

**CITY COUNCIL MEETING**

**MARCH 7, 2023**

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AGENDA**

# **AGENDA**

## **QUESTIONS AND ANSWERS**

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**MEETING DATE: March 7, 2023**

**Item #3 [CONS 23-124](#)**

Adopt a Resolution Approving Addendum No. 1, Awarding a Construction Contract to Bear Construction, Inc., for the FY23 Median Landscape Improvement - Phase 1, Project No. 05281 in the Amount of \$935,620, and Authorizing a Construction Contingency Change Order Budget of \$189,380, for a Not-to-Exceed Contract Amount of \$1,125,000

On Item #3, when this contract was originally out to bid, was there push back on applying the CWA because the proposed amount is barely under the \$1M threshold, especially since the "Not-to-exceed" amount is \$1,125,000?

The Engineer's Estimate of the construction cost is what decides whether a project is subject to CWA. If the estimate falls below \$1M, even by a small amount, the project will not be subject to CWA. Likewise, if the estimated construction cost is \$1M or more, it will be. The contingency allocations do not factor in the decision since they may or may not be used.

While a project that is subject to CAW has its advantages, a project which is estimated to be below the cost threshold, and thus not subject to CWA, would allow for wider competition, usually from smaller, local companies. The subject Median Landscape Improvement project, for example, received six bids, and both the low bid and the second low bid, were below the engineer's estimate, and submitted by local, Hayward companies.

**Item #6 [PH 23-013](#)**

Alcoholic Beverage Regulations Update: Adopt a Resolution Amending Chapter 10, Article 1, Section 10-1.2750 (Alcoholic Beverage Outlets) of the Hayward Municipal Code to Make Updates to the Regulations Governing Alcoholic Beverage Outlets Throughout the City, and Finding that the Action is Exempt from CEQA Review and Introducing an Ordinance Codifying the Amendments

Can we confirm how is 60/40 vs 50/50 measured?

Pursuant to Section 10-1.2751 of the Municipal Code, a full-service restaurant must maintain a minimum of 60 percent of its gross receipts from the sale of food, with not more than 40 percent derived from the sale of alcohol. "Food" would include entrees, appetizers, desserts and all non-alcoholic beverages. One of the proposed amendments would relax this requirement slightly by changing the ratio to 50:50, which would be consistent with the requirement that the State Department of Alcoholic Beverage Control (ABC) has historically applied to restaurants.

# **PUBLIC COMMENTS**

**(ecomments)**

**PUBLIC HEARING ITEM # 6**

**PH 23-013**

**From:** Jorge Espinosa <jorge.e.rihani@comcast.net>

**Sent:** Tuesday, March 7, 2023 7:28 PM

**To:** List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>

**Subject:** Alcoholic Beverages Regulations Ordinance

I'm an owner and operator of one of the local restaurants and hold a current ABC 47 Liquor License. During the time staff did their research, we were under Covid-19 State of Emergency. Most of the news from the Cities and Counties were to support the then emergency ordinances.

I strongly suggest with no fault to Staff that the information gathered for this reports is NOT applicable currently and will be a decision made based on the wrong background.

My self and others local restauranteurs had a conversation about it today and we are concern about the City Council adopting the ordinance based on this report.

I also feel that the report is incomplete. They are multiple concerns and untight ends that will become a problem in the future.

I would like to propose the move of this item for a later date and give us the opportunity to speak with you and/or staff to raise our concerns.

Respectfully

Jorge Espinosa