

HAYWARD CITY COUNCIL

RESOLUTION NO. 22-____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO COMPLETE CONSTRUCTION OF SUBDIVISION IMPROVEMENTS IN TRACT 8058 OF THE GOLDEN OAKS 2 SUBDIVISION; MAKING FINDINGS TO PROCURE THE WORK IN THE OPEN MARKET; AND AUTHORIZING EXPENDITURE OF FUNDS IN AN AMOUNT NOT-TO-EXCEED \$630,000

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

WHEREAS, on October 2, 2014 the Hayward Planning Commission approved the tentative map for Tract 8058, a five-lot subdivision on an approximately 1.15 acre site between Hayward Boulevard and Hillcrest Avenue; and

WHEREAS, the Hayward City Council approved the final map for Tract 8058 during the June 30, 2015 City Council meeting; and

WHEREAS, in February 2017, as a condition of the approval, Ron Esau, the developer of the subdivision entered into a Subdivision Improvement Agreement with the City to construct specified improvements in and about the subdivision within 365 days of the agreement; and

WHEREAS, the subdivision improvements remain incomplete; and

WHEREAS, the City has a contractual right under the Subdivision Improvement Agreement to complete the work and seek reimbursement from the developer; and

WHEREAS, the City has been engaged in ongoing litigation with two property owners within the subdivision since June 2020 as a consequence of the incomplete subdivision improvements (*Sharma, et al. v. City of Hayward*, Alameda County Superior Court case number HG 20064943); and

WHEREAS, the parties participated in court-ordered mediation and have negotiated a resolution, which includes the City undertaking completion of specific subdivision improvements that would allow the property owners to connect to utility services and apply for certificates of occupancy for their residences; and

WHEREAS, the developer posted a cash deposit in the amount of \$209,140.76 to secure performance of obligations under the Subdivision Improvement Agreement; and

WHEREAS, the current balance of the cash security is \$141,671.91; and

WHEREAS, the construction cost is estimated not-to-exceed \$508,650 (\$462,405 estimated construction total + \$46,240.50 construction contingency budget); and

WHEREAS, internal Public Works staff charges of \$121,350 are estimated for preparation of the construction bid documents, bid invitation, construction inspection and administration; and

WHEREAS, the estimated total project costs exceeds the remaining cash security, necessitating the expenditure of City funds to complete the improvements; and

WHEREAS, Hayward Municipal Code section 2-8.01 authorizes procuring work in the open market as opposed to advertising for bids if the Council determines it is more beneficial to do so; and

WHEREAS, the relatively small size of the project which could make it challenging to attract bidders, the need to quickly identify and reach out to a specific pool of contractors with experience constructing and installing these types of improvements, including PG&E facilities, and the time sensitive nature of the property owners' financing arrangements, make it more beneficial to procure the work in the open market as opposed to advertising for bids; and

WHEREAS, CEQA review was conducted as part of the original entitlement process for Tract 8058 (Golden Oaks 2) and the project was found to be categorically exempt from environmental review pursuant to Section 15332 of the CEQA Guidelines for infill development.

NOW, THEREFORE, BE IT RESOLVED, that the City Council authorizes the Public Works Director to complete construction of specific subdivision improvements in Tract 8058 (Golden Oaks 2) that would allow the property owners to connect to utility services and apply for certificates of occupancy for their residences.

BE IT FURTHER RESOLVED, that the City Council finds that it is more beneficial to procure the work on the open market as opposed to advertising for bids, for the reasons stated above, and the Public Works Director is hereby authorized to procure the work on the open market pursuant to Municipal Code section 2-8.01.

BE IT FURTHER RESOLVED, that the City Council authorizes expenditure of City funds in an amount not-to-exceed \$630,000 for construction and internal construction administration costs.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2022

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward