

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, February 2, 2021

7:00 PM

Remote Participation

City Council

CITY COUNCIL MEETING

COVID-19 Notice: Consistent with State of California Executive Order No. 29-20 dated March 17, 2020, the City Council will be participating in public meetings via phone/video conferencing.

How to watch the meeting from home:

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

How to submit written Public Comment:

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

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

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

Click the link below to join the meeting:

<https://hayward.zoom.us/j/95810822062?pwd=MzZqRUZ5U2pqeG5XL1BOTkZBZlhzZz09>

Meeting ID: 958 1082 2062

Passcode: CCFeb2@HC!

or

Dial: +1 669 900 6833

Meeting ID: 958 1082 2062

Password: 4764814291

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

CALL TO ORDER: Mayor Halliday

Pledge of Allegiance: Council Member Andrews

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION

Black History Month

PUBLIC COMMENTS

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

ACTION ITEMS

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

CONSENT

1. [CONS 21-011](#) Adopt a Resolution Authorizing the City Manager to Amend the Agreement with OpenGov, Inc. in an Amount Not to Exceed \$294,654 for Financial Reporting and Budgeting Services

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

2. [CONS 21-054](#) Adopt a Resolution Approving Garbage and Recycling Rates for 2021-2022

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Rates Survey 2020-21](#)

3. [CONS 21-071](#) Adopt a Resolution Authorizing the City Manager to Approve the Sole Source Purchase of Self-Contained Breathing Apparatuses, and Execute a Three-year Lease Agreement with L.N. Curtis and Sons in an Amount Not to Exceed \$1,116,606

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

4. [CONS 21-072](#) Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$21,132 in Grant Funding from the Federal Emergency Management Agency for the Creation of Defensible Space in the Hayward Hills Project

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

PUBLIC HEARING

5. [PH 21-001](#) OHHA Prop. 218 Hearing: Proposition 218 Public Hearing to Receive and Tabulate Property Owner Ballots Regarding Formation and Levying of Assessments for the Old Highlands Area (OHHA) Road Improvement Assessment District, Adopt a Resolution Establishing the Old Highlands Area Road Improvement Assessment District, Approve the Final Engineer's Report, and Order Levy and Collection of Assessments for Fiscal Year 2022 (Report from Public Works Director Ameri)

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)
 [Attachment III OHHA Engineer's Report](#)

LEGISLATIVE BUSINESS

6. [LB 21-003](#) Negotiations Guiding Principles: Adopt a Resolution Approving the Policy/Goal Statements for Contract Negotiations as the Guiding Principles Document for 2021 Negotiations Between the City of Hayward and HAME, SEIU Local 1021 Maintenance and Clerical Units, and IFPTE Local 21 (Report from Finance Director Claussen)

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

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).

COUNCIL REFERRALS

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

ADJOURNMENT

NEXT SPECIAL MEETING, Saturday, February 13, 2021.

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 #: CONS 21-011

DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

Adopt a Resolution Authorizing the City Manager to Amend the Agreement with OpenGov, Inc. in an Amount Not to Exceed \$294,654 for Financial Reporting and Budgeting Services

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) authorizing the City Manager to execute a contract amendment with OpenGov, Inc. to provide reporting and analysis, budget builder, MUNIS integration, and budget book services not-to-exceed \$96,290 annually through December 20, 2022.

SUMMARY

OpenGov, Inc. (OpenGov) is a web application that allows governments to easily create and share internal operational reports, combining financial and nonfinancial data from numerous sources to develop and monitor the annual budget, keep residents, staff and Council informed, and streamline workflows from the budgeting process to long-term financial planning. The City acquired the OpenGov Reporting & Analysis product in 2017 and launched a transparency portal to provide easily accessible information about the City's budget. In 2018, the City acquired Budget Builder, Budget Book, Personnel Cost Forecasting, and MUNIS Integration products. The contract amendment will extend the City's agreement with OpenGov for a period of three years.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Adopt a Resolution Authorizing the City Manager to Amend the Agreement with OpenGov, Inc. in an Amount Not-to-Exceed \$294,654 for Financial Reporting and Budgeting Services

RECOMMENDATION

That Council adopts the attached resolution (Attachment II) authorizing the City Manager to execute a contract amendment with OpenGov, Inc. to provide reporting and analysis, budget builder, MUNIS integration, and budget book services not-to-exceed \$96,290 annually through December 19, 2023.

SUMMARY AND BACKGROUND

OpenGov, Inc. (OpenGov) is a web application that allows governments to easily create and share internal operational reports, combining financial and nonfinancial data from numerous sources to develop and monitor the annual budget, keep residents, staff and Council informed, and streamline workflows from the budgeting process to long-term financial planning. The City acquired the OpenGov Reporting & Analysis product in 2017 and launched a transparency portal to provide easily accessible information about the City's budget. In 2018, the City acquired Budget Builder, Budget Book, Personnel Cost Forecasting, and MUNIS Integration products. The contract amendment will extend the City's agreement with OpenGov for a period of three years.

DISCUSSION

Staff has worked diligently over the past several years to develop an efficient budgeting process. The time and effort spent in developing the budget is extensive. While efforts are made to create a productive and effective budget, there are many things that can be improved. The intended outcome of using the following OpenGov products is to increase financial transparency and streamline the processes staff uses to create the Operating Budget and the Capital Improvement Program Budget:

OpenGov Reporting and Analysis: City staff can create an unlimited number of reports, and choose which reports are made public, and build private or shared reports with internal staff.

The Reporting and Analysis platform includes monthly budget and actual reporting. OpenGov supports the presentation of the non-financial, performance data collected by the data. The City purchased this product in 2017.

OpenGov Budget Builder/Budget Book/Personnel Cost Forecasting: This module assists with building collaborative budgets and engages all departments within the City. OpenGov worked with staff to build department budgets and customize and organize the City's chart of accounts as needed. Working and final versions of the budget can easily be exported for further analysis and collaboration in the OpenGov intelligence reporting module. Both the Operating Budget and the Capital Improvement Program Budget are developed and modified within this software. The City purchased this product in 2018.

OpenGov MUNIS Integration: OpenGov synchronizes directly with the City's existing enterprise planning MUNIS software, which contains all financial reporting information, project data, and other data used for monthly reporting. The ability to directly synchronize multiple data sources to a single platform saves a considerable amount of staff time.

FISCAL IMPACT

There are sufficient funds budgeted in the FY 2021 operating budget to cover the cost associated with the amended professional services agreement with OpenGov, Inc. The total annual fiscal impact is \$96,290 and is included as an allocation in the Finance Department General Fund budget for FY 2021.

STRATEGIC ROADMAP

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

NEXT STEPS

If the Council approves the attached resolution, the City Manager will execute the contract amendment in a form to be approved by the City Attorney.

Prepared by: Nicole Gonzales, Deputy Director of Finance

Recommended by: Dustin Claussen, Director Finance

Approved by:



Kelly McAadoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

RESOLUTION AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES
AGREEMENT WITH OPENGOV, INC. FOR FINANCIAL REPORTING AND
BUDGETING SERVICES IN AN AMOUNT NOT-TO-EXCEED \$294,654

WHEREAS, OpenGov, Inc. is an industry leader in open data with robust dashboards
for resident transparency; and

WHEREAS, OpenGov will allow for the electronic preparation, organization, and
presentation of the City's budget in a more efficient and transparent way.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward
authorizes the City Manager to execute a three-year contract extension with OpenGov, Inc.
not-to-exceed \$96,290 annually to provide reporting and analysis, budget builder, MUNIS
integration, and budget book services.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
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File #: CONS 21-054

DATE: February 2, 2021
TO: Mayor and Council
FROM: Director of Public Works
SUBJECT

Adopt a Resolution Approving Garbage and Recycling Rates for 2021-2022

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving the recommended garbage and recycling annual rate increase of 2.838% for all residential and commercial accounts effective March 1, 2021.

SUMMARY

Refuse rates typically increase on March 1 of each year, in accordance with the Franchise Agreement between the City and Waste Management of Alameda County (WMAC) that became effective on March 1, 2015. Rate Year Seven (RY7) of the Franchise Agreement will commence on March 1, 2021. Per the Franchise Agreement, the rates for RY7 shall be set based on a Consumer Price Index (CPI) adjustment to WMAC's current revenues. The calculated RY7 increase is 2.838%.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Rates Survey 2020-21



DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Approving Garbage and Recycling Rates for 2021-2022

RECOMMENDATION

That Council adopts a resolution (Attachment II) approving the recommended garbage and recycling annual rate increase of 2.838% for all residential and commercial accounts effective March 1, 2021.

SUMMARY

Refuse rates typically increase on March 1 of each year, in accordance with the Franchise Agreement between the City and Waste Management of Alameda County (WMAC) that became effective on March 1, 2015. Rate Year Seven (RY7) of the Franchise Agreement will commence on March 1, 2021. Per the Franchise Agreement, the rates for RY7 shall be set based on a Consumer Price Index (CPI) adjustment to WMAC's current revenues. The calculated RY7 increase is 2.838%.

BACKGROUND

The Franchise Agreement between the City and WMAC for garbage, recycling, and organics collection and processing is in effect for up to ten years and details a specific rate adjustment process for each year. In the first year of the contract, rates were negotiated and agreed upon at an initial rate. The rates for years two and three were increased by 3% each year. The Franchise Agreement required the rates for RY4 be set by following a detailed cost-based adjustment to ensure that WMAC received an after-tax return on its investment of 5.5%. The rate increase for RY4 was calculated to be 5.004%. Rate Years Five through Ten are to be set through an index-type of adjustment process considering the CPI, government fees, and other factors.

Until recently, the majority of recyclables collected in the United States were shipped to China. Policy changes enacted by China in 2017 and intensified in 2018 severely and negatively impacted the U.S. recyclables export markets, especially for mixed-plastics and mixed-paper. For example, when markets were strong, processors could receive more than \$200 per ton for mixed paper. Over the last three years some haulers have had to pay to dispose of mixed paper. In addition, local processors have experienced increased costs to remove

contamination from recyclables. Residential recycling in Hayward is collected primarily by Tri-CED, a subcontractor to WMAC. Tri-CED had been experiencing operational and financial challenges due to the China National Sword. In RY5, in addition to the CPI adjustment, Tri-CED requested a special rate increase of \$2.20 per household. Council approved an additional \$2.00 per household, which was incorporated into the rates. This increase, which provides an additional revenue of approximately \$1.1 million per year to Tri-CED, was within the rate adjustment threshold approved by Council in 2015 as part of the Franchise Agreement. In RY6, Tri-CED requested an additional \$1.73 per household, which Council did not approve.

Union City granted Tri-CED additional compensation of \$2.00 per household in 2019, and in 2018 Fremont initiated a \$1.50 per household recycling fee in response to China's National Sword policy. Other Alameda County jurisdictions that have approved additional compensation to recycling processors in response to the downturn in the recycling markets include Dublin, Livermore, and Berkeley.

DISCUSSION

Staff received WMAC's rate application for RY7 in December 2020 and performed a detailed review of WMAC's application and ensured all calculations were consistent with the procedures outlined in the Franchise Agreement and confirmed the validity of the proposal. The annual percentage change in CPI between 2019 and 2020 was 1.8%; however the Agreement specifies that a minimum of 3% be used as a CPI floor in the rate calculation. After further contractual procedures that adjust for fees assessed by the State, County, and City, and for projected revenues for WMAC, the resulting increase applied to the RY7 adjustment calculation is 2.838%.

Over the past year, Tri-CED has continued to face challenges related to increased processing costs and decreased commodity values. The \$2.00 per household incorporated into the rates in 2019 was carried forward in RY6 and will be maintained again by the RY7 adjustment. Commodity markets have not noticeably changed in the past year so staff does not support any additional change to Tri-CED's compensation.

ECONOMIC IMPACT

If approved, residents and businesses would pay 2.838% more for refuse and recycling services for the period of March 1, 2021, through February 28, 2022. With a 2.838% increase, the new monthly service charge for residential customers with the standard 32-gallon cart for garbage service would be \$36.63, or \$1.01 higher than the existing rate. For residents subscribing to the smaller 20-gallon cart, the new service charge would be \$25.06, or \$0.69 higher than the existing rate. A comparison of rates with several nearby communities is included as Attachment III.

FISCAL IMPACT

With the proposed increase, which includes street cleaning and impact fees, it is projected that City revenues and franchise fees related to this agreement will increase by approximately \$265,000 annually.

STRATEGIC ROADMAP

This agenda item is not specifically related to the six Strategic Priorities included in the Strategic Roadmap adopted in December 2020. However, the franchise fees collected by the City include a Street Sweeping Fee, which supports the City's street sweeping operations and helps to address Infrastructure Project 17: *Meet regulatory requirements for zero trash in stormwater by installing trash capture devices.*

SUSTAINABILITY FEATURES

The rate increase will allow the City, WMAC and Tri-CED to continue to provide Hayward residents and businesses with recycling and composting services, so they can maximize the diversion of waste from the landfill. Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural resources, and plays an important role in making a community sustainable. No additional programs are contemplated as part of RY7 services.

PUBLIC CONTACT

The public was notified of the rate increase in 2014 as part of the new franchise agreement announcement mailed to all rate payers. That notice provided an estimated increase for each year of the franchise agreement and indicated that the increase that would be effective on March 1, 2021, would not exceed 6%. If Council approves the proposed rate increase, customers will be notified of the actual increase through bill inserts included with their garbage bill and a message printed on their garbage bill.

NEXT STEPS

The rate increase would be effective on March 1, 2021. If Council approves the rate adjustment, staff will work with WMAC to implement the new rates and advise customers. A brief statement regarding the fee increase will be printed on the customer's garbage bills.

Prepared by: Jeff Krump, Solid Waste Program Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

RESOLUTION APPROVING THE GARBAGE & RECYCLING RATE ADJUSTMENT
FOR 2021-2022

WHEREAS, the Franchise Agreement between the City of Hayward and Waste Management of Alameda County (WMAC) became effective on March 1, 2015; and

WHEREAS, garbage and recycling rates typically increase on March 1 of each year and Rate Year Seven of the Franchise Agreement will commence on March 1, 2021; and

WHEREAS, the Franchise Agreement dictates that the rates for Rate Year Seven shall be set based on a Consumer Price Index (CPI) adjustment to WMAC's projected Rate Year Six revenues, which is calculated by using several factors including the CPI, government fees, and others; and

WHEREAS, the City completed the necessary review of WMAC's rate application; and

WHEREAS, calculations based on the methodology specified in the Franchise Agreement show that an increase of 2.838% is appropriate and warranted.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby approves the increase of 2.838% from March 2021 through February 2022 for garbage and recycling rates for residents and businesses in the City of Hayward that are served under the Franchise Agreement.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Comparison of Monthly Garbage & Recycling Rates

Table 1 Multi-family Dwelling Rates (assuming 1x per week service for 20 units)

Municipality	Garbage (3cy)	Recycling (1cy)	Organics (1cy)	Total
Livermore	\$353.66	\$88.42	\$88.42	\$530.50
Hayward (current)	\$390.30	\$7.62 per unit	Included w/ Garbage	\$542.70
Hayward (proposed)	\$401.38	\$7.82 per unit	Included w/ Garbage	\$557.78
Fremont	\$246.39	\$8.94 per unit	\$150.65	\$575.84
Union City (Republic)	\$424.13	\$97.11	\$97.11	\$618.35
City of Alameda (ACI)	\$503.55	\$7.23 per unit	\$5.20 per unit	\$752.15
Castro Valley (ACI)	\$955.20	Included w/ Garbage	Included w/ Garbage	\$955.20
Oakland (WMAC)	\$837.53	\$15.75 per unit	Included w/ Garbage	\$1152.53

Table 2, Single-Family Dwelling Rates

Municipality	Garbage (20 gallon)	Garbage (30-35 gallon)*	Garbage (60-64 gallon)
Hayward (current)	\$24.37	\$35.62	\$63.52
Hayward (proposed)	\$25.06	\$36.63	\$65.32
Livermore	\$29.65	\$39.24	\$58.77
Fremont	\$38.94	\$39.72	\$43.33
City of Alameda (ACI)	\$34.91	\$44.07	\$72.40
Castro Valley (ACI)	\$32.58	\$50.51	\$87.72
Oakland (WMAC)	\$45.16	\$51.27	\$90.44
Union City (Republic)	\$43.72	\$51.52	\$90.53

*Most common container size

Table 3 Commercial Rates (assuming 1x per week service)

Municipality	Garbage (3cy)	Recycling (1cy)	Organics (1cy)	Total
Fremont	\$244.85	\$81.69	\$150.65	\$477.19
Livermore	\$353.66	\$88.42	\$88.42	\$530.50
Hayward (current)	\$390.30	\$75.75	\$75.75	\$541.80
Hayward (proposed)	\$401.38	\$77.90	\$77.90	\$557.18
Union City (Republic)	\$424.13	\$97.11	\$97.11	\$618.35
City of Alameda (ACI)	\$503.55	\$134.28	\$134.28	\$772.11
Castro Valley (ACI)	\$955.20	Included w/ Garbage	Included w/ Garbage	\$955.20
Oakland (WMAC)	\$596.26	(open market)	\$187.79	-



CITY OF HAYWARD

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File #: CONS 21-071

DATE: February 2, 2021

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT

Adopt a Resolution Authorizing the City Manager to Approve the Sole Source Purchase of Self-Contained Breathing Apparatuses, and Execute a Three-year Lease Agreement with L.N. Curtis and Sons in an Amount Not to Exceed \$1,116,606

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to approve the sole source purchase of self-contained breathing apparatuses, and enter into and execute a three-year lease agreement with L.N. Curtis and Sons in the amount not to exceed \$1,116,606.

SUMMARY

The Hayward Fire Department requires an early purchase of self-contained breathing apparatuses (SCBAs) due to the current manufacturer's solvency and inability to secure replacement parts. Staff seeks Council authorization for the City Manager to: 1) authorize and approve the sole source purchase of SCBAs; and 2) enter into and execute a three-year lease agreement with L.N. Curtis and Sons for the amount of \$1,116,606. Capital improvement budget appropriations will be included as part of the Capital Improvement Program budget process.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Proposed Lease Agreement



DATE: February 2, 2021

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT: Adopt a Resolution Authorizing the City Manager to Approve the Sole Source Purchase of Self-Contained Breathing Apparatuses, and Execute a Three-year Lease Agreement with L.N. Curtis and Sons in an Amount Not to Exceed \$1,116,606

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to approve the sole source purchase of self-contained breathing apparatuses, and enter into and execute a three-year lease agreement with L.N. Curtis and Sons in the amount not to exceed \$1,116,606.

SUMMARY

The Hayward Fire Department requires an early purchase of self-contained breathing apparatuses (SCBAs) due to the current manufacturer's solvency and inability to secure replacement parts. Staff seeks Council authorization for the City Manager to: 1) authorize and approve the sole source purchase of SCBAs; and 2) enter into and execute a three-year lease agreement with L.N. Curtis and Sons for the amount of \$1,116,606. Capital improvement budget appropriations will be included as part of the Capital Improvement Program budget process.

BACKGROUND

The SCBA is a vital piece of emergency equipment that allows the City's firefighters to enter dangerous atmospheres to affect rescues, combat fires, and mitigate other hazardous conditions while providing for a protected breathing environment through masks and air tanks. HFD currently uses Avon Deltair (Avon), an experimental product purchased in October 2015.

In the four years since that purchase, HFD sent 170 SCBA packs and 80 face mask units in for repair, averaging five pieces of equipment per month. More than half of the repairs are due to faulty Heads Up Display (HUD) cables that alert firefighters of the amount of air left in their tank. Avon has failed to re-engineer this critical piece of the working apparatus, thus increasing risk to sworn staff. Additionally, Avon ceased to continue manufacturing SCBA packs, replacement parts, and their last model failed to meet National Fire Protection Agency (NFPA) standards.

DISCUSSION

Staff identified a new reliable and reputable SCBA for replacement, which is distributed by the Department's largest and most reliable vendor, L. N. Curtis and Sons. The new packs are equipped with modern technology that increases the safety to sworn staff, improves rescue operations, and allows cross-departmental collaboration. The newly identified MSA brand SCBAs have the following upgrades that are not available on the current SCBAs:

1. New inhalation and exhalation valves, which eliminate cross-contamination with multiple users;
2. Thermal imaging cameras on each SCBA PASS device for use in the event that a firefighter needs to find their way out of a smoke-filled building or quickly find a victim;
3. Bluetooth connecting each SCBA directly to each firefighter's radio, providing clear communication as opposed to traditional voice amplification; and
4. All MSA packs meet the new NFPA standards utilizing a universal connection for all Buddy Breathing devices, allowing HFD full interoperability capabilities. Alameda County fire agencies have seamless Rapid Intervention Crew (RIC) operations and a standby rescue team deployed when firefighters are missing and unaccounted for. In the event RIC is deployed, all SCBAs would be compatible.

SCBA manufacturers must meet rigorous NFPA, National Institute for Occupational Safety and Health, and UL standards. The department has chosen the MSA brand, a reputable SCBA that meets all industry standards and has a true 15-year life.

Staff recommends a sole source justification for an existing vendor, L.N. Curtis and Sons. The established relationship between HFD and L.N. Curtis and Sons led the City to negotiate a unique three-year lease agreement, allowing the City additional time to pay down this unexpected, early purchase. HFD seeks authorization to enter into the three-year lease agreement for three payments in the amount of \$372,202 starting March 2021 and ending February 2023.

Staff recommends an amendment to the Breathing Apparatus CIP Project number (07466) to reflect the obligation of the proposed three-year lease agreement in an amount not to exceed \$1,116,606. Appropriations for lease payments will be included as part of the budget process for each subsequent fiscal year.

STRATEGIC ROADMAP

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

ECONOMIC IMPACT

There is no direct economic impact related to this operational purchase.

FISCAL IMPACT

The three-year lease agreement with L.N. Curtis and Sons shall not exceed \$1,116,606. Appropriations for each lease payment will be included as part of the annual CIP process for each subsequent fiscal year. There are sufficient funds in the FY 2021-2030 adopted CIP to cover the first lease payment of the three-year lease agreement. Additional lease payments under the three-year lease agreement will be included as part of the budget process for each subsequent fiscal year.

NEXT STEPS

Once approved, staff will purchase the new SCBAs, implement training and outfit HFD with new and reliable equipment.

Prepared by: Shanalee Gallagher, Management Analyst
Nicole Gonzales, Deputy Director of Finance

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. 21-

Introduced by Council Member _____

RESOLUTION TO AUTHORIZE AND APPROVE THE SOLE SOURCE PURCHASE OF SELF-CONTAINED BREATHING APPARATUSES AND EXECUTE A THREE-YEAR LEASE AGREEMENT WITH L.N. CURTIS AND SONS IN AN AMOUNT NOT TO EXCEED \$1,116,606

WHEREAS, the City of Hayward Fire Department has researched and identified an MSA brand self-contained breathing apparatus (SCBA) for replacement; and

WHEREAS, the breathing apparatus is a vital piece of emergency equipment that allows the City's firefighters to enter dangerous atmospheres, combat fires, and protect the life and property for the Hayward community; and

WHEREAS, the City Manager authorizes a sole source justification to purchase SCBA with L.N. Curtis and Sons.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager to execute a three-year lease agreement in an amount not to exceed \$1,116,606 with L.N. Curtis and Sons.

BE IT FURTHER RESOLVED that the City Council of the City of Hayward hereby authorizes an amendment to the Breathing Apparatus CIP Project to reflect the obligations of the three-year lease agreement with L.N. Curtis and Sons.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Equipment Lease Agreement

This agreement hereinafter called "The Agreement" is made and entered on December 1, 2020 by and between L.N. Curtis and sons ("Lessor") and City of Hayward, CA ("Lessee") collectively referred to as the "Parties".

The Parties agree as follows:

1. **Equipment:** Lessor hereby leases to Lessee the following equipment:
 - a. All equipment listed on October 29, 2020 L.N. Curtis and sons quotation #167464 for MSA brand SCBA Equipment herewith attached. (The "Equipment").
2. **Lease Term:** The lease will start on approximately February 1, 2021 and will end on approximately January 31, 2023. The start date of the lease will be the date that all Equipment is delivered to the Lessee. The end date will be two (2) years after the equipment is delivered and all payments have been received in full by Lessor.
3. **Lease Payments:** Lessee agrees to pay to Lessor \$372,201.37 within 30 days of receiving the equipment and then two (2) additional equal annual payments of \$372,201.37.
 - a. Payments of \$372,201.37 are due:
 - i. February 1, 2022.
 - ii. February 1, 2023
4. **Early Payment:** There is no penalty for early payment. The Lessee may make payments earlier than due. If Lessee desires to pay off lease purchase earlier than scheduled, contact the Lessor for payment amount and instructions. Interest will be recalculated for the interest accrued for the shorter time period.
5. **Late Charges:** If any amount under this agreement is more than ten (10) days late, Lessee agrees to pay a late fee of \$50 per day from the date that the payment was due.
6. **Total Amount:** The total amount to be paid by Lessor is \$1,116,604.11 which includes the equipment price of \$968,584.00, plus Sales Tax of \$94,436.94 plus an additional \$53,583.17 for interest. The interest rate for this lease purchase is approximately 5%.
7. **Delivery:** Lessor is responsible for all expenses and costs associated with delivery of the equipment to the Lessee.
8. **Defaults:** If Lessee fails to perform or fulfill any obligations under this Agreement, Lessee shall be in default of this agreement. Subject to any statute, ordinance or law to the contrary, Lessee shall have ten (10) days from the date of notice of default by Lessor

to cure the default. In the event Lessee does not cure a default, Lessor may at Lessor's option (a) cure such default and the cost of such action may be added to Lessee's financial obligations under this agreement; or (b) declare Lessee in default of the agreement. If Lessee shall become insolvent, cease to operate as a municipality or if a petition has been filed by or against Lessee under the Bankruptcy Act or similar federal or state status, Lessor may immediately declare Lessee in default of this agreement. In the event of default, Lessor may, as permitted by law, re-take possession of the Equipment. Lessor may, at its option, hold Lessee liable for any difference between the amount that would have been payable under this Agreement during the balance of the unexpired term and any money paid by any successive lessee if the Equipment is re-let minus the cost and expenses of such reletting. In the event Lessor is unable to re-let the Equipment during any remaining term of this agreement, after default by Lessee, Lessor may at its option hold Lessee liable for the balance of the unpaid monies under this Agreement if this Agreement had continued in force.

9. **Possession and Surrender of Equipment:** Lessee shall be entitled to possession of the Equipment on the first day of the Lease Term. At the expiration of the Lease Term, Lessee shall own the equipment, assuming all payments due and payable by the Lessee to the Lessor have been received by the Lessor.
10. **Use of Equipment:** Lessee shall only use the Equipment in a careful and proper manner and will comply with all laws, rules, ordinances, statutes, orders and manufacturers' guidelines and instructions regarding the use, maintenance or storage of the Equipment.
11. **Condition of Equipment and Repair:** Upon delivery, Lessee or Lessee's agent will inspect the equipment and acknowledge to the Lessor that the Equipment is in good and acceptable condition.
12. **Maintenance, Damage and Loss:** Lessee will, at Lessee's sole expense, keep and maintain the Equipment clean and in good working order and repair during the Lease Term. In the event the Equipment is lost or damaged beyond repair, Lessee shall pay to Lessor the replacement selling price of the Equipment. In addition, the obligations of this Agreement shall continue in full force and effect through the Lease Term.
13. **Insurance:** Lessee shall be responsible to maintain insurance on the Equipment with losses payable to Lessor against fire, theft, and other such risks as are appropriate. Upon request by Lessor, Lessee shall provide proof of such insurance.
14. **Encumbrances, Taxes and other laws:** Lessee shall keep the Equipment free and clear of any liens or other encumbrances and shall not permit any act where Lessor's title or rights may be negatively affected. Lessee shall be responsible for complying with and conforming to all laws and regulations relating to the possession, use or maintenance of

the Equipment. Furthermore, Lessee shall promptly pay all taxes, fees, licenses and governmental charges, together with any penalties or interest thereon, relating to the possession, use or maintenance of the Equipment.

15. **Lessors Representations:** Lessor represents and warrants that he/she has the right to lease the Equipment as provided in this Agreement and that Lessee shall be entitled to quietly hold and possess the Equipment, and Lessor will not interfere with that right as long as Lessee pays the Rent in a timely manner and performs all other obligations under this Agreement.
16. **Ownership:** The Equipment is and shall remain the exclusive property of Lessor until such time as all payments due and payable by the Lessee to the Lessor have been received by the Lessor.
17. **Severability:** If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.
18. **Assignment:** Neither this Agreement nor Lessee's rights hereunder are assignable except with Lessor's prior, written consent.
19. **Binding Effect:** The covenants and conditions contained in the Agreement shall apply to and bind the Parties and their legal representatives, successors and permitted assigns of the Parties.
20. **Governing Law:** This Agreement shall be governed and construed in accordance with the laws of the State of California.
21. **Notice:** Any notice required or otherwise given pursuant to this Agreement shall be in writing and mailed certified, return receipt requested, postage prepaid, or delivered by overnight delivery service to:

Lessor:

L.N. Curtis and sons
185 Lennon Lane, Suite 110
Walnut Creek, CA 94598

Lessee:

City of Hayward
22700 Main Street
Hayward, CA 94541

Either party may change such addresses from time to time by providing notice as set forth above.

ATTACHMENT III

22. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties and supersedes any prior understanding or representation of any kind preceding the date of this agreement. There are no other promises, conditions, understandings, or other agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified in writing and must be signed by both Lessor and Lessee.
23. **Cumulative Rights:** Lessor's and Lessee's rights under this Agreement are cumulative, and shall not be construed as exclusive of each other unless otherwise required by law.
24. **Waiver:** The failure of either party to enforce any provisions of this Agreement shall not be deemed a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. The acceptance of rent by Lessor does not waive Lessor's right to enforce any provisions of this Agreement.
25. **Indemnification:** Except for damages, claims, or losses due to Lessor's acts or negligence, Lessee, to the extent permitted by law, will indemnify and hold Lessor and Lessor's property, free and harmless from any liability for losses, claims, injury to or death of any person, including Lessee, or for damage to property arising from Lessee using and possessing the Equipment or from acts or omissions of any person or persons, including Lessee, using or possessing the Equipment with Lessee's express or implied consent.

This is a mutual indemnification provision. Therefore, except for damages, claims, or losses due to Lessee's acts or negligence, Lessor, to the extent permitted by law, will indemnify and hold Lessee free and harmless from any liability for any claims related to Lessor's duties and obligations under this agreement.

In witness whereof, the parties have caused this Agreement to be executed this day and year first above written. By signing this document, the parties certify that they are duly authorized and have the authority to sign for their respective company and/or agency.

CONSULTANT

Dated:_____

By

Its

CITY OF HAYWARD

Dated:_____

By_____

ATTACHMENT III

Dated:_____

By_____

Approved as to Form and Procedure:

Attest:_____

City Attorney



CITY OF HAYWARD

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

File #: CONS 21-072

DATE: February 2, 2021

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT

Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$21,132 in Grant Funding from the Federal Emergency Management Agency for the Creation of Defensible Space in the Hayward Hills Project

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to accept and appropriate \$21,132 in grant funding from Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program for the creation of defensible space in the Hayward Hills Project (Defensible Space Project).

SUMMARY

The Hayward Fire Department (HFD) was awarded \$21,132 by FEMA's Hazard Mitigation Grant Program (HMGP) to prepare for and implement a large-scale Defensible Space Project in the Hayward Hills. The scope of work for the project consists of creating a full-scale outreach campaign to educate the Hayward and Fairview communities on wildfire behavior, and the importance of defensible space for wildfire mitigation, as well as to demonstrate how to create defensible space. The project is focused on the Ward Creek Drainage area, and demonstrations will be visible in a high-trafficked area.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Award Letter



DATE: February 2, 2021

TO: Mayor and City Council

FROM: Fire Chief

SUBJECT: Adopt a Resolution Authorizing the City Manager to Accept and Appropriate \$21,132 in Grant Funding from the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program for the creation of defensible space in the Hayward Hills Project (Defensible Space Project).

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SUMMARY

The Hayward Fire Department (HFD) was awarded \$21,132 by FEMA's Hazard Mitigation Grant Program (HMGP) to prepare for and implement a large-scale Defensible Space Project in the Hayward Hills. The scope of work for the project consists of creating a full-scale outreach campaign to educate the Hayward and Fairview communities on wildfire behavior, and the importance of defensible space for wildfire mitigation, as well as to demonstrate how to create defensible space. The project is focused on the Ward Creek Drainage area, and demonstrations will be visible in a high-trafficked area.

BACKGROUND

HMGP funds are awarded to local agencies that have identified plans and projects that reduce the effects of future natural disasters. Program goals include improving the resiliency of communities and implementing effective mitigation strategies in high-risk areas. The Ward Creek Drainage area is a large canyon that originates at Walpert Ridge (elevation 1300 feet) and terminates at Mission Boulevard (elevation 300 feet). It is approximately 1,200 acres. The site includes a mix of grassland and heavy brush and sits on top of south/southwest-facing slopes. The riparian zone and north-facing slopes are oak woodland with scattered stands of eucalyptus. Heavy ladder fuels with brush, down-dead, litter, and duff are found throughout the hills, where 1,184 residential properties are situated. The Ward Creek Canyon extends along the boundaries between the City of Hayward, unincorporated Fairview, and private properties.

DISCUSSION

The Defensible Space Project consists of an education campaign and demonstration that aims to both provide defensible space education and to promote participation by the community that live within a two-mile radius of the Ward Creek Drainage area to create their own defensible space. Staff will conduct a full-scale outreach and education plan to increase knowledge about wildfires, reiterate the importance of mitigation strategies for property owners, and address general safety concerns. The Defensible Space Project is based on a previously delivered and successful educational campaign on defensible space creation. HFD designed this year's campaign by evaluating past program designs and making strategy adjustments to promote even more resident buy-in and maintenance.

The City of Hayward's Fire, Utilities, and Maintenance Department staff will work in partnership with the Hayward Area Recreation District (HARD) and Pacific Gas & Electric (PG&E) to conduct a large-scale demonstration project visible in a high-trafficked area around the Ward Creek Drainage area. The Ward Creek Drainage area is a large canyon that originates at Walpert Ridge (elevation 1,300 feet) and terminates at Mission Boulevard (elevation 300 feet). It is approximately 1,200 acres. The site includes a mix of grassland and heavy brush and sits on the top of south/southwest-facing slopes. The riparian zone and north-facing slopes are oak woodland with some scattered stands of eucalyptus. Heavy ladder fuels with brush, down-dead wood, litter, and duff are found throughout the hills, where 1,184 residential properties are situated. The Ward Creek Canyon extends along the boundaries between the City of Hayward, unincorporated Fairview, and private properties.

In preparation, HFD will work with campaign partners including the East Bay Regional Park District (EBRPD), HARD, and PG&E, to deliver messages to the community on the Defensible Space Project campaign. HFD will conduct educational workshops and produce educational materials and various media releases to the public.

This project also includes the HFD Chipping Program, which incentivizes residents to maintain the pruning of lower limbs trees and removal of dead materials and aged shrubs. Residents may "apply" and select a week for chipping between the beginning of fire season (spring) and in the late summer-fall, when wildfire awareness is heightened. Residents are expected to cut and stack the materials along their driveways or curb for the contractor(s) to collect weekly. Chips will be hauled and disposed of offsite as green waste. If a resident cannot perform their maintenance, they can apply to HFD's Resident Assistance Program. This program is grant-funded and assists residents with limited physical abilities or who need economic assistance to participate in the Chipping Program.

ECONOMIC IMPACT

This project has no direct economic impact.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority to Preserve, Protect & Produce Housing. This item is not directly tied to a project identified in the Strategic Roadmap; however, creating defensible space for the purpose of mitigating wildfire risk and property loss will benefit all members of the Hayward community.

FISCAL IMPACT

By accepting this grant, the City would receive \$21,132 in revenue to offset the expense of the work that would otherwise be funded using the General Fund. The City will meet the matching requirement with effort from current staff. No additional staff will be required to complete the work for this project.

SUSTAINABILITY FEATURES

This project is an educational campaign and does not go above and beyond minimum code requirements, as identified by the Fire Chief, to maintain and protect the wildland-urban interface.

NEXT STEPS

With Council approval, staff will accept the grant funds and start planning for community outreach and large-scale demonstrations.

Prepared by: Shanalee Gallagher, Management Analyst

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. 21-

Introduced by Council Member _____

ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND APPROPRIATE \$21,132 IN GRANT FUNDING FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR THE CREATION OF DEFENSIBLE SPACE IN HAYWARD HILLS PROJECT

WHEREAS, FEMA's Hazard Mitigation Grant Program awarded City of Hayward Fire Department \$21,132 for the creation of a Defensible Space Project in the Hayward Hills;

WHEREAS, these funds were awarded for the large-scale demonstration project in Ward Creek Drainage and provide defensible space education and promote participation in communities at risk for wildfires;

WHEREAS, the 25% non-federal cost share will be contribution of staff hours up to \$7,044.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized to accept and appropriate the grant for the amount of \$21,132 for the creation of the Defensible Space Project in the Hayward Hills.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

GAVIN NEWSOM
GOVERNOR



MARK S. GHILARDUCCI
DIRECTOR

December 30, 2020

Garrett Contreras
Fire Chief
Hayward, City of
777 B Street
Hayward, CA 94541

Subject: **Notification of Subapplication Approval**
Hazard Mitigation Grant Program
FEMA-~~4344~~-DR-CA, Project #PJ0217, FIPS #001-33000

Dear Chief Contreras:

The California Governor's Office of Emergency Services (Cal OES) received notification that the Federal Emergency Management Agency (FEMA) has approved your organization's subaward application in the amount of **\$21,132.00**. A copy of the FEMA award package is enclosed for your records. In order to receive payment as a grant subrecipient, your organization must have the following on file with the Recovery Financial Processing Unit:

- A valid, current (approved within the last 3 years) Governing Body Resolution
- A Project Assurances for Federal Assistance agreement
- A Supplemental Grant Subaward Information sheet
- A current Federal Funding Accountability and Transparency Act (FFATA) Financial Disclosure form. This form must be submitted each fiscal year.
- An active DUNS Number registration with the federal System for Award Management (SAM) website. The registration must remain active for the duration of this grant subaward.

For your convenience, this subapplication approval package includes the required post-obligation documents as well as guides to completing and renewing a SAM registration. Please complete the documents and mail copies to the address listed at the end of this letter, keeping the originals with your records. Alternatively, you may scan and email the completed documents to the Recovery Financial Processing Unit at HMGrantsPayments@CalOES.ca.gov. Electronic copies of the post-obligation documents can also be requested at the same address.



3650 SCHRIEVER AVENUE • MATHER, CA 95655
RECOVERY FINANCIAL PROCESSING UNIT
(916) 845-8110

Payments will be made on a reimbursement basis using the enclosed Hazard Mitigation Reimbursement Request Form. A ten percent (10%) retention will be withheld from all reimbursement payments and will be released as part of the subaward closeout process.

Reimbursements can be made only for items listed on the approved subaward application. Expenditures for any other work should be separately maintained and are the sole responsibility of the subrecipient. Any funds received in excess of current needs or approved amounts, or those found owed as a result of a final inspection or audit, must be refunded to the State within 30 days of receipt of an invoice from Cal OES.

When mailing documents to the Recovery Financial Processing Unit, please use the following address:

California Governor's Office of Emergency Services
Attention: Recovery Financial Processing Unit
3650 Schriever Avenue
Mather, CA 95655

For further assistance regarding post-obligation documents or the reimbursement request process, please contact the Recovery Financial Processing Unit at (916) 845-8110. For program-related questions, please contact the Hazard Mitigation Grants Programs Unit at (916) 845-8150.

Recovery Financial Processing Unit

Enclosures

c: Applicant's File

*The Recovery Financial Processing Unit has universal Resolution No. 18-106, passed on 6/19/18, on file. A copy of the resolution is included in this package for your review. With the permission of an Authorized Agent, the resolution can be applied to this project.





U.S. Department of Homeland Security
1111 Broadway, Suite 1200
Oakland, CA 94607-4052

FEMA

December 21, 2020

Received
Dec 22 2020
725482
Financial Processing Unit

Mark S. Ghilarducci, Director
California Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Reference: Application Approval, HMGP #4344-217-028R
City of Hayward, California
Creation of Defensible Space, Phase One
FIPS #: 001-33000, Supplement #175

Dear Mr. Ghilarducci:

The Federal Emergency Management Agency (FEMA) has approved and issued Hazard Mitigation Grant Program (HMGP) funds for the City of Hayward (sub-recipient), HMGP #4344-217-028R, Creation of Defensible Space, Phase One (Design).

The total eligible costs are \$28,176. As shown in the enclosed Obligation Report - Supplement #175, we have obligated \$21,132 for up to 75 percent of the Federal share; the non-Federal cost share is \$7,044. These funds are available in SmartLink for immediate and eligible disbursements.

This HMGP project approval and obligation of funds are subject to the following:

1. **Scope of Work (SOW)** – The City of Hayward will develop plans for public outreach to homeowners who live along Ward Creek Canyon, along with post-outreach and education implementation activities, and site visits by Fire Department staff to determine a best section of the Ward Creek drainage for the defensible space demonstration project to be implemented during Phase Two.

The following Phase One activities and deliverables are expected:

- | | |
|--|---------------------|
| 1. Defensible Space Pre-Outreach Strategies | 2 Months |
| 2. Post-Outreach and Education Implementation Plan | 17 Months (ongoing) |
| 3. Large-Scale Demonstration Project Planning | 3 Months |

Please provide the above-referenced deliverables once completed to the assigned FEMA Hazard Mitigation Assistant (HMA) Specialist for review and inclusion within the official grant file.

2. **Budget Revisions and Cost Overruns** - In accordance with the 2015 Hazard Mitigation Assistance Unified Guidance, Part VI D.3, when budget changes are made, all programmatic requirements continue to apply. Additional information regarding budget adjustments and revisions can be found in 2 CFR Part 200.308. The Recipient must obtain FEMA's prior written approval for any budget revisions.

Cost overruns must be approved by FEMA Region IX before implementation and the subgrant must continue to meet programmatic eligibility requirements, including cost effectiveness and cost share. Additional information can be found in 2 CFR Part 200.

3. **Project Completion Date** – The work schedule in the sub-application states the project completion time frame for Phase One is 6 months. We will annotate June 21, 2021 as the project completion date. Please inform the subrecipient that work completed after this date is not eligible for federal funding, and federal funds may be de-obligated for work not completed within schedule for which there is no approved time extension.
4. **Grant Period of Performance** – The Period of Performance (POP) is the period during which the California Governor's Office of Emergency Services (OES) is expected to complete all subgrant activities and costs within the grant. For 4344-DR-CA, the POP ends no later than April 2, 2023. POP extensions are approved by FEMA Headquarters. Please refer to Part VI.D.4 of the *HMA Guidance* for additional information regarding grant extension requests.
5. **National Environmental Policy Act (NEPA)** – Phase One (Design) of this project has been determined to be Categorical Excluded from the need to prepare either an Environmental Impact Statement or Environmental Assessment in accordance with FEMA Instruction 108-1-1 and FEMA Directive 108-1-1 as authorized by DHS Instruction Manual 023-01-001-01, Revision 1. Categorical Exclusions a4 (information gathering, data analysis and processing, information dissemination, review, interpretation, and development of documents) and a7 (commitment of resources, personnel, and funding to conduct audits, surveys, and data collection of a minimally intrusive nature) have been applied. Particular attention should be given to the project conditions before and during project implementation. Failure to comply with these conditions may jeopardize federal assistance including funding.
6. This award of funds is subject to the enclosed *Standard Hazard Mitigation Grant Program Conditions*, amended August 2018. Federal funds may be de-obligated for work that does not comply with these conditions.

If you have any questions or need further assistance please contact me, or your staff may contact Thomas Berry, Sr. Grants Management Specialist, at Thomas.Berry@fema.dhs.gov, or phone at (510) 627-7180.

Sincerely,



Digitally signed by ROBERT
P MCCORD
Date: 2020.12.21 15:05:26
-08'00'

For David Stearrett
Acting Director
Mitigation Division
FEMA Region IX

cc: Jennifer Hogan, State Hazard Mitigation Officer
Whitney Braziel, Cal OES
June Cochrane, Cal OES
HM Grants Payments, Cal OES

Enclosures (4):

Obligation Report - Supplement #175
Project Management Report
Record of Environmental Considerations (REC)
Standard HMGP Conditions

HAZARD MITIGATION GRANTS PROGRAM

Obligation Report w/ Signatures

Disaster No	FEMA Project No	Amendment No	State Application ID	Action No	Supplemental No	State	Recipient
4344	28 ·R	0	217	1	175	CA	Statewide

Subrecipient: Hayward

Project Title : Hayward, Creation of Defensible Space in the Hayward Hills

Subrecipient FIPS Code: 001-33000

Total Amount Previously Allocated	Total Amount Previously Obligated	Total Amount Pending Obligation	Total Amount Available for New Obligation
\$21,132.00	\$21,132.00	\$0.00	\$0.00

Project Amount	Subrecipient Management Cost Amount	Total Obligation	IFMIS Date	IFMIS Status	FY
\$21,132.00	\$0.00	\$21,132.00	12/18/2020	Accept	2021

Comments

Date: 12/18/2020 User Id: SSCOTT39

Comment: Approved funding for Alameda County, City of Hayward, Creation of Defensible Space, Phase 1 for \$21,132.00.


Authorization

Preparer Name: STEVEN SCOTT

Preparation Date: 12/18/2020

HMO Authorization Name: THOMAS BERRY

HMO Authorization Date: 12/18/2020


 Digitally signed by ROBERT P MCCORD
Date: 2020.12.21 15:06:29 -08'00'

Authorizing Official Signature_____
Authorizing Official Title_____
Authorization Date_____
Authorizing Official Signature_____
Authorizing Official Title_____
Authorization Date

HAZARD MITIGATION GRANT PROGRAM

Project Management Report

Disaster Number	FEMA Project Number	Amendment Number	App ID	State	Recipient
4344	28 - R	0	217	CA	Statewide

Subrecipient: Hayward

FIPS Code: 001-33000

Project Title : Hayward, Creation of Defensible Space in the Hayward Hills

Mitigation Project Description

Amendment Status : Approved

Approval Status: Approved

Project Title : Hayward, Creation of Defensible Space in the Hayward Hills

Recipient : Statewide

Subrecipient : Hayward

Recipient County Name : Alameda

Subrecipient County Name : Alameda

Recipient County Code : 1

Subrecipient County Code : 1

Recipient Place Name : Hayward

Subrecipient Place Name : Hayward

Recipient Place Code : 0

Subrecipient Place Code : 33000

Project Closeout Date : 00/00/0000

Work Schedule Status

Amend #	Description	Time Frame	Due Date	Revised Date	Completion Date
0	Outreach and Education Planning	2 months	00/00/0000	00/00/0000	00/00/0000
0	Outreach and Education Implementation	17 months	00/00/0000	00/00/0000	00/00/0000
0	Large-Scale Demonstration Project Planning	3 months	00/00/0000	00/00/0000	00/00/0000
0	Large-Scale Demonstration Project Implementation	5 months	00/00/0000	00/00/0000	00/00/0000
0	Chipping Program Implementation	12 months	00/00/0000	00/00/0000	00/00/0000
0	Resident Assistance Program Implementaion	12 months	00/00/0000	00/00/0000	00/00/0000
0	Grant Close out	3 months	00/00/0000	00/00/0000	00/00/0000

Approved Amounts

Total Approved Net Eligible	Federal Share Percent	Total Approved Federal Share Amount	Non-Federal Share Percent	Total Approved Non-Fed Share Amount
\$28,176.00	75.000000000	\$21,132.00	25.000000000	\$7,044.00

Allocations

Allocation Number	IFMIS Status	IFMIS Date	Submission Date	FY	ES/DFSC Support Req ID	ES/DFSC Amend Nr	Proj Alloc Amount Fed Share	Subrecipient Management Cost	Total Alloc Amount
72	A	12/18/2020	12/18/2020	2021	3220124	5	\$21,132.00	\$0.00	\$334,322.25
Total							\$21,132.00	\$0.00	\$334,322.25

Obligations

Action Nr	IFMIS Status	IFMIS Date	Submission Date	FY	SFS Support Req ID	SFS Amend Number	Suppl Nr	Project Obligated Amt - Fed Share	Subrecipient Management Cost	Total Obligated Amount
1	A	12/18/202	12/18/2020	2021	3346398	0	175	\$21,132.00	\$0.00	\$21,132.00
Total								\$21,132.00	\$0.00	\$21,132.00

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP 4344-217-28 (Phase 1)

Title: Hayward Creation of Defensible Space (Phase 1-Design)

NEPA DETERMINATION

Non Compliant Flag: No	EA Draft Date:	EA Final Date:
EA Public Notice Date:	EA Fonsi	Level: CATEX
EIS Notice of Intent	EIS ROD Date:	

Comment The City of Hayward requires Phase 1 design funds to develop plans for public outreach targeted to homeowners who live along Ward Creek Canyon, post-outreach and education implementation activities, and site visits by Fire Department staff to determine a best section of the Ward Creek drainage for the defensible space demonstration project to be implemented during Phase 2.

Phase 1 (Design) of this project has been determined to be Categorical Excluded from the need to prepare either an Environmental Impact Statement or Environmental Assessment in accordance with FEMA Instruction 108-1-1 and FEMA Directive 108-1-1 as authorized by DHS Instruction Manual 023-01-001-01, Revision 1. Categorical Exclusions a4 (information gathering, data analysis and processing, information dissemination, review, interpretation, and development of documents) and a7 (commitment of resources, personnel, and funding to conduct audits, surveys, and data collection of a minimally intrusive nature) have been applied. Particular attention should be given to the project conditions before and during project implementation. Failure to comply with these conditions may jeopardize federal assistance including funding. - dcohen3 - 11/16/2020 23:22:39 GMT

CATEX CATEGORIES

Catex Category Code	Description	Selected
a4	(a4) Information gathering, data analysis and processing, information dissemination, review, interpretation, and development of documents. If any of these activities result in proposals for further action, those proposals must be covered by an appropriate CATEX. Examples include but are not limited to: (a) Document mailings, publication and distribution, training and information programs, historical and cultural demonstrations, and public affairs actions. (b) Studies, reports, proposals, analyses, literature reviews; computer modeling; and non-intrusive intelligence gathering activities.	Yes
a7	(a7) The commitment of resources, personnel, and funding to conduct audits, surveys, and data collection of a minimally intrusive nature. If any of these commitments result in proposals for further action, those proposals must be covered by an appropriate CATEX. Examples include, but are not limited to: (a) Activities designed to support the improvement or upgrade management of natural resources, such as surveys for threatened and endangered species, wildlife and wildlife habitat, historic properties, and archeological sites; wetland delineations; timber stand examination; minimal water, air, waste, material and soil sampling; audits, photography, and interpretation. (b) Minimally-intrusive geological, geophysical, and geo-technical activities, including mapping and engineering surveys. (c) Conducting Facility Audits, Environmental Site Assessments and Environmental Baseline Surveys, and (d) Vulnerability, risk, and structural integrity assessments of infrastructure.	Yes

EXTRAORDINARY

Extraordinary Circumstance Code	Description	Selected ?
	No Extraordinary Circumstances were selected	

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP 4344-217-28 (Phase 1)

Title: Hayward Creation of Defensible Space (Phase 1-Design)

ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comment
Clean Air Act (CAA)	Completed	Project will not result in permanent air emissions - Review concluded	
Coastal Barrier Resources Act (CBRA)	Completed	Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded	
Clean Water Act (CWA)	Completed	Project would not affect any water of the U.S. - Review concluded	
Coastal Zone Management Act (CZMA)	Completed	Project is not located in a coastal zone area and does not affect a coastal zone area - Review concluded	
Executive Order 11988 - Floodplains	Completed	No effect on floodplain/flood levels and project outside floodplain - Review concluded	
Executive Order 11990 - Wetlands	Completed	No effects on wetlands and project outside wetlands - Review concluded	
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	Low income or minority population in or near project area	
	Completed	No disproportionately high and adverse impact on low income or minority population - Review concluded	
Endangered Species Act (ESA)	Completed	Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action	The proposed action is to provide funding to the subrecipient for Phase 1 design development funds, without any proposed physical disturbance. These actions would result in no impacts to endangered species. ESA review will need to be completed prior to implementing any subsequent phases of the project. The proposed scope of work for design development will not destroy or adversely modify suitable habitat and will not affect any other listed or proposed species. It is therefore determined the proposed action would have No Effect on listed species and consultation with the Services under Section 7 of the Endangered Species Act is not required. - dcohen3 - 11/16/2020 23:08:51 GMT
	Completed	No effect to species or designated critical habitat (See comments for justification) - Review concluded	

21:21:20

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP 4344-217-28 (Phase 1)

Title: Hayward Creation of Defensible Space (Phase 1-Design)

Environmental Law/ Executive Order	Status	Description	Comment
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	
Fish and Wildlife Coordination Act (FWCA)	Completed	Project does not affect, control, or modify a waterway/body of water - Review concluded	
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project not located in or near Essential Fish Habitat - Review concluded	
National Historic Preservation Act (NHPA)	Completed	Not type of activity with potential to affect historic properties - Review concluded	The Undertaking complies with Stipulation I.A.7.f. (assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding) of the Programmatic Agreement among the Federal Emergency Management Agency (FEMA), State Historic Preservation Office (SHPO) and California Office of Emergency Services (Cal OES), signed October 29, 2019. Thus, the Undertaking does not require SHPO review, and FEMA has no further Section 106 responsibilities in accordance with 36 CFR § 800.3(a)(1). No ground disturbance is proposed. - dcohen3 - 11/16/2020 22:58:41 GMT
Wild and Scenic Rivers Act (WSR)	Completed	Project is not along and does not affect Wild and Scenic River - Review concluded	

CONDITIONS

Standard Conditions:

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP 4344-217-28 (Phase 1)

Title: Hayward Creation of Defensible Space (Phase 1-Design)

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

Standard Mitigation Grant Program (HMGP) Conditions

FEMA Region IX, August, 2018

The following list applies to Recipients and Subrecipients accepting HMGP funds from the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security (DHS):

1. **Applicable Federal, State, and Local Laws and Regulations.** The Recipient/Subrecipient must comply with all applicable Federal, State, and Local laws and regulations, regardless of whether they are on this list or other project documents. DHS financial assistance Recipients and Subrecipients are required to follow the provisions of the State HMGP Administrative Plan, applicable Hazard Mitigation Assistance Uniform Guidance, and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located in Title 2 of the Code of Federal Regulations (CFR) Part 200, adopted by DHS in 2 CFR 3002.
2. **Financial Management Systems.** The Recipient and Subrecipient must maintain financial management systems to account for and track funds, as referenced in 2 CFR 200.302.
3. **Match or Cost Share.** Non-federal match or cost share must comply with 2 CFR 200.306, the scope of work (SOW), and any agreements among the Subrecipient, the Recipient, and FEMA.
4. **Budget Changes.** Unanticipated adjustments are permitted within the approved total cost. However, if costs exceed the federal share, the Subrecipient must notify the Governor's Authorized Representative (GAR) of overruns before implementation. The GAR shall submit a written request for approval to FEMA Region IX. The subaward must continue to meet HMGP requirements, including cost effectiveness and cost share. Refer to 2 CFR 200.308 for additional information.
5. **Real Property and Land.** The acquisition, use, and disposition must comply with 2 CFR 200.311.
6. **Equipment.** The acquisition, use, and disposition must comply with 2 CFR 200.313.
7. **Supplies.** Upon project completion, FEMA must be compensated for unused supplies, exceeding \$5,000 (fair market value), and not needed for other federal programs. Refer to 2 CFR 200.314.
8. **Procurement.** Procurement procedures must be in conformance with 2 CFR 200.318-320.
9. **Monitoring and Reporting Program Performance.** The Recipient and Subrecipient must submit quarterly progress reports, as referenced in the 2 CFR 200.328 and State HMGP Administrative Plan.
10. **Records Retention.** In accordance with 2 CFR 200.333, financial/ programmatic records related to expenditures must be maintained at least 3 years after the date of Recipient's final expenditure report.
11. **Enforcement and Termination.** If the Recipient or Subrecipient fails to comply with the award or subaward terms, whether stated in a Federal statute or regulation, the State HMGP Administrative Plan, subapplication, a notice of award, an assurance, or elsewhere, FEMA may take one or more of the actions outlined in 2 CFR 200.338, including termination or partial termination of the award or subaward outlined in 2 CFR 200.339.
12. **Allowable Costs.** Funds are to be used for allowable costs in compliance with 2 CFR 200.403, the approved SOW, and any agreements among the Subrecipient, Recipient, and FEMA.

13. **Non-Federal Audit.** The Recipient and Subrecipient are responsible for obtaining audits in accordance with the Single Audit Act of 1984, in compliance with 2 CFR 200.501.
14. **Debarred and Suspended Parties.** Recipients and Subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, and 2 CFR 180. These regulations restrict federal financial assistance awards, subawards, and contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in the federal assistance programs or activities.
15. **Equipment Rates.** Rates claimed for use of Subrecipient-owned equipment in excess of the FEMA-approved rates must be approved under State guidelines issued by the State Comptroller's Office or must be certified by the Recipient to include only those costs attributable to equipment usage less any fixed overhead and/or profit.
16. **Duplication of Funding between Public Assistance (PA) and HMGP.** Funding for PA Section 406 and HMGP Section 404 are permitted on the same facility/location, but the activities identified under each program must be distinct with separately accounted funds. At closeout, FEMA may adjust the funding to ensure the Subrecipient was reimbursed for eligible work from only one funding source.
17. **Historic Properties and Cultural Resources.** In compliance with 2 CFR 800, if a potential historic property or cultural resource is discovered during construction, the Subrecipient must cease work in the area and take all reasonable measures to avoid or minimize harm to the discovered property/resource. During construction, the Subrecipient will monitor ground disturbance activity, and if any potential archeological resources are discovered, will immediately cease work in that area, and notify the Recipient and FEMA. Construction in the area may resume with FEMA's written approval after FEMA's consultation, if applicable, with the State Historic Preservation Officer (SHPO).
18. **NEPA and Changes to the Scope of Work (SOW).** To comply with the National Environmental Policy Act (NEPA), and other Laws and Executive Orders, any change to the approved SOW shall be re-evaluated before implementation. Construction associated with a SOW change, prior to FEMA approval, may be ineligible for funding. Acceptance of federal funding requires environmental permits and clearances in compliance with all appropriate federal, state and local laws, and failure to comply may jeopardize funding.

Within their authority, the Recipient and Subrecipient must use of all practicable means, consistent with other essential policies, to create and maintain productive harmony for people and nature, and fulfill the social, economic, and other needs of present and future generations of Americans.



CITY OF HAYWARD

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

File #: PH 21-001

DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

OHHA Prop. 218 Hearing: Proposition 218 Public Hearing to Receive and Tabulate Property Owner Ballots Regarding Formation and Levying of Assessments for the Old Highlands Area (OHHA) Road Improvement Assessment District, Adopt a Resolution Establishing the Old Highlands Area Road Improvement Assessment District, Approve the Final Engineer's Report, and Order Levy and Collection of Assessments for Fiscal Year 2022

RECOMMENDATION

That Council conducts a public hearing pursuant to Proposition 218 to consider objections and protests to the proposed Old Highlands Area (OHHA) Road Improvement Assessment District. If tabulation of the property-owner ballots results in approval of the proposed assessment, that Council adopts a resolution (Attachment II) establishing the Assessment District, approving the Final Engineer's Report (Attachment III) and ordering the levy and collection of the approved assessments for Fiscal Year 2022.

SUMMARY

The 6.12 miles of streets in the Old Highlands area were not brought up to City standards upon annexation in 1963 and have not been regularly and routinely maintained, with the exception of emergency repairs. City Staff and the Old Highlands Homeowners Association (OHHA) Board and property owners have agreed to the creation of an assessment district and imposition of special assessments against the properties in the Old Highlands area to fund a pavement improvement project in the area (Attachment III).

The Final Engineer's Report has been prepared by SCI Consulting Group (SCI) (Attachment IV). The Engineer's Report proposes a new assessment to fund the cost to repave the roadways within the proposed district boundaries.

Ballot materials were mailed to all property owners of record 45 days prior to this Public Hearing.

File #: PH 21-001

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	OHHHA Engineer's Report



DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT OHHA Prop. 218 Hearing: Proposition 218 Public Hearing to Receive and Tabulate Property Owner Ballots Regarding Formation and Levying of Assessments for the Old Highlands Area (OHHA) Road Improvement Assessment District, Adopt a Resolution Establishing the Old Highlands Area Road Improvement Assessment District, Approve the Final Engineer's Report, and Order Levy and Collection of Assessments for Fiscal Year 2022

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That Council conducts a public hearing pursuant to Proposition 218 to consider objections and protests to the proposed Old Highlands Area (OHHA) Road Improvement Assessment District. If tabulation of the property-owner ballots results in approval of the proposed assessment, that Council adopts a resolution (Attachment II) establishing the Assessment District, approving the Final Engineer's Report (Attachment III) and ordering the levy and collection of the approved assessments for Fiscal Year 2022.

SUMMARY

The 6.12 miles of streets in the Old Highlands area were not brought up to City standards upon annexation in 1963 and have not been regularly and routinely maintained, with the exception of emergency repairs. City Staff and the Old Highlands Homeowners Association (OHHA) Board and property owners have agreed to the creation of an assessment district and imposition of special assessments against the properties in the Old Highlands area to fund a pavement improvement project in the area (Attachment III).

The Final Engineer's Report has been prepared by SCI Consulting Group (SCI) (Attachment IV). The Engineer's Report proposes a new assessment to fund the cost to repave the roadways within the proposed district boundaries.

Ballot materials were mailed to all property owners of record 45 days prior to this Public Hearing.

BACKGROUND AND DISCUSSION

On December 8, 2020, the City Council adopted Resolutions No. 20- 216 and No. 20- 217, initiating proceedings pursuant to Streets and Highways Code Sec. 1160 et. seq., and Prop. 218 (California Constitution Article XIIC and XIID; Government Code Section 53753)

preliminarily approving the Engineer's Report, providing notice of public hearing in compliance with Prop. 218, and approving the mailing of ballots and adopting Proposition 218 Assessment Ballot Proceedings Procedures for the Old Highlands Area Road Improvement Assessment District. Council also set the date for the public hearing for the ballots to be counted at the February 2, 2021 City Council meeting.

The purpose of the public hearing is to consider objections and protests to the proposed assessment. At the conclusion of the public testimony, the ballots submitted by the property owners will be tabulated by the City Clerk's Office. If a majority of property-owner ballots approve the proposed assessment, the City Council may proceed with forming the Assessment District, approving the Final Engineer's Report, and ordering the levy and collection of the approved assessments for Fiscal Year 2022.

The Old Highland area was annexed to the City in 1963 and at that time, the 6.12 miles of streets within the Old Highland area were not brought up to City standards upon annexation and have not been regularly or routinely maintained. The OHHA Board and property owners have agreed to the creation of an assessment district and imposition of special assessments on the properties in the Old Highlands area to fund a pavement rehabilitation project for streets within the Old Highland area.

City Staff met with the OHHA Board of Directors and agreed on tentative terms that were presented to property owners at an OHHA neighborhood meeting on January 18, 2018. The terms are summarized as follows:

OHHA Tentative Terms

Staff has outlined agreement terms with the OHHA Board for maintenance of all public roads within the OHHA boundary. Agreement terms for roadway maintenance consist of the following main points:

The roadways require full depth reconstruction. This reconstruction effort, including design, legal and financial consultants, City inspection, survey and administration staff costs and roadway reconstruction, is estimated to cost \$5 million to \$6 million.

City will provide the initial funding for improvements from the Capital Improvement Program over a period of five to six years. The City will improve one or two streets each year. The OHHA Board will set construction priorities. They have selected Cotati and Tribune as the streets to be reconstructed during the first year of this program.

OHHA property owners will reimburse the City for 50% of the cost incurred to reconstruct each road within the OHHA neighborhood.

OHHA property owners will approve a financing mechanism that guarantees this reimbursement over a 20-year period. There are approximately 296 parcels within the OHHA boundary. Each parcel may be assessed

approximately \$655.50 (per the preliminary cost estimate) per year for the improvements.

The roadway improvements are intended to include pavement reconstruction only. Very minor improvements to eliminate roadway water ponding may also be included.

The roadway improvements will not include curb and gutter, rolled curbs, storm drain inlets, street lighting or sidewalks.

The roadway improvements will follow the existing roadway footprint. The intent is to construct a 20-foot-wide one-way street and a 24-foot-wide two-way street unless existing obstructions prevent this from being implemented. In the case of obstructions, the roadway will be narrowed.

The City will only improve roadways that are 100% public right-of-way. The City's surveyor will identify street sections that are currently private property. The City's surveyor will create a plat/legal description for these roadway segments. Property owners will cause these roadway segments to be dedicated to the City as public right-of-way.

All existing deferred improvement agreements will be voided upon OHHA property owner's approval of a financing mechanism.

The City will not begin any work, except development of an Engineer's Report for the proposed financing mechanism, until financing is approved by the OHHA property owners. The Engineer's Report will include a rough estimate of anticipated costs only with appropriate contingencies.

The OHHA Board is responsible for all communications necessary to convince property owners to approve the financing mechanism and to dedicate private street areas for public right-of-way.

When construction is complete, the City will perform future maintenance of the roadways with available City funds as is possible as part of the City Pavement Rehabilitation Program.

An Engineer's Report has been prepared by SCI (Attachment III). The Engineer's Report proposes a new assessment to fund the cost to repave the roadways within the proposed district boundaries. It was originally estimated the cost per property owner was to be approximately \$600 per year per property owner; however, the Engineer's Report details that the cost estimate has increased to \$655.50 per year per property due to increasing construction costs.

ECONOMIC IMPACT

The pavement improvement would likely have a positive impact on property values, including on vacant properties.

FISCAL IMPACT

There is no anticipated fiscal impact to the City's General Fund related to the formation of the formation of the Assessment District or consolidation.

STRATEGIC ROADMAP

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

- Project 5: Maintain and improve pavement
 - Part 5.a: Maintain Pavement Condition Index (PCI) at 70.
 - Part 5.b: Prepare OHHA pavement improvement program design and financing structure.
 - Part 5.c: Construct various OHHA pavement improvements

SUSTAINABILITY FEATURES

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

PUBLIC CONTACT

On December 17, 2020, property owners were mailed ballots materials including ballots, ballot procedures and the Engineer's Report. Notice of this public hearing was published in a newspaper of general circulation in compliance with Government Code Section 6061.

NEXT STEPS

If a majority of property-owner ballots approve the proposed assessment, the City Council may proceed with forming the Assessment District, approving the Final Engineer's Report and ordering the levy and collection of the approved assessments for Fiscal Year 2022. Pursuant to the Council's approval, the assessment roll will be forwarded to the County for collection with annual property taxes.

Prepared by: Kathy Garcia, Deputy Director of Public Works

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-____

Introduced by Council Member _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
ESTABLISHING THE OLD HIGHLANDS AREA ROAD IMPROVEMENT
ASSESSMENT DISTRICT, APPROVING THE FINAL ENGINEER'S REPORT, AND
ORDERING LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR
2022

WHEREAS, the area known as Old Highlands was created by a subdivision map approved by the County of Alameda and recorded in 1914; and

WHEREAS, the Old Highlands area was annexed to the City of Hayward on or about December 3, 1963; and

WHEREAS, the 6.12 miles of streets in the Old Highlands area were not brought up to City standards upon annexation and have not been maintained, with the exception of emergency repairs; and

WHEREAS, the Old Highlands Homeowners Association (OHHA) Board and property owners have agreed to the creation of an assessment district and imposition of special assessments against the properties in the Old Highlands area to fund a pavement rehabilitation project in the area, an area map of which is attached to the staff report for this item and incorporated herein; and

WHEREAS, California Streets and Highways Code §§ 1160 – 1197 and 1813, known as the Permanent Road Division Law, authorizes formation of a road improvement assessment district, and imposition of assessments to finance construction, improvement and maintenance of any public roadway; and

WHEREAS, the City of Hayward ("City") initiated proceedings for the formation of a road improvement assessment district for the Old Highlands area pursuant to the provisions of Streets and Highways Code §§1160 – 1197 and 1813, and Article XIID of the California Constitution, to repave public roadways within the proposed district; and

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIC and XIID to the California Constitution; and

WHEREAS, Articles XIII C and XIII D of the California Constitution and implementing statutes impose certain procedural and substantive requirements relating to assessments (as defined); and

WHEREAS, a Final Engineer's Report (the "Report") has been prepared by SCI Consulting Group (the "Engineer of Work") and submitted to the City Council (the "Council"), in which a new assessment is proposed to fund the cost to repave public roadways within the proposed district boundaries; and

WHEREAS, this proposed assessment shall be described as the "Old Highlands Area Road Improvement Assessment" (hereinafter the "Assessment") and the proposed district shall be known as the "Old Highlands Area Road Improvement Assessment District" (hereinafter the "Assessment District"); and

WHEREAS, the proposed Assessment District contains approximately 124.77 acres of privately and publicly owned parcels as well as approximately 6.2 acres of roadway. Based upon the last equalized assessment roll of the county, the total assessed land value of the parcels within the Assessment District is \$51,958,296 and the total assessed value of the improvements and personal property within the proposed Assessment District is \$96,854,059. There are approximately 536 inhabitants living in the proposed Assessment District; and

WHEREAS, Resolution No. 20-216 was adopted by the City Council on December 8, 2020 which initiated proceedings pursuant to Streets and Highways Code §§1160 – 1197 and 1813, and Article XIII D of the California Constitution, and set a date and time for Prop. 218 hearing at 7:00 p.m. on February 2, 2021; and

WHEREAS, in compliance with the requirements of Article XIII D of the California Constitution and Government Code section 53753, ballots were mailed to all record owners of property within the proposed Assessment District, including a copy of the Engineer's Report and a notice of the February 2, 2021 Public Hearing; and

WHEREAS, notice of the public hearing was published in a newspaper of general circulation in compliance with Government Code section 6061 and Streets and Highways Code section 1162.5; and

WHEREAS, on February 2, 2021 at 7:00 PM or as soon thereafter as was practicable, the City Council held a public hearing, at which it heard and considered oral and written testimony from all interested persons; and

WHEREAS, following the public input portion of the Public Hearing, all assessment ballots that had been returned to the City were tabulated pursuant to the procedures set forth in Resolution 20-217, which was adopted by the City Council on December 8, 2020; and

WHEREAS, based on the tabulation, the City Council determined that a majority protest, as defined by Article XIII D, Section 4(e) of the California Constitution and Section 53753 of the California Government Code does not exist with respect to the proposed Assessment.

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

1. The above recitals are true and correct.
2. **Formation of Assessment District.** Pursuant to Streets and Highways Code §§1160 – 1197 and 1813, and Article XIID of the California Constitution, the Old Highlands Area Road Improvement Assessment District is hereby established.
3. **Confirmation of Final Engineer's Report.** SCI Consulting Group, the Engineer of Work, has prepared a Final Engineer's Report in accordance with Article XIID of the California Constitution and Government Code section 53750, 54710 et seq. (the "Report"). The Report has been made, filed with the City Clerk and duly considered by the Council and is hereby approved and confirmed and incorporated herein by reference, including, but not limited to, the following:
 - A. The description of the Services to be funded with Assessment proceeds;
 - B. The estimate of the annual cost of such Services;
 - C. The description of the assessable parcels of land within the District and subject to the new Assessment;
 - D. The description of the proportionate special and general benefits conferred on property by the proposed Assessment;
 - E. The description of the boundaries of the Assessment District;
 - F. The number of acres contained within the Assessment District and the assessed valuation of such acreage according to the last equalized assessment roll of the County;
 - G. The value of improvements on real estate and personal property within the Assessment District according to the last equalized assessment roll of the County;
 - H. The number of inhabitants in the Assessment District, as nearly as can be ascertained; and
 - I. The specification of the amount to be assessed upon various types of assessable land to fund the cost of the Services.

4. **Findings of Special Benefit.** Based on the oral and documentary evidence offered and received, including the Final Engineer's Report, the City Council expressly finds and determines:
 - A. That each of the parcels in the Assessment District will be specially benefitted by the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the parcel; and
 - B. That there is substantial evidence to support this finding and determination as to special benefit; and
 - C. That no assessment imposed on any parcel exceeds the reasonable cost of the proportional special benefit conferred on that parcel.
5. **Maximum Assessment Rate.** The public interest, convenience, and necessity require that a levy on each lot of parcels in the Assessment District be no more than the SIX HUNDRED AND SIXTY FIVE DOLLARS AND FIFTY CENTS (\$665.50) per single family home and other rates for other property uses and attributes as described in the Final Engineer's Report.
6. **Levy of Assessments.** The adoption of this Resolution constitutes the levy of the Assessments for Fiscal Year 2022 at the rates and upon the parcels described in this Resolution, in the Final Engineer's Report including the Assessment Roll, all incorporated herein by reference. The City of Hayward Director of Finance is hereby authorized and directed to order the collection of the Assessments stated herein.
7. Immediately upon the adoption of this resolution, the City Clerk shall file a certified copy of this resolution, and Engineer's Report with the Treasurer-Tax Collector of the County of Alameda. The assessments shall be collected at the same time and in the same manner as county taxes are collected, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments. After collection by the County of Alameda, the net amount of the assessments, after deduction of any compensation due the county of collection, shall be paid to the City of Hayward and received by the Director of Finance.
8. Upon receipt of monies representing assessments collected by the County, the Director of Finance of the City of Hayward shall deposit the monies in the City Treasury to the credit of the Assessment District. Monies deposited to the credit of the Assessment District shall be expended only for the services and improvements set forth in the Final Engineer's Report, which is incorporated by reference herein.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2021

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

OLD HIGHLANDS AREA ROAD IMPROVEMENT ASSESSMENT

2021 FINAL ENGINEER'S REPORT

FEBRUARY 2021

PREPARED FOR:

CITY COUNCIL

CITY OF HAYWARD

PURSUANT TO THE STREETS AND HIGHWAYS CODE – BY PERMANENT ROAD DIVISIONS
[1160 - 1197] AND ARTICLE XIIC AND XIID OF THE CALIFORNIA CONSTITUTION

PREPARED BY:

SCI Consulting Group

4745 MANGELS BOULEVARD

FAIRFIELD, CALIFORNIA 94534

PH: 707.430.4300

FAX: 707.430.4319

www.sci-cg.com

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INTRODUCTION

OVERVIEW

The City of Hayward ("City") is proposing to create the Old Highlands Area Road Improvement Assessment District (the proposed "Assessment District," or "assessment") to improve street pavement within the Old Highlands area. This Assessment District will provide funding for the improvements, including repaving the streets in this area. The City has agreed to provide 50% of the project funding for this project and to work closely with the local property owners to maintain the existing character of the roads while repaving them.

The area known as the Old Highlands area (and also known as "OHHA" in reference to the Old Highlands Homeowners Association, which is an active HOA in the area) is located in the Hayward hills just east of the California State University East Bay campus, and was annexed into the City in 1963.

In 1967, sewer and water improvements were made through an assessment district that was approved by property owners. However, the streets in this area, which were in poor condition even then, were not brought up to City standards upon annexation. In 1972, a second assessment district for street improvements was halted by a property owner lawsuit claiming that the cost of improvements was too high.

Since then, there have been numerous discussions between the City and OHHA, most recently in 2008-2010 when the OHHA board proposed an assessment district to reconstruct and improve the streets. At the time, the City offered a \$2 million capital funding allocation to help reduce each property owner's annual assessment over the thirty-year term of the proposed bonds. Regardless, the proposed assessment district was overwhelmingly rejected by affected property owners within the Old Highlands area. Since rejection of the proposed 2010 assessment district, all significant street repair efforts in the Old Highlands area have remained on hold, with the exception of emergency repairs by the City estimated at \$270,000.

This proposed Assessment District contains 299 parcels, most of which are used as single-family residential properties, and there are also some vacant, multi-family and government uses. The assessments for this Assessment District will be used to improve certain road facilities and will be levied annually for 20 years beginning in FY 2022. The proposed assessment rate is \$665.50 per year per developed single-family residential parcel, with different rates for different uses, as described and supported in this report, based upon the underlying following analysis.

The proposed Assessment District contains approximately 124.77 acres of privately and publicly owned parcels as well as approximately 6.2 acres of roadway. Based upon the last equalized assessment roll of the county, the total assessed land value of the parcels within the Assessment District is \$51,958,296 and the total assessed value of the improvements and personal property within the proposed Assessment District is \$96,854,059. There are approximately 536 inhabitants living in the proposed Assessment District.

LEGISLATIVE ANALYSIS

PROPOSITION 218

This assessment is formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now codified as Articles XIIC and XIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

Proposition 218 describes a number of important requirements, including property-owner balloting, for the imposition, increase and extension of assessments, and these requirements are satisfied by the process used to establish this assessment.

PERMANENT ROAD DIVISION LAW

This assessment is formed consistent with Article 3. By Permanent Road Divisions [1160 - 1197], also known as the Permanent Road Division Law, which is in Chapter 2 of Division 4 of the California Streets and Highways Code. This code section explicitly supports the generation of funding for the “construction, improvement, or maintenance” of roads.

For clarification, Section 1813 of the California Streets and Highways Code indicates that “the provisions of Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 for the construction or maintenance of county roads may be utilized within any city for the construction and maintenance of city streets.”

Also, the funding for the proposed road improvements are generated as an assessment, not a tax, per Section 1179.5 of the California Streets and Highways Code, which stipulates that “In lieu of, or in addition to, any special tax levied pursuant to Section 1178, the board [City Council] may fix and collect parcel charges for any permanent road division pursuant to the assessment ballot procedures in Section 53753 of the Government Code.”

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. v SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority (“SVTA vs. SCCOSA”). This ruling is the most significant legal document in further legally clarifying Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the Assessment District

This Engineer’s Report and the assessments are consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIIC and XIID of the California Constitution based on the following factors:

1. The assessment revenue derived from real property in the Assessment District is extended only for specifically identified improvements and/or maintenance and servicing of those improvements in the Assessment District that confer special benefits to property in that Assessment District.
2. The use of the Assessment District ensures that the improvements constructed and maintained with assessment proceeds are located in close proximity to the real property subject to the assessment, and that such Improvements provide a direct advantage to the property in the Assessment District.
3. Due to their proximity to the assessed parcels, the improvements and maintenance thereof financed with assessment revenues in the Assessment District benefit the properties in the Assessment District in a manner different in kind from the benefit that other parcels of real property in the City derive from such improvements, and the benefits conferred on such property in Assessment District are more extensive and direct than a general increase in property values.
4. The assessments paid in the Assessment District are proportional to the special benefit that each parcel within the Assessment District receives from such improvements and the maintenance thereof because of the following:
 - a. The Engineer's Report specifically identifies the permanent public improvements that the assessments will finance;
 - b. The costs of such improvements are estimated and calculated; and
 - c. Such improvement and maintenance costs in the Assessment District are allocated to each property within the Assessment District based upon the estimated special benefits received from the improvements.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th District Court of Appeals amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. Hence Dahms is good law and binding precedent for assessments. In Dahms the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

BONANDER V. TOWN OF TIBURON

On December 31, 2009, the 1st District Court of Appeals overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with

improvements and services were not explicitly calculated, quantified and separated from the special benefits.

GOLDEN HILL NEIGHBORHOOD ASSOCIATION V. CITY OF SAN DIEGO

On September 22, 2011, the San Diego Court of Appeals issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in Beutz, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City of San Diego had failed to record the basis for the assessment on its own parcels.

COMPLIANCE WITH CURRENT LAW

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the SVTA decision because the improvements to be funded are clearly defined; the improvements are directly available to and will directly benefit property in the Assessment District; and the improvements provide a direct advantage to property in the Assessment District that would not be received in absence of the assessments.

This Engineer's Report is consistent with Beutz, Dahms and Greater Golden Hill because the improvements will directly benefit property in the Assessment District and the general benefits have been explicitly calculated and quantified and excluded from the assessments. The Engineer's Report is consistent with Bonander because the assessments have been apportioned based on the overall cost of the improvements and proportional special benefit to each property.

DESCRIPTION OF THE ASSESSMENT DISTRICT

IMPROVEMENTS AND SERVICES WITHIN THE ASSESSMENT DISTRICT:

BACKGROUND

The existing roads within the Old Highlands area were built consistent with County standards at the time they were built. Property owners in the City are typically required to upgrade all facilities to City standards, including City streets, sanitary sewers, water lines and so on. Annexation of the Old Highlands area into the City of Hayward occurred in 1963, and in 1967, sewer and water improvements were made through an assessment district that was approved by property owners. However, the roads were not brought up to City standards and have remained sub-standard and poorly maintained ever since.

Recent conversations between City staff and local property owners have resulted in several roadway infrastructure goals and considerations listed below:

- A more rural type of street cross-section, narrow street widths, with or without on-street parking is desired.
- The roadway improvements will not include curb and gutter, rolled curbs, storm drain inlets, street lighting or sidewalks.
- The roads require full depth reconstruction in most places.
- The roadway improvements are intended to include pavement reconstruction only. Very minor improvements to eliminate roadway water ponding may also be included.
- The roadway improvements will follow the existing roadway footprint. The intent is to construct a 20-foot wide one-way street and a 24-foot wide two-way street, unless existing obstructions prevent this from being implemented. In the case of obstructions, the roadway will be narrowed.
- The City will only improve roadways that are 100% public right-of-way. The City's surveyor will identify street sections that are currently private property. The City's surveyor will create a plat/legal description for these roadway segments. The City will prepare all documents that are necessary to complete the dedication of private right-of-way to the City.
- The OHHA Board is responsible for all communications with property owners necessary to support the financing mechanism and to dedicate private street areas for public right-of-way.

- The roads do not qualify for preventive maintenance as they are in very poor condition and require more extensive rehabilitation or reconstruction in order to realize a longer lasting improvement.

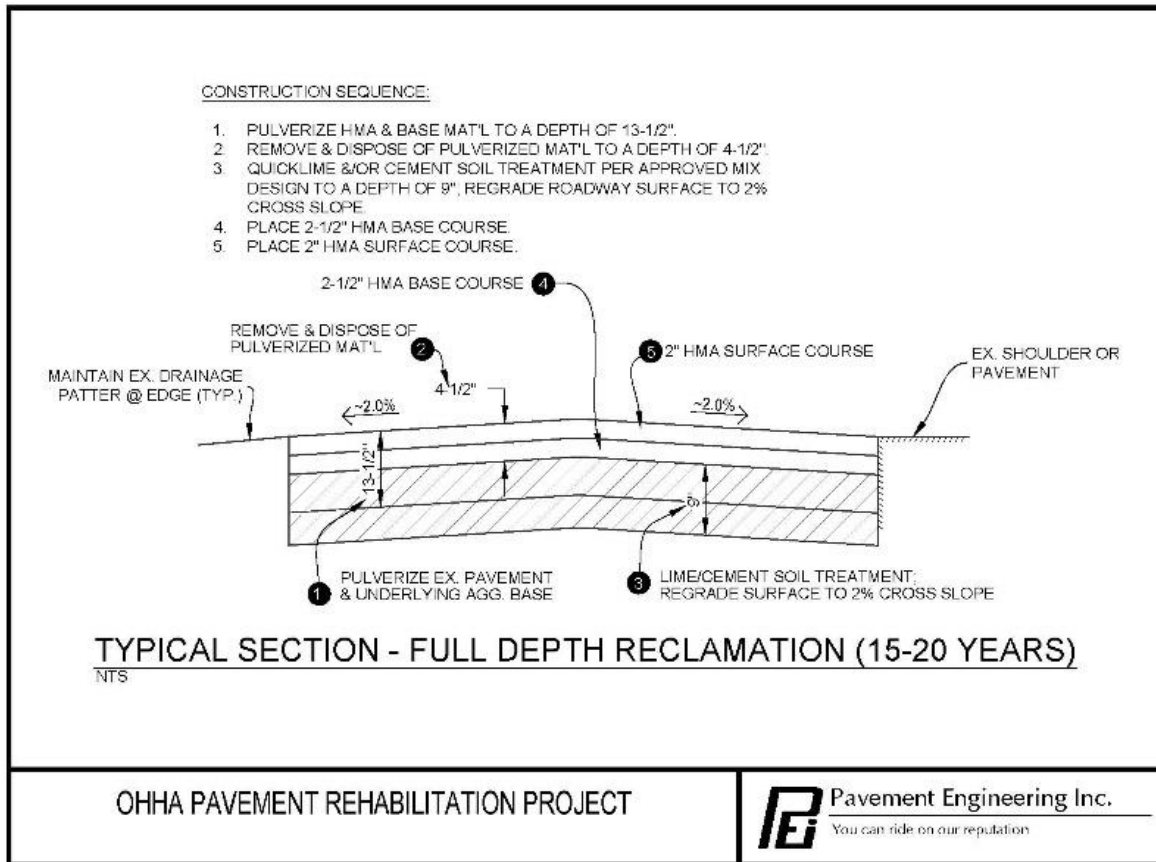
The improvements for the Assessment District will include roadway reconstruction and repaving as described in Table 1, below:

Table 1 – Description of Improvements

Item	Street Name	From	To	Approx Area	Unit
1	Call Avenue	Tribune Ave	Chronicle Way	17,656	SF
2	Campus View	Grand View Way	New Dobbel Ave	21,178	SF
3	Chronicle Avenue	Parkside Drive	End	40,823	SF
4	Cotati Avenue	Grand View Ave	Civic Ave	10,018	SF
5	Grand View Avenue	Campus View Way	End	42,551	SF
6	Hillcrest Avenue	Parkside Drive	End	35,726	SF
7	Home Avenue	Parkside Drive	Hillcrest Ave	16,844	SF
8	New Dobbel Avenue	Campus View Way	Civic Avenue	16,537	SF
9	Parkside Drive	Hayward Blvd	Hayward Blvd	100,177	SF
10	Tribune Avenue	Old Hayward	Parkside Drive	31,870	SF

A typical cross section is shown in Figure 1, on the following page:

Figure 1 Typical Road Cross Section



The work and improvements to be funded from the Assessment District and the cost thereof paid from the levy of the annual assessment provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein.

The improvements include all necessary service, operations, administration, and maintenance required to keep the above-mentioned improvements in a safe, clean and reliable condition.

"Incidental expenses" may include any of the following: (a) The costs of preparation of the Engineer's Report, including plans, specifications, estimates, diagram, and assessment; (b) the costs of printing, advertising, and the giving of published, posted, and mailed notices; (c) compensation payable for collection of assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance of the Improvements; (f) any expenses incidental to the issuance of bonds or; (g) costs associated with any elections held for the approval of a new or increased assessment; and (h) any administrative costs including general administration and insurance.

The assessment proceeds will be exclusively used for improvements serving the Assessment District plus incidental expenses. The following section of this Report specifically identifies the improvements to be funded by the assessment proceeds and to the plans and specifications, including specific expenditure and improvement plans, which are on file with the City.

ESTIMATE OF COST

INTRODUCTION

Improvements funded by the assessments will be used to enhance the roads within Assessment District over and above the existing conditions. The formula below describes the relationship between the final level of improvements, the existing baseline level of improvements, and the level of improvements for the road facilities funded by the assessments.

Final Level of Improvements	=	Baseline Level of Improvements	+	Enhanced Level of Improvements
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The Assessment District boundaries have been narrowly drawn to include properties, within the Old Highlands area, that have good proximity and access to the improvements.

ESTIMATE OF COSTS

Table 2, below, shows the estimate of the cost of the improvements that would be funded by the proposed Assessment District. Roadway funding considerations have been agreed upon between the City and the property owners, and include:

- City will provide the initial funding for improvements from the Capital Improvement Program over a period of five to six years. The City will improve one or two streets each year. The OHHA Board will set construction priorities.
- Assessment District property owners will reimburse the City for 50% of the project costs over 20 years with 2% interest.
- All existing deferred improvement agreements will be voided upon Assessment District property owners' approval of a financing mechanism.
- The City will not begin any work, except development of an Engineer's Report for the proposed financing mechanism, until financing is approved by the Assessment District property owners. This Engineer's Report will include a rough estimate of anticipated costs only with appropriate contingencies.

Table 2 – Estimate of Cost

Old Highlands Area Road Improvement Assessment District Budget FY22				
				Total Budget
Beginning Fund Balance (July 1, 2021)				\$0
Installation, Maintenance & Servicing Costs				
Road Repaving				\$325,215
Total for Installation, Maintenance and Servicing (a)				\$325,215
Less:				
Contributions from City of Hayward towards Project Costs(50%) (b)				(\$162,608)
Contributions from City of Hayward towards annual administration (c)				(\$14,963)
Plus Annual Interest Burden at 2% to City (d)				\$34,818
Total Road Maintenance Assessment District Budget (a+b+c+d) (Net Amount to be Assessed)				\$182,462
Budget Allocation to Property				
Total Assessment Budget (e)				\$182,462
Assessment Contribution				
Number of Single Family Equivalent benefit units (f)				274.2
Assessment per Equivalent Dwelling Unit in Zone (e/f)				\$665.50

Notes to Estimate of Cost:

1. Annual "Road Reconstruction" cost of \$325,215 is calculated from total project costs of \$6,504,300 divided by 20 years ($6,504,300/20 = 325,215$).
2. The City will contribute 50% of the project costs. The Assessment District is responsible for the other 50% of project costs plus the costs of financing its portion at 2% over 20 years. The annual 2% interest burden of \$34,818 is the difference between the annual repayment costs at \$197,425 with 2% interest and the annual repayment costs of \$162,608 with 0% interest.
3. As determined in the following section, at least 18.0% of the cost of road-related improvements must be funded from sources other than the assessments to cover any general benefits. Therefore, out of the total cost of improvements of \$325,215, the City must contribute at least \$58,538 from sources other than the assessments. The City's contribution of \$162,608 satisfies this requirement. Refer to the calculations and description in the following section "Method of Apportionment," below.
4. The Act requires that proceeds from the assessments must be deposited into a special fund that has been set up for the revenues and expenditures of the Assessment District. Moreover, funds raised by the assessment shall be used only for the purposes stated within this Report.

METHOD OF APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the special and general benefits derived from the proposed improvements to the Old Highlands Area Road Improvement Assessment District, and the methodology used to apportion the total assessment to properties within the Assessment District.

The method used for apportioning the assessment is based upon the proportional special benefits conferred to the properties over and above the general benefits conferred to real property in the Assessment District or to the public at large. Special benefit is calculated for each parcel in the Assessment District using the following process:

1. Identification of all benefit factors derived from the improvements
2. Calculation of the portion of these benefits that are general
3. Determination of the relative special benefit within different areas within the Assessment District
4. Determination of the relative special benefit per property type
5. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics and other supporting attributes

DISCUSSION OF BENEFIT FACTORS

Assessments can only be levied based on the special benefit to property. This special benefit is received by property over and above any general benefits. Any and all general benefit must be funded from another source. Proposition 218, as codified in Article XIII D of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

Since assessments are levied on the basis of special benefit, they are not a tax and are not governed by Article XIII A of the California Constitution.

The SVTA v. SCCOSA decision clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits.

Finally, Proposition 218 twice uses the phrase "over and above" general benefits in describing special benefit. (Art. XIII D, sections 2(i) & 4(f).) The SVTA v. SCCOSA decision further clarifies that special benefits must provide a direct advantage to benefiting property and that proximity to a park is an example of a special benefit.

SPECIAL BENEFITS FROM ROAD IMPROVEMENTS TO OLD HIGHLANDS

The proposed roadway improvements provide clear and direct special benefits to the parcels proposed to be subject to the assessment.

The special benefits are summarized below:

- Improved ingress and egress
- Improved traffic safety
- Reduction of noise pollution
- Improved emergency access and reduced cost of local government in law enforcement, public health care, fire prevention, and natural disaster response
- Improved desirability for development (i.e. development amplification)

GENERAL VERSUS SPECIAL BENEFIT

Article XIII C of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. The assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

Total Benefit	=	General Benefit	+	Special Benefit
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There is no widely-accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not “particular and distinct” and are not “over and above” benefits received by other properties. SVTA vs. SCCOSA provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements.

The starting point for evaluating general and special benefits is the current, baseline level of service. The assessments fund Improvements “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

Special benefit, on the other hand, is defined in the state constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” The SVTA v. SCCOSA decision indicates that a special benefit is conferred to a property if it “receives a direct advantage from the improvement (e.g., proximity to a park).” In this Assessment, as noted, properties in the Assessment

District have close proximity and uniquely improved desirability from the improvements as do other properties and the public at large.

CALCULATING GENERAL BENEFIT

In this section, the general benefit is liberally estimated and described, and then budgeted so that it is funded by sources other than the assessment, as required.

The following formula has been developed based upon the Silicon Valley and other judicial decisions, and has widespread use by this Engineer to estimate the general benefit for complex, multi-benefit assessments:

General Benefit	=	Benefit to Real Property Outside the Assessment District	+	Benefit to Real Property Inside the Assessment District that is Indirect and Derivative	+	Benefit to the Public at Large
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The Old Highlands Area Road Improvement Assessment District improvements benefit the assessed parcels (as special benefits) and also provide some limited, extraneous general benefits in three ways as shown in the formula above: 1) to properties outside the Assessment District, 2) indirectly to properties within the Assessment District, and 3) to the public at large.

GENERAL BENEFIT

General Benefit to Real Property Outside, But Proximate to, the Assessment District

Properties within the Assessment District receive almost all of the special benefits from the improvements because properties in the Assessment District enjoy unique proximity and access to the improvements that is not enjoyed by other properties or the public at large.

There are a limited number (a total of 5) of ingresses and egresses into the Assessment District. Nonetheless, there are the equivalent of 43 properties that are proximate to the improvements, but outside of the boundaries of the Assessment District, that receive some benefit from the improvements. This benefit is general and is conferred to properties just outside the Assessment District's boundary but are accessed by the roads to be improved. This benefit contributes to the overall general benefit calculation and will not be funded by the assessments.

The general benefit to property outside of the Assessment District is calculated as follows with the parcel and data analysis performed by SCI Consulting Group.

Assumptions:

43 parcels outside and adjacent to the District
299 parcels in the Assessment District

Calculation

General Benefit to Property outside the Improvement District=
(43/(43+299)) = **13%**

Percentage of units outside Old Highlands receiving benefit = **13%**

Road General Benefit to Real Property Inside the Assessment District that is Indirect and Derivative

The “indirect and derivative” benefit to property within the Assessment District is particularly difficult to calculate. A solid argument can be presented that all benefits within the Assessment District are special, because the improvements are clearly “over and above” and “particular and distinct” when compared with the baseline level of service and the unique proximity of and access to the improvements enjoyed by benefiting properties in the Assessment District.

Percentage of parcels receiving indirect and derivative benefit = **0.0%**

Road General Benefit to the Public at Large

The roads within the Old Highlands area are almost exclusively used by property owners (which includes deliveries, visitors, workers, landscapers, refuse collection, etc.) within the Assessment District. However, there is some use by non-property owner including bikers, walkers, pleasure-drivers, or for a detour from Hayward Boulevard, etc. This benefit is difficult to quantify as it relies on an unpredictable circumstance. Therefore, this benefit is liberally estimated at 5%.

General Benefit to the public at large = **5.0%**

Total General Benefit

The total general benefit is calculated as the sum of the three components above:

$$\text{Total General Benefit} = 13\% + 0.0\% + 5\% = 18.0\%$$

The Assessment District’s total budget for improvement of road-related facilities is \$325,215. Therefore, out of the total cost of improvements of \$325,215, the City must contribute at least \$58,538 from sources other than the assessments. The City’s contribution of \$162,608 satisfies this requirement.

BENEFIT ZONES NOT REQUIRED WITHIN OLD HIGHLANDS

The internal road networks are well distributed such that all parcels within the Old Highlands are relatively equally served by the improvements. Even properties closer to Hayward Boulevard receive benefit from neighborhood vitality, walkability and access from improved roads serving properties farther from Hayward Boulevard. Hence, there is no requirement to share in the cost of benefits in an unequal manner, and no benefit zones are created.

METHOD OF ASSESSMENT

As previously discussed, the Assessment District will fund comprehensive improvements that will clearly confer special benefits to properties in the Assessment District.

The next step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalent benefit units (SFE or "Benefit Units"). This benefit unit methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated with a SFE value, which is each property's relative benefit in relation to a single-family home on one parcel. In this case, the "benchmark" property is a single family home. Such properties are assigned one benefit unit, which is one Single Family Equivalent (1 SFE).

APPROACH

Special benefit to individual parcels from proximate improved residential streets is directly related to the use of such streets to access the parcel. For many years, the Institute of Traffic Engineers (<https://www.ite.org/>) has provided and updated the industry-standard of average daily car trips for specific property uses and sizes – and this research serves as the basis for the assessment methodology in this Engineer's Report.

Each parcel has been categorized by land use and evaluated for acreage and number of residential units where relevant. This analysis is illustrated in Table 3, with the Average Trip Generation Rate tabulated from the most current Institute of Traffic Engineers study, (with additional clarification on Notes), below

Table 3 – Relative Special Benefit based upon Average Daily Car Trips

Property Use	Average Trip Generation		Normalized Factor	Development Amplifier	Proposed SFE Rate	Proposed \$ Rate	Notes
	Rate	Units					
Single Family Residential	9.57	Dwelling Unit	1.00	1	1.000	\$665.50	1
Multiple Single Family Residential on one parcel	9.57	Dwelling Unit	1.00	1	1.000	\$665.50	2
Multi-Family Residential	5.81	Dwelling Unit	0.61	1	0.607	\$404.03	3
Vacant	0.4	Parcel	0.04	5	0.209	\$139.08	4
Park	2.28	Acres	0.24	1	0.238	\$158.55	5
Water Tank	0.2	Parcel	0.02	1	0.021	\$13.91	6
<i>Formulae:</i>							
	<i>a</i>		<i>(b = a/SFR trip rate)</i>	<i>c</i>	<i>(b*c=d)</i>	<i>(d *SFR \$ rate)</i>	

NOTES:

1.) Single Family Residential as SFE Benchmark

The Single-Family Equivalent ("SFE") is defined as the Special benefit assigned to each single-family residence. All other SFEs are proportionate to the average daily car trips for a single-family residence.

2.) Multiple Single Family Residential on One Parcel

There are six parcels with the Assessment District with multiple, stand-alone single-family residences on the parcel. In these cases, the special benefit is calculated as the sum of the number of single-family residences at the rate of 1 SFE per single family residence.

3.) Multi-Family Residential

Special benefit is assigned to multi-family residential parcels (duplexes, triplexes, quads) at the rate of 0.61 SFEs per dwelling unit based upon the normalization of average daily car trips versus single family residences. ($5.87/9.57 = 0.61$)

4.) Vacant

The Institute of Traffic Engineers does not provide average daily car trips to vacant residential parcels, so this amount has been estimated as approximately 2 trips per work week or $2/5$ of a trip per day which equals 0.4 daily trips. However, the increase in desirability for development of a vacant lot with greatly improved road access is difficult to measure but it is very significant. Hence, a development amplification factor of 5 has been conservatively implemented to account for the increased desirability to develop a vacant property adjacent to improved roads.

5.) Park

Special benefit is assigned to the three park parcels at the rate of 0.24 SFEs per acre unit based upon the normalization of average daily car trips versus single family residences. ($2.28/9.57 = 0.24$)

6.) Water Tank

The City of Hayward owns and operates a large water tank on one large parcel and two smaller parcels. The assessment will be assigned to the large parcel (081D-1665-002-01.) The Institute of Traffic Engineers does not provide average daily car trips to large water tank sites, so this amount has been estimated as approximately 1 trip per work week or $1/5$ of a trip per day which equals 0.2 daily trips. Hence the rate of 0.04 SFEs per vacant parcels based upon the normalization of average daily car trips versus single family residences. ($0.02/9.57 = 0.02$)

7.) Other Properties

Article XIID stipulates that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment.

Miscellaneous, small and other parcels such as roads, right-of-way parcels, and common areas typically do not generate significant numbers of employees, residents, customers or guests and have limited economic value. These miscellaneous parcels receive minimal benefit from the improvements and are assessed an SFE benefit factor of zero.

DURATION OF ASSESSMENT

The assessment shall be levied for FY 2022 and continued every year thereafter for a total of 20 years.

ANNUAL COST INDEXING

The assessment is not subject to an annual adjustment tied to an index.

CERTIFICATE

I do hereby apportion said net amount of the cost and expenses of said improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said Assessment District, in accordance with the special benefits to be received by each parcel or lot, from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

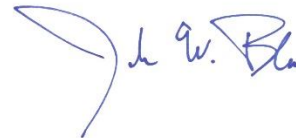
The assessment is made upon the parcels or lots of land within the Assessment District in proportion to the special benefits to be received by the parcels or lots of land, from said improvements.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for each parcel or lot of land within the said Assessment District.

February 2, 2021

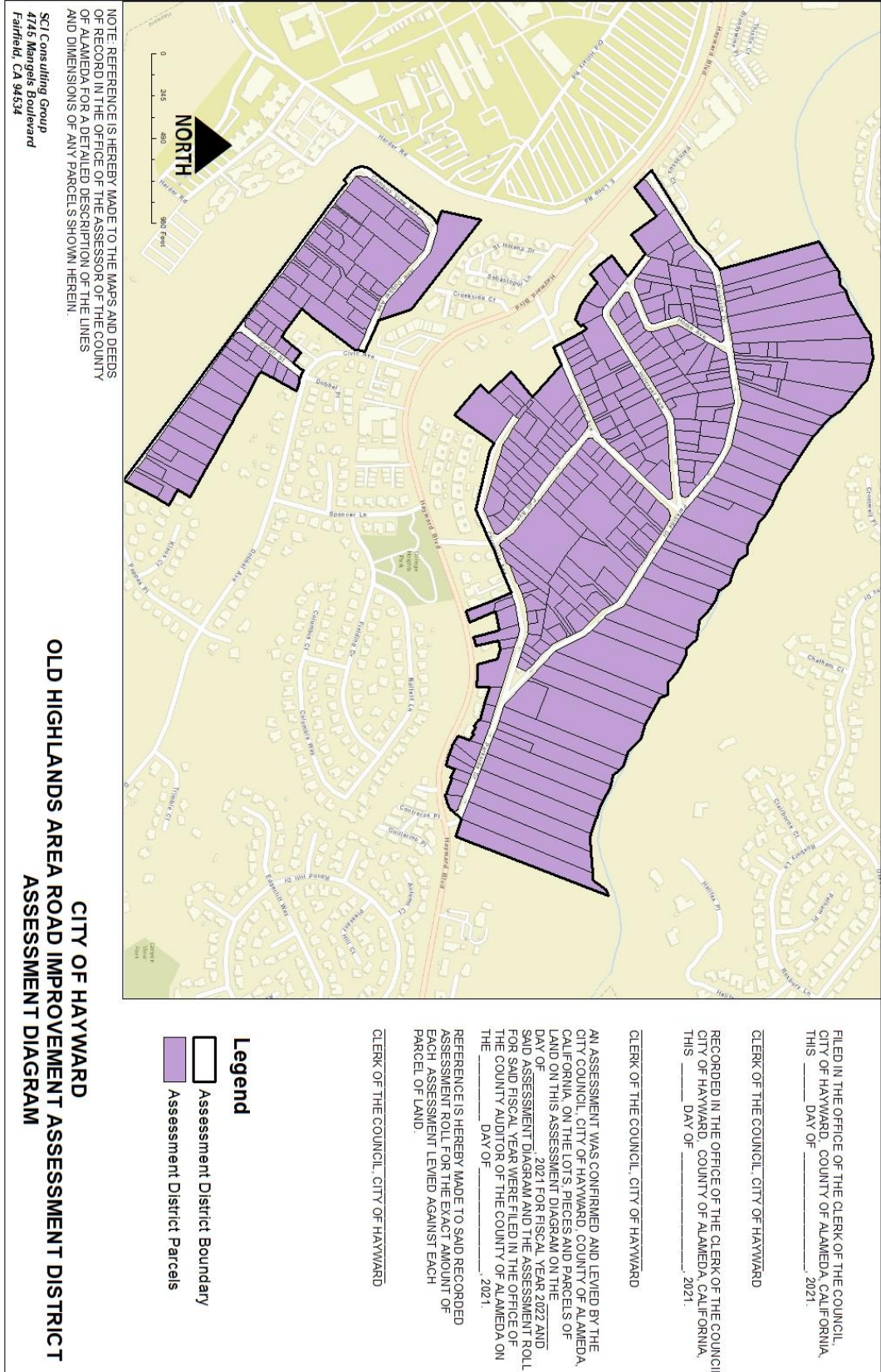
Engineer of Work



By _____
John W. Bliss, License No. C052091



ASSESSMENT DIAGRAM



APPENDIX A - ASSESSMENT ROLL

Assessments shown below reflect the prospective assessments for the single lots in the fully-built scenario using the current configuration and rate.

Parcel	Rate	Parcel	Rate	Parcel	Rate	Parcel	Rate	Parcel	Rate
081D-1585-007-00	\$139.09	081D-1635-015-02	\$665.50	081D-1650-028-00	\$665.50	081D-1660-039-00	\$665.50	425 -0420-002-00	\$1,331.00
081D-1585-008-01	\$665.50	081D-1635-016-02	\$665.50	081D-1650-029-00	\$665.50	081D-1660-040-00	\$139.09	425 -0420-003-00	\$665.50
081D-1585-012-00	\$665.50	081D-1635-017-00	\$665.50	081D-1650-030-00	\$665.50	081D-1660-041-00	\$139.09	425 -0420-004-00	\$665.50
081D-1585-013-00	\$665.50	081D-1635-018-02	\$665.50	081D-1650-031-00	\$665.50	081D-1660-042-00	\$665.50	425 -0420-005-00	\$316.78
081D-1585-022-00	\$139.09	081D-1635-021-02	\$665.50	081D-1650-032-00	\$665.50	081D-1660-043-00	\$665.50	425 -0420-006-00	\$316.78
081D-1585-025-04	\$665.50	081D-1635-024-00	\$665.50	081D-1650-033-00	\$665.50	081D-1660-044-00	\$139.09	425 -0420-007-00	\$316.78
081D-1585-026-00	\$1,211.88	081D-1635-025-00	\$665.50	081D-1650-034-00	\$665.50	081D-1665-001-03	\$665.50	425 -0420-009-00	\$665.50
081D-1585-027-00	\$665.50	081D-1635-027-00	\$665.50	081D-1650-035-00	\$665.50	081D-1665-001-06	\$665.50	425 -0420-010-00	\$665.50
081D-1585-028-01	\$665.50	081D-1635-028-00	\$665.50	081D-1655-001-04	\$665.50	081D-1665-002-01	\$13.98	425 -0420-013-00	\$665.50
081D-1585-028-02	\$665.50	081D-1635-029-00	\$665.50	081D-1655-002-06	\$665.50	081D-1665-003-01	\$0.00	425 -0420-014-00	\$665.50
081D-1585-029-00	\$665.50	081D-1640-004-00	\$665.50	081D-1655-002-07	\$139.09	081D-1665-003-02	\$139.09	425 -0420-015-00	\$665.50
081D-1585-030-00	\$665.50	081D-1640-006-00	\$139.09	081D-1655-005-00	\$665.50	081D-1665-004-00	\$665.50	425 -0420-016-00	\$665.50
081D-1585-031-00	\$1,996.50	081D-1640-020-00	\$665.50	081D-1655-006-02	\$139.09	081D-1665-006-01	\$0.00	425 -0420-017-00	\$665.50
081D-1585-036-00	\$665.50	081D-1640-021-00	\$665.50	081D-1655-011-00	\$665.50	081D-1665-006-02	\$139.09	425 -0420-018-00	\$665.50
081D-1585-037-00	\$665.50	081D-1645-001-00	\$665.50	081D-1655-012-00	\$665.50	081D-1665-008-01	\$665.50	425 -0420-019-00	\$665.50
081D-1585-038-00	\$665.50	081D-1645-008-02	\$1,331.00	081D-1655-013-02	\$665.50	081D-1665-009-01	\$665.50	425 -0420-020-01	\$665.50
081D-1585-039-00	\$665.50	081D-1645-009-04	\$665.50	081D-1655-014-02	\$665.50	081D-1665-012-01	\$665.50	425 -0420-021-02	\$139.09
081D-1585-040-00	\$665.50	081D-1645-010-03	\$665.50	081D-1655-015-00	\$665.50	081D-1665-014-00	\$665.50	425 -0420-022-00	\$665.50
081D-1585-041-00	\$665.50	081D-1645-011-00	\$665.50	081D-1655-017-02	\$665.50	081D-1665-015-01	\$665.50	425 -0430-002-03	\$139.09
081D-1585-042-00	\$665.50	081D-1645-012-00	\$665.50	081D-1655-018-03	\$665.50	081D-1665-015-02	\$665.50	425 -0430-002-04	\$665.50
081D-1585-043-01	\$665.50	081D-1645-013-00	\$665.50	081D-1655-018-04	\$665.50	081D-1665-018-00	\$665.50	425 -0430-004-00	\$665.50
081D-1585-044-00	\$665.50	081D-1645-014-00	\$665.50	081D-1655-019-00	\$665.50	081D-1665-019-02	\$665.50	425 -0430-005-00	\$139.09
081D-1585-045-00	\$665.50	081D-1645-015-00	\$665.50	081D-1655-020-00	\$665.50	081D-1665-020-01	\$1,331.00	425 -0430-006-00	\$665.50
081D-1585-046-00	\$665.50	081D-1645-016-00	\$665.50	081D-1655-021-00	\$665.50	081D-1665-021-00	\$665.50	425 -0430-007-00	\$665.50
081D-1585-047-00	\$665.50	081D-1645-018-01	\$665.50	081D-1655-022-00	\$139.09	081D-1665-022-00	\$665.50	425 -0430-008-00	\$665.50
081D-1585-048-00	\$665.50	081D-1645-019-00	\$665.50	081D-1655-024-00	\$665.50	081D-1665-023-00	\$665.50	425 -0430-009-00	\$139.09
081D-1585-049-00	\$665.50	081D-1645-020-00	\$665.50	081D-1655-025-01	\$665.50	081D-1665-024-00	\$139.09	425 -0430-011-00	\$665.50
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081D-1585-051-00	\$665.50	081D-1645-022-00	\$139.09	081D-1655-027-00	\$665.50	081D-1665-026-00	\$139.09	425 -0430-014-00	\$665.50
081D-1585-052-00	\$665.50	081D-1645-023-01	\$665.50	081D-1655-028-00	\$665.50	081D-1665-027-00	\$665.50	425 -0430-015-00	\$665.50
081D-1585-053-00	\$665.50	081D-1645-024-01	\$665.50	081D-1655-029-00	\$665.50	081D-1665-030-02	\$665.50	425 -0430-016-00	\$139.09
081D-1585-054-00	\$665.50	081D-1645-025-01	\$665.50	081D-1660-001-00	\$139.09	081D-1665-031-00	\$665.50	425 -0430-017-00	\$139.09
081D-1585-055-00	\$665.50	081D-1645-026-00	\$665.50	081D-1660-002-00	\$665.50	081D-1665-032-00	\$665.50	425 -0430-018-00	\$665.50
081D-1585-056-00	\$665.50	081D-1645-027-00	\$665.50	081D-1660-003-00	\$807.92	081D-1665-033-00	\$665.50	425 -0430-019-00	\$665.50
081D-1585-057-00	\$665.50	081D-1645-028-00	\$665.50	081D-1660-004-00	\$665.50	081D-1665-034-00	\$665.50	425 -0450-001-00	\$665.50
081D-1585-058-00	\$665.50	081D-1645-029-00	\$665.50	081D-1660-005-01	\$665.50	081D-1665-035-00	\$665.50	425 -0450-002-00	\$665.50
081D-1585-059-01	\$665.50	081D-1645-030-00	\$665.50	081D-1660-005-02	\$665.50	081D-1665-036-00	\$665.50	425 -0450-004-07	\$665.50
081D-1585-060-00	\$665.50	081D-1645-032-00	\$665.50	081D-1660-005-03	\$665.50	081D-1665-037-00	\$665.50	425 -0450-004-09	\$665.50
081D-1595-001-00	\$665.50	081D-1645-033-00	\$665.50	081D-1660-008-01	\$665.50	081D-1665-038-00	\$665.50	425 -0450-005-02	\$665.50
081D-1595-002-01	\$665.50	081D-1645-034-00	\$665.50	081D-1660-008-02	\$665.50	081D-1665-039-00	\$665.50	425 -0450-006-00	\$665.50
081D-1595-002-02	\$665.50	081D-1645-035-00	\$665.50	081D-1660-011-02	\$665.50	081D-1665-040-00	\$665.50	425 -0450-007-00	\$665.50
081D-1595-009-02	\$665.50	081D-1650-001-01	\$665.50	081D-1660-014-00	\$665.50	081D-1665-041-00	\$665.50	425 -0450-008-00	\$665.50
081D-1595-010-01	\$665.50	081D-1650-008-00	\$665.50	081D-1660-016-00	\$665.50	081D-1665-042-00	\$665.50	425 -0450-009-00	\$665.50
081D-1595-011-02	\$665.50	081D-1650-009-01	\$665.50	081D-1660-017-00	\$665.50	081D-1665-043-00	\$665.50	425 -0450-010-00	\$665.50
081D-1595-012-02	\$665.50	081D-1650-009-02	\$665.50	081D-1660-020-00	\$665.50	081D-1665-044-00	\$139.09	425 -0450-011-02	\$665.50
081D-1595-012-06	\$665.50	081D-1650-010-00	\$665.50	081D-1660-021-00	\$665.50	081D-1665-045-00	\$665.50	425 -0460-009-00	\$665.50
081D-1595-012-08	\$665.50	081D-1650-011-03	\$665.50	081D-1660-023-03	\$665.50	081D-1665-047-01	\$665.50	425 -0460-010-00	\$665.50
081D-1595-019-00	\$665.50	081D-1650-012-02	\$665.50	081D-1660-024-00	\$665.50	081D-1665-049-01	\$665.50	445 -0280-001-04	\$0.00
081D-1595-020-00	\$665.50	081D-1650-013-00	\$665.50	081D-1660-025-00	\$665.50	081D-1665-051-01	\$665.50	445 -0290-005-08	\$139.09
081D-1595-021-04	\$1,331.00	081D-1650-014-00	\$665.50	081D-1660-026-00	\$665.50	081D-1665-052-00	\$665.50	081D-1640-019-00	\$0.00
081D-1595-022-02	\$665.50	081D-1650-015-00	\$665.50	081D-1660-027-00	\$665.50	081D-1665-053-00	\$665.50	081D-1645-008-01	\$0.00
081D-1595-023-02	\$139.09	081D-1650-016-00	\$665.50	081D-1660-028-00	\$665.50	081D-1665-054-00	\$665.50		
081D-1595-031-00	\$665.50	081D-1650-017-00	\$665.50	081D-1660-029-00	\$139.09	081D-1665-055-00	\$665.50		
081D-1595-079-00	\$665.50	081D-1650-018-00	\$665.50	081D-1660-030-00	\$139.09	081D-1665-056-00	\$665.50		
081D-1595-085-00	\$665.50	081D-1650-019-00	\$139.09	081D-1660-031-00	\$665.50	081D-1665-057-00	\$665.50		
081D-1595-086-00	\$665.50	081D-1650-020-01	\$665.50	081D-1660-032-00	\$665.50	081D-1665-058-00	\$139.09		
081D-1595-087-00	\$665.50	081D-1650-022-00	\$665.50	081D-1660-033-00	\$665.50	081D-1665-059-00	\$665.50		
081D-1635-005-05	\$1,331.00	081D-1650-023-00	\$665.50	081D-1660-034-00	\$665.50	081D-1665-060-02	\$139.09		
081D-1635-006-02	\$665.50	081D-1650-024-00	\$665.50	081D-1660-035-00	\$665.50	081D-2091-001-00	\$665.50		
081D-1635-008-00	\$665.50	081D-1650-025-00	\$665.50	081D-1660-036-02	\$665.50	081D-2091-002-00	\$139.09		
081D-1635-009-04	\$139.09	081D-1650-026-00	\$665.50	081D-1660-037-00	\$665.50	081D-2091-003-00	\$665.50		
081D-1635-014-03	\$665.50	081D-1650-027-00	\$665.50	081D-1660-038-00	\$665.50	081D-2091-004-00	\$665.50		



CITY OF HAYWARD

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

File #: LB 21-003

DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Finance/Interim Director of Human Resources

SUBJECT

Negotiations Guiding Principles: Adopt a Resolution Approving the Policy/Goal Statements for Contract Negotiations as the Guiding Principles Document for 2021 Negotiations Between the City of Hayward and HAME, SEIU Local 1021 Maintenance and Clerical Units, and IFPTE Local 21

RECOMMENDATION

That the Council adopts a resolution (Attachment II) approving the policy/goal statements for contract negotiations as the Guiding Principles document for 2021 negotiations between the City and HAME, SEIU Local 1021 Maintenance and Clerical units, and IFPTE Local 21.

SUMMARY

City of Hayward employees are categorized into twelve different employee groups, nine of which are represented by either a Union or Employee Association. The remaining employee groups are unrepresented and include Unrepresented Management, Executives, and Council Appointees. The City will enter into negotiations with HAME, SEIU Local 1021 Maintenance and Clerical units, and IFPTE Local 21 in February 2021, as the current agreements with these groups expire on June 30, 2021.

The Council and City Manager set the parameters for negotiations and receive information and recommendations throughout the negotiations process to give further direction in response to labor discussions with the bargaining units. In preparation for negotiations, the Council provides Guiding Principles to the City's lead negotiators and support staff outlining Council's overarching philosophy and goals for labor negotiations and its collective philosophy for employee relations and working conditions. These principles are thoroughly discussed and vetted to give staff an understanding of what the Council expects from the negotiations process. City Council recognizes that this document reflects an "ideal" philosophical state, and although all listed principles may not be accomplished, City Council and City management believe it is essential to be transparent regarding the negotiation philosophy.

File #: LB 21-003

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Guiding Principles



DATE: February 2, 2021

TO: Mayor and City Council

FROM: Director of Finance/Interim Director of Human Resources

SUBJECT: Negotiations Guiding Principles: Adopt a Resolution Approving the Policy/Goal Statements for Contract Negotiations as the Guiding Principles Document for 2021 Negotiations Between the City of Hayward and HAME, SEIU Local 1021 Maintenance and Clerical Units, and IFPTE Local 21

RECOMMENDATION

That the Council adopts a resolution (Attachment II) approving the policy/goal statements for contract negotiations as the Guiding Principles document for 2021 negotiations between the City and HAME, SEIU Local 1021 Maintenance and Clerical units, and IFPTE Local 21.

SUMMARY AND BACKGROUND

City of Hayward employees are categorized into twelve different employee groups, nine of which are represented by either a Union or Employee Association. The remaining employee groups are unrepresented and include Unrepresented Management, Executives, and Council Appointees. The City will enter into negotiations with HAME, SEIU Local 1021 Maintenance and Clerical units, and IFPTE Local 21 in February 2021, as the current agreements with these groups expire on June 30, 2021.

The Council and City Manager set the parameters for negotiations and receive information and recommendations throughout the negotiations process to give further direction in response to labor discussions with the bargaining units. In preparation for negotiations, the Council provides Guiding Principles to the City's lead negotiators and support staff outlining Council's overarching philosophy and goals for labor negotiations and its collective philosophy for employee relations and working conditions. These principles are thoroughly discussed and vetted to give staff an understanding of what the Council expects from the negotiations process. City Council recognizes that this document reflects an "ideal" philosophical state, and although all listed principles may not be accomplished, City Council and City management believe it is essential to be transparent regarding the negotiation philosophy.

DISCUSSION

The Guiding Principles document (Attachment III) summarizes the Council's policy and

goal statements for contract negotiations in the following areas: Contract Terms; Salaries; Benefits, including all health and welfare, retirement, and other post-employment benefits; Hours of Work; and Working Conditions. The Council has consistently maintained that all employees should be compensated in an equitable manner, and all employees should contribute toward the cost of their benefits to preserve the quality and level of the benefits provided, to address the City's structural deficit, to provide long-term financial stability, and to maintain services to the Hayward taxpayers and community. During this round of negotiations in particular, it is highlighted that the COVID-19 pandemic and its devastating financial impact on the City necessitates a far more conservative financial management approach.

The Guiding Principles document expresses a commitment to providing a safe and healthy workplace in which employees are engaged and empowered. Additionally, Council and City management are committed to keeping health and safety paramount during the COVID-19 pandemic to ensure that City employees, and their families remain safe and healthy as many continue to work and provide essential services to the Hayward community.

The draft Guiding Principles document has been shared with employees and Union representatives, who were reminded that any changes to the existing agreements must be negotiated with each employee group. It is the expectation that the bargaining units will present alternatives to any proposals the City advances during negotiations and that the negotiations will progress in a collaborative, transparent, and productive manner.

STRATEGIC ROADMAP

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

FISCAL IMPACT

There is no fiscal impact associated with this report.

NEXT STEPS

If approved, staff will prepare for the negotiations process using the Guiding Principles to draft and discuss initial City proposals with each Union's negotiations team.

Prepared by: Kakshi Master, Human Resources Analyst II

Recommended by: Dustin Claussen, Director of Finance/Interim Director of Human Resources

Approved by:



Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 21-

Introduced by Council Member _____

RESOLUTION ADOPTING THE POLICY/GOAL STATEMENTS FOR CONTRACT NEGOTIATIONS AS THE GUIDING PRINCIPLES DOCUMENT FOR 2021 NEGOTIATIONS BETWEEN THE CITY OF HAYWARD AND HAME, SEIU LOCAL 1021 MAINTENANCE AND CLERICAL UNITS, AND IFPTE LOCAL 21

WHEREAS, the City Council of the City of Hayward (“Council”) values its employees;
and

WHEREAS, Council is committed to providing a safe and healthy workplace in which employees are engaged, empowered, and compensated fairly in a culture that is open and caring, and, in which, integrity is a high priority; and

WHEREAS, Council is also committed to compensating employees in a manner that meets the expectations of Hayward taxpayers, includes structural and ongoing cost-sharing, is reflective of the performance of each employee, is competitive with the labor market, and is consistent with sound financial management; and

WHEREAS, Council recognizes the value of good-faith bargaining in labor negotiations and acknowledges that any changes to existing agreements can only happen with mutual agreement through the negotiations process.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby adopts the Policy/Goal Statements for Contract Negotiations as the Guiding Principles Document for 2021 Negotiations between the City of Hayward and HAME, SEIU Local 1021 Maintenance and Clerical Units, and IFPTE Local 21.

ATTACHMENT II

IN COUNCIL, HAYWARD, CALIFORNIA, _____ 2021.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

GUIDING PRINCIPLES

POLICY/GOAL STATEMENTS

FOR CONTRACT

NEGOTIATIONS 2021¹

POLICY STATEMENT — The City Council and City Manager value all City of Hayward employees. Our commitment to providing a safe and healthy workplace in which employees are engaged, empowered, and compensated fairly and the culture is one of openness, caring, and integrity is a high priority. We are committed to compensating employees fairly in a manner that meets the expectations of our taxpayers, includes structural and ongoing cost-sharing, is reflective of the performance of each employee, is competitive with the labor market, and is consistent with sound financial management. Since the onset of the COVID-19 pandemic and ensuing shelter-in-place restrictions, many economies around the world have entered into a recession. Hayward is no exception to these challenges. With restrictions in Alameda County in place indefinitely, including whole industry segments being shuttered, deeper negative impacts on the economy are expected, necessitating a far more conservative financial management approach. We recognize that City employees provide essential services to the community, and contract provisions will be aligned with Council priorities that are reflective of the expectations of the Hayward community, which has also been heavily impacted by the pandemic. We acknowledge that attraction and retention of top talent goes beyond just the economic incentives provided by the employer and extends to our willingness to be flexible and transparent in our policies and open to employee ideas. We believe work-life balance and training opportunities are priorities and encourage our employees to share their ideas and pursue opportunities that maximize their potential and benefit them and their families.

CONTRACT TERMS

Goal: Employee labor contracts will be negotiated in good faith in a manner that: is fiscally prudent; supports Council Priorities; fosters employee development; promotes a safe, healthy, and flexible work environment; is sensitive to community expectations; is administratively efficient; and is compliant with all applicable federal, state, and local laws.

Guiding Principles:

- Contract provisions shall take into consideration the ability to implement them using the City's ERP system and avoid manual processes unless there is a compelling need that cannot be avoided.
- In general, the length of a contract should take into consideration the revenue and expenditure projections provided for in the City's Ten-Year Financial Plan for the entire proposed contract period. Multiple year contracts are preferred and should include language that allows for modification in the event of specified financial changes.
- Contract expiration dates shall generally coincide with the City's fiscal year and take into consideration the budget cycle.
- Contract terms will be effective on the date approved by Council or the first pay period nearest that date and will not include retroactivity provisions.

¹ Concession bargaining will require a different approach

SALARIES

Goal: In general, when it is fiscally prudent and consistent with taxpayer expectations of maintaining a highly qualified workforce to deliver essential services to the community, City employees will be compensated at a rate that is approximately equivalent to the mid-point of the labor market as determined by a total compensation survey of established agencies, the labor market, and the ability to effectively recruit and retain employees.

Guiding Principles:

- When fiscally prudent and in alignment with what our community can afford, provide fair salary adjustments, factoring in the internal and external labor market surveys and the Consumer Price Index (CPI). Adjust difficult to fill positions to competitive compensation levels in order to attract and retain talent.
- Maintain internal compensation equity (i.e. salary compaction, equitable benchmarking, comparable pay for similar work, etc.) consistent with industry best practices, recognizing that unique circumstances require a different approach.
- Maintain flexibility on established survey agencies for difficult to fill positions.
- Maintain flexibility on timing and frequency of market adjustments.

BENEFITS (INCLUDES ALL HEALTH AND WELFARE, RETIREMENT AND OPEB)

Goal: Partner with employees to provide cost effective, robust, and supportive benefit programs.

Guiding Principles:

- Explore convening a task force consisting of City management and Union representatives to review and discuss health care policies and programs, explore lower cost options including a cafeteria plan, and make recommendations for changes that are structural and ongoing.
- Collaboratively explore reforms and legislative changes to pension and healthcare reform.
- Provide benefit levels the City can fund responsibly in both the short and long term. Continue exploring cost effective options to fund retiree healthcare.
- Assure continuation of a defined benefit system and continued cost sharing with employees.
- Continue to evaluate and develop effective return to work programs.
- Utilize and promote current VEBA plan to maximize employee funding of future and current healthcare expenses.

HOURS OF WORK

Goal: Provide flexible work schedules and attendance standards that maximize the services provided to the Community, support a creative workplace, ensure accountability, and promote healthy work-life balance.

Guiding Principles:

- Maximize flexibility in management's ability to allocate staffing resources.
- Utilize alternative work models (i.e. telecommuting, flexible / alternate work schedules, etc.) to promote work/life balance where feasible with minimal impact on operations.
- Ensure contract leave provisions maintain alignment with all local, state, and federal leave laws.
- Explore strategies that increase efficiency, make workloads more manageable, and reduce overtime.
- Ensure sick leave provisions provide maximum flexibility for management to accommodate injured or sick workers, provide reasonable accommodation to sick or injured workers, and meet the needs of service levels for the community.

WORKING CONDITIONS

Goal: Maintain a flexible, healthy, and safe work environment that recognizes individual employee contributions. Conflicts are resolved at the lowest level possible and there are fair, consistent, and clear procedures and timelines that promote accountability for all parties.

Guiding Principles:

- Encourage low-cost wellness initiatives that promote healthy lifestyles and reduce absenteeism in the workplace.
- MOUs and City policies should provide for proactive public service, employee accountability, and support and should empower employees to strive for excellence.
- Maximize use of resources to meet current needs and position the organization for the future.
- Encourage and promote employee professional development and education.
- Ensure timelines for grievance processes are consistent and reasonable to ensure timely resolution of employee relations matters.
- Evaluate lay-off procedures from an equity lens, exploring whether current layoff procedures disproportionately impact people of color (currently restricted to seniority as the single factor).
- Explore flexible, responsible, and stable funding of a robust training and employee development program that supports quality succession planning efforts.
- Continue to support the "family" culture of the City and utilize this organizational strength to explore creative zero or low-cost initiatives to further reinforce the culture.
- Explore creative zero or low-cost improvements to work environment.