority created specifically to produce, preserve and protect quality affordable rental housing made available to California’s essential middle-income workforce; and

WHEREAS, CalCHA intends to develop rental housing or acquire existing rental properties within City limits and restrict future occupancy to middle-income households earning no more than 120% of area median income; and

WHEREAS, CalCHA will avoid the displacement of existing residents, implement regulatory agreements restricting the incomes and rents of future residents, and impose caps on the annual rent increases of qualified middle-income households; and

WHEREAS, CalCHA will finance its acquisitions through the issuance of tax-exempt bonds, and in order for CalCHA to issue tax-exempt bonds in Hayward, the City must be an Additional Member of CalCHA; and

WHEREAS, the City proposes to become an Additional Member of CalCHA pursuant to Section 12 of the Joint Exercise of Powers Agreement Relating to the California Community Housing Agency; and

WHEREAS, subsequent to becoming a member of CalCHA, any existing rental housing within City limits which CalCHA intends to acquire and finance with tax-exempt bonds must receive support and approval from the City; and

WHEREAS the City proposes to support and approve CalCHA's issuance of tax-exempt bonds for the acquisition of existing rental properties as a means towards the preservation and protection of essential middle-income rental housing within City limits; and

WHEREAS, CalCHA's issuance of tax-exempt bonds will provide public benefit through the production, preservation and protection of below-market-rate rental housing, as well as the granting of all surplus project revenues to the City; and

WHEREAS, pursuant to one or more purchase option agreements (the "Purchase Option Agreements"), between CalCHA and the City, CalCHA will grant the City the option, but never the obligation, to purchase each essential middle-income rental housing property commencing on the date fifteen (15) years after CalCHA's acquisition of such property; and

WHEREAS, the City Manager will evaluate the location of the properties to promote equitable access to affordable housing and community amenities; and

WHEREAS, the Purchase Option Agreements will additionally provide the City with any surplus project revenues from each essential middle-income rental housing property at the time the City exercises its option or declines to purchase the property; and

WHEREAS, the City will maintain the option to exercise such Purchase Option Agreements for a period of fourteen (14) years following the commencement dates of the Purchase Option Agreements for each essential middle-income rental housing property; and

WHEREAS, prior to exercising the option under Purchase Option Agreements, Council will consider options to acquire the property, assign the City's option including transfer of ownership to tenants, or decline the option to purchase and determine use of any surplus revenues; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes the City to become a member of CalCHA and authorizes the City Manager to execute the Joint Exercise of Powers Agreement Relating to the California Community Housing Agency, subject to approval as to form by the City Attorney.

BE IT FURTHER RESOLVED that the City Council of the City of Hayward hereby supports and approves CalCHA's issuance of tax-exempt bonds as a means towards the production, preservation and protection of essential middle-income rental housing within City limits.

BE IT FURTHER RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager to enter into Purchase Option Agreements , consistent with this resolution and its basic purpose, with CalCHA over the next five (5) years for no more than four (4) properties totaling no more than 1,000 units for essential middle-income housing created within City limits, excluding projects that received their certificate of occupancy after 2019, subject to approval as to form by the City Attorney.

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

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2020

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

**JOINT EXERCISE OF POWERS AGREEMENT
RELATING TO THE CALIFORNIA COMMUNITY HOUSING AGENCY**

THIS AGREEMENT, dated as of January 29, 2019, among the parties executing this Agreement (all such parties, except those which have withdrawn as provided herein, are referred to as the "Members" and those parties initially executing this Agreement are referred to as the "Charter Members"):

WITNESSETH

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Members is a "public agency" as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

WHEREAS, each of the Members is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare; and

WHEREAS, each of the Members may accomplish the purposes and objectives described in the preceding preamble by various means; and

WHEREAS, each Member is also empowered by law to acquire, construct, improve, operate and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Members, including but not limited to acquiring, constructing, improving, operating and disposing of real property for a public purpose, all as specified in this Agreement, and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue or execute non-recourse debt, which may include bonds, notes, commercial paper or any other evidences of indebtedness, leases, installment sale or other financing agreements or certificates of participation therein (herein "Obligations"), and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California to accomplish its public purposes; and

WHEREAS, the Members have determined to specifically authorize a public entity authorized pursuant to the Joint Exercise of Powers Act to issue non-recourse Obligations pursuant to the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California; and

WHEREAS, it is the desire of the Members to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake the financing and/or refinancing of projects that provide, preserve and support affordable local housing for low-income, moderate-income and middle-income families and individuals within the jurisdictions of the Members, including, but not limited to, capital or working capital projects, purchase or acquisition of property, receivables, commodities, bonds, other revenue streams or assets of any kind, liability or other insurance, or retirement programs, or facilitating Members use of existing or new financial instruments and mechanisms in the furtherance of this purpose; and

WHEREAS, by this Agreement, each Member desires to create and establish the "California Community Housing Agency" for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. Purpose.

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Powers Act or any other applicable law, including, but not limited to, the issuance of non-recourse Obligations for any purpose or activity permitted under the Joint Exercise of Powers Act or any other law; provided, however that such purpose shall be solely for the acquisition, construction, rehabilitation, ownership, operation, maintenance, administration and/or financing of multifamily housing for low-income, moderate-income and middle-income families and individuals (the "Purpose"). Such Purpose will be accomplished and said power exercised in the manner hereinafter set forth.

Section 2. Term.

This Agreement shall become effective in accordance with Section 17 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members; provided, however, that this Agreement shall not terminate or be terminated until all Obligations issued or caused to be issued by the Agency (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement, resolution or other instrument pursuant to which such Obligations are issued.

Section 3. Agency.

A. CREATION AND POWERS OF AGENCY.

Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the "California Community Housing Agency" (the "Agency"), and said Agency shall be a public entity separate and apart from the Members. Its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any Members, and the Obligations of the Agency shall only be non-recourse obligations.

B. BOARD.

The Agency shall be administered by the Board of Directors (the "Board," or the "Directors" and each a "Director") whose members shall be, at all times, members of the Board of Supervisors (the "Board of Supervisors") of Kings County, California, with each such Director serving in his or her individual capacity as Director of the Board. The term of office as a member of the Board shall terminate when such member shall cease to be a member of the Board of Supervisors and the successor to such member of the Board of Supervisors shall become a member of the Board.

Notwithstanding the preceding paragraph, the Board may by resolution or bylaws provide for changes in the qualifications, composition and number of Directors, the appointment of Directors, successors, their respective terms of office and any other provisions relating to the qualification and office of the Directors, including provision for alternative Directors (in which case all references in this Agreement to any Director shall be deemed to refer to and include the applicable alternate Director, if any, when so acting in place of a regularly appointed Director).

The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein.

Directors shall not receive any compensation for serving as such, but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a Director, if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

The officers of the Agency shall be the Chair, Vice-Chair, Secretary and Treasurer (defined below). The Board, in its capacity as administering agent of this Agreement, shall elect a Chair, a Vice-Chair, and a Secretary of the Agency from among Directors to serve until such officer is re-elected or a successor to such office is elected by the Board. The Board shall appoint one or more of its officers or employees to serve as treasurer, auditor, and controller of the Agency (the "Treasurer") pursuant to Section 6505.6 of the Joint Exercise of Powers Act to serve until such officer is re-elected or a successor to such office is elected by the Board.

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Obligations (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent, and except as may otherwise be specified by resolution of the Board, the Treasurer is designated as the depository of the Agency to have custody of all money of the Agency, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Agency is designated as the public officer or person who has charge of, handles, or has access to any property of the Agency, and such officer shall file an official bond with the Secretary of the Agency in the amount specified by resolution of the Board but in no event less than \$1,000.

The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Power Act or any other applicable law, to delegate any of its functions to one or more of the Directors or officers, employees or agents of the Agency and to cause any of said Directors, officers, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Agency.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of

California. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(4) Minutes.

The Secretary of the Agency shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors present at the meeting, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Agency may adopt, from time to time, by resolution of the Board such bylaws, policies or rules and regulations for the conduct of its meetings and affairs as may be required.

Section 4. Powers.

The Agency shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for the Purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the method provided in this Agreement. The Agency is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, improve, own, maintain and operate, or provide for maintenance and operation, and sell, lease, pledge, assign, mortgage or otherwise dispose, of any property, improvements, commodities, leases, contracts, receivables, bonds or other revenue streams or assets of any kind relating to the Purpose; to exercise the power of condemnation; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to establish and collect fees; to form public benefit nonprofit corporations or other affiliate entities to accomplish any of its Purposes; to make grants, loans or provide other financial assistance to governmental, nonprofit and for profit organizations to accomplish any of its Purposes; and generally to do any and all things necessary or convenient to accomplish its Purposes. The boundaries of the Agency shall encompass the boundaries of all the Members and the powers of the Agency may be exercised anywhere within those boundaries or to the extent permitted by the laws of the State of California, including, but not limited to the Joint Exercise of Powers Act,

outside of those boundaries, which may be outside of the State of California, provided that the power of condemnation may only be exercised within the jurisdictional boundaries of the Charter Members.

Without limiting the generality of the foregoing, the Agency may issue or cause to be issued Obligations, and pledge any property, contracts or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law.

The manner in which the Agency shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California county could exercise such powers and perform such duties. The manner in which the Agency shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

Section 5. Fiscal Year.

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 2019.

Section 6. Disposition of Assets.

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Agency, all property of the Agency both real and personal shall automatically vest in the Members in the manner and amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

Section 7. Obligations.

From time to time the Agency shall issue Obligations, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its Purposes under this Agreement, including but not limited to acquiring, constructing, improving, operating and disposing of real property for a public purposes.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing or refinancing or on post-issuance compliance or administration may be used by the Agency. The expenses of the Board shall be paid from the proceeds of the Obligations, payments made by Obligation obligors or other third parties, or any other unencumbered funds of the Agency available for such purpose.

Section 8. Obligations Only Limited and Special Obligations of Agency.

The Obligations, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Agency. The Obligations shall be only special non-recourse obligations of the Agency, and the Agency shall under no circumstances be obligated to pay the Obligations except from revenues and other funds pledged therefor. Neither the Members nor the Agency shall be obligated to pay the principal of, premium, if any, or interest on the Obligations, or other costs incidental thereto, except the Agency from the revenues and funds pledged and available therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Agency shall be pledged to the payment of the principal of, premium, if any, or interest on the Obligations nor shall the Members or the Agency in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Obligation or related document shall be deemed to be a covenant or agreement of any Director, or any officer, employee or agent of the Agency in his or her individual capacity, and neither the Board of the Agency nor any Director or officer thereof executing the Obligations shall be liable personally on any Obligation or be subject to any personal liability or accountability by reason of the issuance of any Obligations.

Section 9. Accounts and Reports.

All funds of the Agency shall be strictly accounted for. The Agency shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Obligations). The books and records of the Agency shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Agency shall cause an independent audit to be made of the books of accounts and financial records of the Agency by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Agency may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Agency. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing on the first day of July, October, January, and April of each year to the Board and the Charter Members which report shall describe the amount of money held by the Treasurer for the Agency, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude

amounts held by a trustee or other fiduciary in connection with any Obligations to the extent that such trustee or other fiduciary provided regular reports covering such amounts.)

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

Section 10. Funds.

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Agency funds, the Treasurer of the Agency shall receive, have the custody of and disburse Agency funds pursuant to the accounting procedures developed under Sections 3.C and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

Section 11. Notices.

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided that, to the extent permitted by law, the Agency may provide notices and other communications and postings electronically (including, without limitation, through email or by posting to a website).

Section 12. Additional Members/Withdrawal of Members.

Qualifying public agencies may be added as parties to this Agreement and become Charter Members upon: (1) the filing by such public agency with the Agency of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Charter Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

Qualifying public agencies may also be added as Non-Charter Members ("Additional Members") of the Agency upon: (1) the filing by such public agency with the Agency of a resolution of the governing body of such public agency requesting to be added as an Additional Member of the Agency, and (2) adoption of a resolution of the Board approving the addition of such public agency as an Additional Member. An Additional Member may limit in the aforementioned resolution the scope of its Additional Membership to what is necessary or appropriate to facilitate the financing or refinancing of one or more specified projects or programs.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however, that at least one Member shall be a Charter Member and no such withdrawal shall result in the dissolution of the Agency so long as any Obligations remain outstanding. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Board, which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.

Section 13. Indemnification.

To the full extent permitted by law, the Board may authorize indemnification by the Agency of any person who is or was a Director or an officer, employee or other agent of the Agency, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Agency, against expenses, including attorneys fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Agency and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Agency, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. The Board may purchase a policy or policies of insurance in furtherance of any indemnification obligation created or otherwise in protection of Directors, officers, employees or other agents.

Section 14. Contributions and Advances.

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Agency by the Members for any of the Purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Agency and the Member making such advance at the time of such advance. It is mutually understood and agreed to that no Member has any obligation to make advances or contributions to the Agency to provide for the costs and expenses of administration of the Agency, even though any Member may do so. The Members understand and agree that a portion of the funds of the Agency that otherwise may be allocated or distributed to the Members may instead be used to make grants, loans or provide other financial assistance to governmental units and to nonprofit organizations to accomplish any of the governmental unit's or nonprofit organization's purposes.

Section 15. Immunities.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Agency while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

Section 16. Amendments.

Except as provided in Sections 3B and 12 above, or to cure any error, omission or ambiguity in this Agreement, this Agreement shall not be amended, modified, or altered except with (i) written consent of all holders of any outstanding bonds of the Agency, (ii) written consent of each of Charter Member, and (iii) negative consent of each Additional Member. To obtain the negative consent of each such Additional Member, the following negative consent procedure shall be followed: (a) the Agency shall provide each such Additional Member with a notice at least sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and this negative consent procedure; (b) the Agency shall provide each such Additional Member who did not respond a reminder notice with a notice at least thirty (30) days prior to the date such proposed amendment is to become effective; and (c) if no such Additional Member objects to the proposed amendment in writing within sixty (60) days after the initial notice, the proposed amendment shall become effective with respect to all Members.

Section 17. Effectiveness.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from two of the Charter Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Charter Member approving this Agreement and the execution and delivery hereof.

Section 18. Partial Invalidity.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

Section 20. Miscellaneous.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement shall be governed under the laws of the State of California.

This Agreement is the complete and exclusive statement of the agreement among the Members, which supercedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized representatives as of the day and year first above written.

Charter Member:

KINGS COUNTY

By Joe Neves
Name: Joe Neves
Title: Chairman JAN 29 2019

ATTEST:

By Melanie Curtis
Name: Melanie Curtis
Title: Deputy Clerk to the Board of Supervisors

Charter Member:

HOUSING AUTHORITY OF THE
COUNTY OF KINGS

By Joe Neves
Name: Joe Neves
Title: Chairman

ATTEST:

By Jennifer Molina
Name: Jennifer Molina
Title: Deputy Clerk to the Board of Supervisors



CITY OF HAYWARD

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

File #: RPT 20-039

DATE: March 17, 2020

TO: Mayor and City Council

FROM: Council Member Wahab

SUBJECT

Consider an Item for Discussion on a Future City Council Agenda Regarding the “Preserve & Protect Our Neighbors” Annexation of the Unincorporated Areas of Alameda County by the City of Hayward

RECOMMENDATION

That Council discusses whether staff time and City resources should be devoted to researching an item regarding the “Preserve & Protect Our Neighbors” Annexation of the Unincorporated Areas of Alameda County by the City of Hayward.

SUMMARY

Council Member Wahab requests that the Council consider an item for discussion on a future City Council agenda regarding the “Preserve & Protect Our Neighbors” Annexation of the Unincorporated Areas of Alameda County by the City of Hayward.

ATTACHMENTS

Attachment I Council Referral Memorandum

COUNCIL REFERRAL MEMORANDUM



Date: 3/17/20
To: Mayor and City Council of Hayward
From: Council Member Aisha Wahab
Referral: **Consider an Item for Discussion on a Future City Council Agenda Regarding the “Preserve & Protect Our Neighbors” Annexation of the Unincorporated Areas of Alameda County by the City of Hayward.**

Background:

Hayward, CA is the third largest city in Alameda County and is surrounded by the Unincorporated Areas: Cherryland, Hayward Acres, Ashland, Fairview, San Lorenzo, El Portal Ridge, Fairmont, Fairmont Terrace, Five Canyons and Hillcrest Knolls. These areas are not governed by a municipality, rather by the Board of Supervisors of Alameda County. Some unincorporated areas have fought hard to develop a local body, such as a municipal advisory council, in an effort to have more local control of neighborhoods. Many reports suggest that the unincorporated area is most vulnerable to displacement, need of emergency services, fees, higher taxes, lack of control over zoning, and much more.

Primarily, by becoming a part of Hayward, the unincorporated areas would benefit by having more control over land use and development, revitalization of residential and commercial areas, tax equity, improved community identity, local advocates for an improved quality of life, a stronger voice in the public safety and other services they receive, and even more (higher minimum wage, rent stabilization, tenant protections, etc.).

It is recommended that the City of Hayward begin an analysis of the potential impacts of annexation, transparently explain the process, and annex the area.

The benefits of annexation for the unincorporated area:

- Receive a higher minimum wage
- Receive permanent tenant protections, just cause evictions, and rent control (unlike AB1482 that is binding for only 10 years)
- Regular maintenance (infrastructure), public safety (police and fire), and other city-provided services

Benefits to the City of Hayward:

- Larger influence in Alameda County due to increased size
- Larger revenue base for the City of Hayward
- Neighboring areas are uniform to City standards

Unincorporated areas also receive less maintenance on roads, sidewalks, and many of the other services that a traditional city provides to neighborhoods. This often leads to slower response times, streets needing repairs, and much more. The best option for unincorporated areas is to become a city or in this case, become a part of a current city.

Annexation Considerations (but not limited to):

- Assessment of the boundaries of the Cherryland and Hayward Acres neighborhoods and consideration of other areas that could be included in a potential annexation
- Cost/Benefit (revenue and expenditure) analysis of the impact of annexation on both the City of Hayward and the residents and businesses in the annexation area.
- Analysis of benefits to residents of the unincorporated areas such as: emergency services, housing, economic development, and safety nets (rent control, tenant protections, just cause eviction, minimum wage and other benefits) to the unincorporated residents
- Transparency of the process of annexation

Timeline: 30-60 days

Stakeholders: Alameda County Board of Supervisors, Alameda County Municipal Advisory Councils, Local Agency Formation Commission, residents, business owners, other organizations, etc.

Supplementals:

- Letter of Support from Hayward Firefighters 1909
- Letter of Support from Hayward Police Officers Association

Annexation Supports the Hayward Strategic Roadmap:

- Goal 1: **Preserve, Protect, & Produce Housing**
- Goal 2: **Grow the Economy**
- Goal 3: **Combat Climate Change**
- Goal 4: **Improve Infrastructure**
- Goal 5: **Improve Organizational Health**
- Goal 6: **Support Quality of Life**

Prepared & Submitted By:

Aisha Wahab

Aisha Wahab, M.B.A.

Hayward City Council Member



Hayward Firefighters • Local 1909

22734 Main Street • Hayward, California 94541-5007

Business Line: (510) 885-1909 • Office/Fax (510) 885-0385

Mayor and Council Members,

The Hayward Firefighters Local 1909 of the International Firefighters lend our full favor and support for the proposed annexation of Cherryland (formerly known as Hayward North).

We believe that the Citizens of Hayward North deserve the greater service that can be provided by a City Government that is more focused and receptive to the needs of their own. The sovereignty of the citizens of this community would weld well with our own.

The Hayward Firefighters Local 1909 believe that bringing this Hayward Community within the government of the City of Hayward would be mutually beneficial. The citizens of Cherryland will have a greater voice on how their tax dollars are utilized not only for public safety but for all services that the City of Hayward provides.

The Hayward Firefighters Local 1909 are giving their full support and approval for annexation.

Thank you for considering this community.

Andrew Ghali

President Hayward Firefighters Local 1909



Hayward Police Officer's Association
300 West Winton Avenue, Hayward CA 94544
Office (510) 293-7207 Fax (510) 293-7208

Greetings,

The Hayward Police Officers Association is in full support of the annexation of Cherryland into the city of Hayward. We believe that the citizens of Cherryland should benefit and be part of our Hayward community.

The Citizens of Cherryland should be able to have a voice on what and how they utilize their tax dollars not only for public safety but for all the services the city of Hayward have to offer. We look forward to working with you and the community to explore and analyze this transition.

The Hayward Police Officers Association give their full support.

Thank you for considering joining our community.

Ricardo Flores

President of the Hayward Police Officers Association



CITY OF HAYWARD

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

File #: RPT 20-040

DATE: March 17, 2020

TO: Mayor and City Council

FROM: Council Member Wahab

SUBJECT

Consider an Item for Discussion on a Future City Council Agenda Regarding "Emergency Stay in Place Ordinance" During a Declaration of an Emergency

RECOMMENDATION

That the City Council discusses whether staff time and City resources should be devoted to researching an item regarding "Emergency Stay in Place Ordinance" during a declaration of an emergency.

SUMMARY

Council Member Wahab requests that the Council consider an item for discussion on a future City Council agenda regarding "Emergency Stay in Place Ordinance" during a Declaration of an Emergency.

ATTACHMENTS

Attachment I Council Referral Memorandum

COUNCIL REFERRAL MEMORANDUM



Date: 3/17/20
To: Mayor and City Council of Hayward
From: Council Member Aisha Wahab
Referral: **Consider an Item for Discussion on a Future City Council Agenda Regarding “Emergency Stay In Place Ordinance” during a Declaration of an Emergency**

Background:

Hayward, CA is the third largest city in Alameda County and is the “Heart of the Bay”. The current Coronavirus Disease 2019 or COVID-19 is just one example of how important it is to respond efficiently and effectively to an emergency, whether it be a natural disaster or a respiratory illness first identified across the world. Many residents will feel direct impacts to their daily life such as schools shutting down, job loss, wage loss, business closures, and other health and economic impacts.

Referral Request:

It is recommended that the City of Hayward prepare a policy that provides a temporary moratorium on evictions/foreclosures in the City of Hayward to all residents where a failure to pay rent/mortgage is a result from wage loss during an emergency. We must avoid an even greater emergency that would result from displacing thousands of residents from their homes.

This policy should be effective at any time when:

- The City, County, State, or Federal Authority declares a state of emergency.

Actions to Consider:

- The moratorium shall remain in effect for a period of 30 days from the Council resolution, and be brought back to the Council for consideration of extending the duration if the situation demands it.
- The affected resident must demonstrate loss of income due to the emergency through documentation. Examples: job loss, reduction of compensated hours, business/office closure, missing work due to care for another (parent, child, etc.), etc.
- Residents must notify landlord, banks, etc. of substantial wage loss (layoffs, closure, etc.)
- The City shall support landlords and home and business owners in advocating with organizations (banks, city, service providers, etc.) for temporary relief from property taxes, utility charges, and foreclosures.
- Evaluation of such policy after 90-120 days.

Timeline: As soon as possible, at the discretion of the City Manager – no longer than 30-60 days

Stakeholders: Homeowners, Renters, Business Owners, Service Providers, etc.

Prepared & Submitted By:

Aisha Wahab

Aisha Wahab, M.B.A.

Hayward City Council Member



CITY OF HAYWARD

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

File #: MIN 20-037

DATE: March 17, 2020

TO: Geologic Hazard Abatement District Board

FROM: GHAD Manager

SUBJECT

Approve GHAD Minutes of the Board Meeting on February 25, 2020

RECOMMENDATION

That the GHAD Board approves GHAD Board meeting minutes of February 25, 2020.

SUMMARY

The GHAD Board held a meeting on February 25, 2020.

ATTACHMENTS

Attachment I Draft Minutes of February 25, 2020

**MINUTES OF JOINT CITY COUNCIL/HAYWARD GEOLOGIC HAZARD
ABATEMENT DISTRICT BOARD MEETING
OF THE CITY OF HAYWARD
Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 25, 2020**

The Joint City Council/Hayward Geologic Hazard Abatement District Board meeting was called to order by Board Chair Halliday at 7:02 p.m., followed by the Pledge of Allegiance led by Board member Zermeño.

ROLL CALL

Present: BOARD MEMBERS Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas
and Chair Halliday

Absent: None

MINUTES

1. Accept the Minutes of the May 7, 2019 meeting of the GHAD Board of Directors. It was moved by Board Member Lamnin and seconded by Board Member Márquez, to approve the Minutes of the May 7, 2019 meeting of the GHAD Board of Directors; the motion carried unanimously (7-0-0).

PUBLIC HEARING

2. GHAD Manager Eric Harrell provided the staff report regarding the Board's consideration to accept transfer of the Hayward GHAD's Plan of Control responsibilities for certain eligible parcels from The Reserve development (Tract 7620) to the Hayward GHAD. La Vista, LP, the developer of The Reserve, applied to the GHAD Manager for transfer of certain parcels within the development. The GHAD Manager recommended the Board approve the transfer of 206 parcels for monitoring, maintenance, and/or ownership responsibilities.

A condition of approval of the La Vista development required the developer to form a Lighting and Landscape Assessment District ("LLD"). The developer formed and annexed to Benefit Zone No. 14 of LLC No. 96-1. Some LLD improvements within the 13 parcels eligible for transfer to the GHAD will be required to be maintained by the City so GHAD staff also recommended the Board consider granting a right of entry to the City of Hayward in connection with this LLD. The Board directed that consideration of the Right of Entry be continued to the next scheduled Board meeting to allow time for the City Attorney to work with GHAD Counsel to finalize the Right of Entry.

Board member Márquez requested confirmation that Parcels A and P were located within the open space/park area of The Reserve and that the detention basin within the open space/park area would be maintained by the GHAD. GHAD Manager confirmed the detention basin would be maintained by the GHAD.

GHAD staff noted corrections be made to Resolution No. 20-01 related to the GHAD's name and the LLD.

It was moved by Board member Zermeño and seconded by Board member Márquez to approve Resolution No. 20-01, with amendments to correct the GHAD name and to remove text references to the LLD, to accept transfer of Plan of Control responsibilities for 13 parcels within The Reserve development (Tract 7620); motion carried unanimously (7-0-0).

3. GHAD Manager provided a brief staff report regarding changing the designation of the GHAD Treasurer from "Watermark Asset Management, Inc.", to "GHAD Treasurer, Inc." and introduced Mark Miller and Dave Fernandez with GHAD Treasurer, Inc. to the Board. The change in designation is necessary since Watermark Asset Management was acquired by CAPTRUST in 2019 warranting a separation in treasurer services versus investment management services. GHAD Manager also recommended that a formal contract for Treasurer services be approved by the Board.

Board member Lamnin requested the contract for services be modified to reflect the mileage rate be adjusted according to the IRS's mileage rate and Mr. Miller responded he was amenable to the proposed modification.

Board member Márquez inquired whether the Treasurer would be providing monthly, quarterly, and annual reports directly to the Board and Mr. Miller responded the Treasurer would be providing those reports directly to the Board. Mr. Miller also reported the Board members will each have on-line access to the GHAD account to monitor revenue and expense activities and daily balances.

It was moved by Board member Márquez and seconded by Board member Lamnin to approve Resolution No. 20-02 to change the Treasurer designation to GHAD Treasurer, Inc., and to approve a contract for Treasurer services; motion carried unanimously (7-0-0).

4. GHAD Manager provided the staff report regarding approval of the GHAD budget for the remainder of the 2019-2020 fiscal year since the Board has now accepted transfer of monitoring, maintenance, and/or ownership responsibilities of 206 of The Reserve parcels. GHAD Manager proposed a budget for these activities for the remainder of the 2019-2020 fiscal year in the amount of \$36,650.

Board member Mendall asked whether there was a spending limit on the GHAD Manager. GHAD Manager responded that he would return to the Board to request authority to exceed the budget in the event of the GHAD's need to respond to an emergency and costs in excess of \$36,500 were incurred.

It was moved by Board member Mendall and seconded by Board member Márquez to approve Resolution No. 20-03 to approve the budget for the remaining fiscal year; motion carried unanimously.

ADJOURNMENT

GHAD Board Chair Halliday adjourned the meeting at 7:32 pm.

APPROVED:

Barbara Halliday, Board Chair,
Hayward Geologic Hazard Abatement District

ATTEST:

Patricia E. Curtin Clerk,
Hayward Geologic Hazard Abatement District



CITY OF HAYWARD

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

File #: PH 20-020

DATE: March 17, 2020

TO: Geologic Hazard Abatement District Board

FROM: GHAD Manager and GHAD Attorney

SUBJECT

Resolution Approving a Right-of-Entry Agreement between the City of Hayward and the Hayward Geologic Hazard Abatement District (GHAD) Authorizing the City to Access GHAD-Owned Property to Maintain Lighting and Landscape District No. 96-1 Improvements

RECOMMENDATION

Staff recommends that the Hayward GHAD Board of Directors adopt Resolution 20-04 approving a right-of-entry agreement between the City of Hayward and the GHAD.

SUMMARY

As part of the formation of the Hayward GHAD, the GHAD Board of Directors approved a Plan of Control and Engineer's Report for the La Vista (The Reserve) development (Tract 7620) that outlined a process for the developer to transfer long-term monitoring and maintenance responsibilities to the GHAD when specified conditions had been met. As planned, in addition to monitoring and maintenance responsibilities, the GHAD will own selected parcels within Tract 7620. GHAD staff verified that selected parcels were eligible for transfer and this transfer was approved by the GHAD Board of Directors on February 25, 2020. Several of the parcels have Lighting and Landscape District No. 96-1-maintained landscaped improvements on the GHAD owned parcels.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Exhibit A to Resolution (Right-of-Entry and Agreement Regarding Open Space Property)

**HAYWARD
GEOLOGIC HAZARD ABATEMENT DISTRICT**

TO: Hayward GHAD Board of Directors

**FROM: GHAD Manager
GHAD Attorney**

BOARD MEETING DATE: March 17, 2020

SUBJECT: Resolution Approving a Right-of-Entry Agreement between the City of Hayward and the Hayward Geologic Hazard Abatement District (GHAD) Authorizing the City to Access GHAD-Owned Property to Maintain Lighting and Landscape District No. 96-1 Improvements

RECOMMENDATION(S):

Staff recommends that the Hayward GHAD Board of Directors adopt Resolution 20-04 approving a right-of-entry agreement between the City of Hayward and the GHAD.

SUMMARY:

As part of the formation of the Hayward GHAD, the GHAD Board of Directors approved a Plan of Control and Engineer's Report for the La Vista (The Reserve) development (Tract 7620) that outlined a process for the developer to transfer long-term monitoring and maintenance responsibilities to the GHAD when specified conditions had been met. As planned, in addition to monitoring and maintenance responsibilities, the GHAD will own selected parcels within Tract 7620. GHAD staff verified that selected parcels were eligible for transfer and this transfer was approved by the GHAD Board of Directors on February 25, 2020. Several of the parcels have Lighting and Landscape District No. 96-1-maintained landscaped improvements on the GHAD-owned parcels.

BACKGROUND AND DISCUSSION:

A condition of approval for the La Vista development required the developer to form a Lighting and Landscape Assessment District ("LLD"). La Vista, LP formed and annexed the development to Benefit Zone No. 14 of LLD No. 96-1. On February 25, 2020, the GHAD Board of Directors approved Resolution No. 20-01, accepting ownership of, and Plan of Control responsibilities for, 13 parcels within Tract 7620. Eight of the 13 parcels require the City to access GHAD-owned parcels in order to undertake the work of LLD No. 96-1. The GHAD Board, therefore, is granting a Right of Entry to the City of Hayward to allow the LLD work to be undertaken on GHAD property. Table 1 identifies which GHAD-owned open space parcels will require the City to enter in order to undertake work.

TABLE 1: Parcels with LLD Maintained Improvements

ASSESSOR'S PARCEL NUMBER	DESCRIPTION (Tract 7620)	GHAD ACCEPTANCE	LLD MAINTAINED IMPROVEMENT AREAS
83-477-4	Parcel C	Yes	Yes
83-480-1	Parcel D	Yes	Yes
83-480-2	Parcel N	Yes	Yes
83-478-6	Parcel O	Yes	Yes
83-480-3	Parcel U	Yes	Yes
83-480-4	Parcel V	Yes	Yes
83-75-2-15	Unsurveyed Remainder	Yes	Yes
83-125-1-14	Unsurveyed Remainder	Yes	Yes
83-75-2-9	La Vista LP 2006-301610	Yes	No
83-75-2-11	La Vista LP 2007-408664	Yes	No
83-75-2-13	La Vista LP 2007-408664	Yes	No
83-125-1-18	La Vista LP 2007-408664	Yes	No
83-125-1-21	La Vista LP 2007-408664	Yes	No

If the Right-of-Entry agreement for the parcels listed in Table 1 is approved by the GHAD Board of Directors by resolution, the GHAD will execute an agreement with the City to allow access for LLD No 96-1's landscape, lighting, and maintenance responsibilities on the identified parcels.

FISCAL IMPACT:

LLD No. 96-1 is funded by property assessments from homeowners within Benefit Zone No. 14. There is no fiscal impact on the GHAD.

NEXT STEPS:

Future GHAD-owned Parcels "B" and "P" within The Reserve development are not currently eligible for the transfer of GHAD responsibilities, but do include LLD-maintained improvements. At a later date, when transfer of GHAD maintenance responsibilities and ownership are brought before the GHAD Board of Directors for these two parcels, a separate Right-of-Entry agreement for these two parcels will be included for Board consideration.

Prepared by: The GHAD Manager and GHAD Attorney

Recommended by: GHAD Manager

ATTACHMENTS:

- A. Resolution 20-04 to Approve Right-of-Entry Agreement between the City of Hayward and the Hayward Geologic Hazard Abatement District (GHAD) Authorizing the City to Access GHAD-Owned Property to Maintain **Lighting and Landscape District No. 96-1** Improvements.

B. Exhibit A to Resolution (Right-of-Entry and Agreement Regarding Open Space Property)

THE BOARD OF DIRECTORS OF HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT

RESOLUTION NO. 20-04

APPROVING A RIGHT-OF-ENTRY AGREEMENT BETWEEN THE CITY OF HAYWARD AND THE HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD) AUTHORIZING THE CITY TO ACCESS GHAD-OWNED PROPERTY TO MAINTAIN LIGHTING AND LANDSCAPE DISTRICT NO. 96-1 IMPROVEMENTS

WHEREAS, on March 1, 2016, the City Council adopted Resolution 16-030, approving and ordering formation of the Hayward Geologic Abatement District (GHAD) as described in the GHAD Plan of Control for the La Vista subdivision (Tract 7620) and appointed itself to act as the GHAD Board of Directors (the "Board"); and

WHEREAS, on October 25, 2016 the Hayward GHAD adopted Resolution No. 16-03 that approved the Plan of Control for the La Vista (The Reserve) development; and

WHEREAS, on February 25, 2020, the Hayward GHAD approved the transfer of ownership, monitoring, and maintenance responsibilities for GHAD activities from the developer of the La Vista (The Reserve) development to the GHAD; and

WHEREAS, a condition of approval of the La Vista development required the developer to form a Lighting and Landscape Assessment District ("LLD") which is required to enter GHAD property in order to undertake the maintenance and repair work of LLD No. 96-1. The GHAD Board, therefore, is granting a Right of Entry to the City of Hayward to allow the LLD work to be undertaken on GHAD property.

NOW, THEREFORE, BE IT RESOLVED that the Hayward GHAD Board of Directors hereby orders that:

1. A Right-of-Entry Agreement between the City of Hayward and the Hayward Geologic Hazard Abatement District (GHAD) Authorizing the City to Access GHAD-Owned Property to Maintain Lighting and Landscape District No. 96-1 Improvements be approved.
2. This Resolution shall become effective immediately upon its passage and adoption.

IN COUNCIL, HAYWARD, CALIFORNIA March 17, 2020

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____

Clerk of Hayward Geologic Hazard
Abatement District
Board of Directors of the City of Hayward

APPROVED AS TO FORM:

General Counsel of the Hayward Geologic Hazard Abatement District

Attachment 1- Right of Entry Agreement

RECORDING REQUESTED BY, AND
WHEN RECORDED RETURN TO:

Hayward Geologic Hazard Abatement District
Board of Directors
c/o Hayward GHAD Manager
ENGEO Incorporated
2010 Crow Canyon Place, Suite 250
San Ramon, CA 94583
Attention: Eric Harrell

THIS SPACE ABOVE FOR RECORDER'S USE

RIGHT OF ENTRY AND AGREEMENT REGARDING OPEN SPACE PROPERTY

This Right of Entry and Agreement Regarding Open Space Property (the "Agreement") is entered into as of March 17, 2020 (the "Effective Date"), by and between the CITY OF HAYWARD, a municipal corporation ("CITY") and HAYWARD GEOLOGIC HAZARD ABATEMENT DISTRICT, a California district organized and existing under the laws of the State of California ("GHAD").

RECITALS

This Agreement is made with reference to and reliance upon the following:

WHEREAS, the City approved a 179-lot residential subdivision by and through Final Map, Subdivision 7620, filed on May 3, 2016, in Book 339 of Maps, at pages 46 through 69, all in the Official Records of Alameda County, California (the "La Vista Development" or "Development").

WHEREAS, Condition of Approval #84 of the Subdivision 7620 required the formation of the GHAD to include the Development. Condition of Approval # 35 required the Development to form a Lighting and Landscape Assessment District ("LLD"). La Vista formed and annexed the Development to Benefit Zone No. 14 of LLD No. 96-1.

WHEREAS, the GHAD is the owner of real property consisting of parcels C, D, N, O, U, V and APN 083-075-002-15 and more particularly described in Exhibit A hereto (the "Property"). GHAD is the sole owner in fee simple of the Property.

WHEREAS, GHAD therefore desires to allow the City and its representatives, employees, agents, consultants, contractors, and subcontractors (collectively, "City's Agents"), to enter upon and to undertake any and all actions on the Property that are necessary to perform the work required of LLD 96-1 and which is consistent with the GHAD Plan of Control.

WHEREAS, the City and GHAD have agreed to execute this Agreement in order to establish the rights, duties and obligations of the City and the GHAD with regard to the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions, and restrictions contained herein, CITY and GHAD hereby agree as follows:

1. **Right of Entry.** GHAD hereby grants to CITY and to CITY's Agents the perpetual right to enter onto the Property at any time and from time to time, without prior notice to GHAD, in order to conduct any and all activities necessary for the performance of the CITY Work described below in Section 2 (the "Right of Entry").

2. **CITY's Duties and Obligations.** CITY will have the following rights and obligations with respect to the Property:

2.1 City shall be solely responsible to maintain and service the following on GHAD property including firebreak landscaping, groundcover, shrubs, trees, and weed abatement in planted area, upkeep and servicing of the irrigation system; graffiti removal, renovations and replacements; and maintenance of bioswales and tree filters.

2.2 CITY shall be solely responsible for all costs associated with performing the CITY Work, including payment of any and all water and utility bills.

2.3 CITY shall, at its sole expense, repair any damage done to the Property or to any improvements thereon that are in any manner whatsoever damaged, destroyed, or removed in connection with the exercise by CITY or CITY's Agents of the rights herein granted.

3. **GHAD's Duties and Obligations.** GHAD will have the following rights and obligations with respect to the Property:

3.1 GHAD shall be solely responsible for managing the Property consistent with the terms of the Plan of Control and shall have all rights accruing from its ownership of the Property.

3.2 GHAD shall take no action, with the exception of the prevention, mitigation, abatement, or control of geologic hazards as provided in the GHAD Plan of Control, which will interfere with or adversely affect the performance of the CITY Work. If such interference or adverse effect occurs due to actions or events caused by or within the control of GHAD, GHAD shall take all actions necessary to correct such interference or adverse effect.

4. **Indemnification by CITY.** CITY shall defend (with counsel acceptable to GHAD), indemnify, protect, and hold harmless GHAD, its officers, directors, employees, officials, agents, representatives and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "GHAD Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expense, cause of action, claims, demands or judgments, including without limitation reasonable attorneys' fees, arising from or in any way connected with: (a) any activities of CITY or of any of CITY's Agents on the Property or under this Agreement, including without limitation CITY's failure to pay when due all claims for labor or materials furnished or alleged to have been furnished to CITY at, or for use on, the Property; (b) any injury to, or death of, any person, or physical damage to the Property or to any personal

property thereon, resulting from any act by CITY or CITY's Agents occurring on the Property, except to the extent such injury, death or damage is caused by the negligent act or intentional misconduct of any of the GHAD Indemnified Parties; (c) the breach of any of the terms of this Agreement by CITY.

5. **Indemnification by GHAD.** GHAD shall defend (with counsel acceptable to CITY), indemnify, protect, and hold harmless CITY, its officers, directors, employees, officials, agents, representatives and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "CITY Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expense, cause of action, claims, demands or judgments, including without limitation reasonable attorneys' fees, arising from or in any way connected with: (a) any activities of GHAD or of any of GHAD's Agents on the Property or under this Agreement, including without limitation GHAD's failure to pay when due all claims for labor or materials furnished or alleged to have been furnished to GHAD at, or for use on, the Property; (b) any injury to, or death of, any person, or physical damage to the Property or to any personal property thereon, resulting from any act by GHAD or GHAD's Agents occurring on the Property, except to the extent such injury, death or damage is caused by the negligent act or intentional misconduct of any of the CITY Indemnified Parties; (c) the breach of any of the terms of this Agreement by GHAD; or (d) any conditions existing on the Property as of the Effective Date.

6. **Successors.** The covenants, terms, conditions, rights and obligations of GHAD under this Agreement shall run with the land and shall be binding upon and inure to the benefit of GHAD and its respective successors and assigns. The successors and assigns of GHAD's interest in the Property shall have the right to enforce the terms of the Agreement against CITY and/or CITY's successors and assigns. CITY shall likewise have the right to enforce the terms of the Agreement against GHAD and its and/or GHAD's successors and assigns.

7. **Notice and Cure.** In the event of a default by either party under this Agreement, the non-defaulting party shall provide thirty (30) days written notice of such default to the defaulting party, during which time the defaulting party shall be entitled to cure said default. In the event that the default cannot reasonably be cured within thirty (30) days, the defaulting party shall be entitled to diligently pursue cure of the default until finally cured. If the default by either party remains uncured at the end of the thirty (30) day cure period, or, in the event that the default cannot reasonably be cured within thirty (30) days, if the defaulting party fails to continue diligently to cure such default, the non-defaulting party shall be entitled to exercise all rights or remedies available at law or in equity.

8. **Miscellaneous**

8.1 **Entire Agreement.** This Agreement, and the Exhibits attached hereto, which are incorporated herein by this reference, embodies the entire agreement between CITY and GHAD relative to the subject matter hereof, and there are no oral agreements existing between CITY and GHAD relative to the subject matter hereof that are not expressly set forth herein and covered hereby.

8.2 Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

8.3 Controlling Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

8.4 Attorney's Fees. In any proceeding between the parties hereto seeking enforcement of or attempting to construe any of the terms and provisions of this Agreement, including without limitation any litigation seeking legal, declaratory or other relief, the prevailing party in such action shall be awarded, in addition to damages, injunctive, or other relief, its reasonable costs and expenses and reasonable attorneys' fees.

8.5 Notices. Any notice required or permitted to be delivered hereunder shall be in writing and personally delivered or sent by United States mail, postage prepaid, certified or registered mail, return receipt requested; by facsimile transmission; or by Federal Express, UPS or similar nationally recognized overnight courier service. Notice shall be deemed received upon personal delivery to the party to whom the notice is directed; or, if sent by mail, two (2) Business Days following its deposit in the United States mail, postage prepaid; or, if sent by facsimile, upon transmission; or one (1) Business Day following deposit with Federal Express, UPS or similar nationally recognized overnight courier service, addressed to CITY or GHAD, as the case may be, at the address set forth below (or at such other address as CITY or GHAD may specify by notice given pursuant to this Paragraph):

If to CITY:

City of Hayward
Attn: Public Works Director
777 "B" Street
Hayward, CA 94541

If to GHAD:

Hayward Geologic Hazard Abatement District
ENGEO Incorporated, General Manager
2010 Crow Canyon Place, Suite 250
San Ramon, CA 94583

8.6 Business Days. The term "Business Day" as used in this Agreement shall mean any day other than: (a) a Saturday, Sunday or a public holiday in the State of California; or (b) a day on which state, federal or municipal offices are closed for the conduct of business. If the time period for the performance of any act called for under this Agreement expires on a day other than a Business Day, said act may be performed on the next succeeding Business Day.

8.7 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the

remainder of the provisions of this Agreement shall continue in full force and effect without impairment.

8.8 Time of the Essence. Time is of the essence in this Agreement.

8.9 Waiver. The waiver by either party of a breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach whether of the same or another provision of this Agreement.

8.10 Counterparts and Duplicate Originals. The Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal force and effect.

8.11 Amendments in Writing. The provisions of this Agreement may not be amended or altered except by a written instrument duly executed by each of the parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date:

CITY: CITY OF HAYWARD

By: _____
Kelly McAdoo

Its: _____
City Manager

GHAD: HAYWARD GEOLOGIC HAZARD ABATEMENT
DISTRICT, a California district organized and existing under
the laws of the State of California

By: _____

Its: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[illegible]

On _____, before me, _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

EXHIBIT A

Map of the Property (Parcels C, D, N, O, U, V, and APN 083-075-002-15)

(see attached)

