

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-151

Introduced by Council Member Peixoto

**RESOLUTION OF FORMATION ESTABLISHING THE DOWNTOWN
HAYWARD COMMUNITY BENEFIT DISTRICT (CBD) AND LEVYING
ASSESSMENT THEREWITH**

WHEREAS, In March 2015, the City Council adopted Article 20, Chapter 8, the City of Hayward's Community Benefit District Ordinance, that authorizes the City to establish a Community Benefit District ("CBD") for up to 15 years to enhance the security, safety, appearance, and economic viability within such districts; and

WHEREAS, The Ordinance authorizes the City to levy and collect assessments on real property within such districts for providing improvements and promoting activities that specially benefit real property within such districts; and

WHEREAS, The Ordinance authorizes the City to use the procedures set forth in the Property and Business Improvement District Law of 1994 (Streets & Highways Code sections 36600 *et seq.*) (the "PBID Law") as modified by the Ordinance for purposes of forming an assessment district; and

WHEREAS, The Ordinance authorizes the City Council to initiate proceedings to form a Community Benefits District upon the submission of a written petition, signed by property owners in the proposed district who will pay more than thirty percent of the assessments proposed to be levied in connection with such district; and

WHEREAS, Such petitions were signed by property owners and provided to the City Council at their meeting May 15, 2018, and upon review, 52.68% of the property owners support the district and exceeding the 50% threshold required by City Ordinance; and

WHEREAS, The "Downtown Hayward Community Benefit District 2018 Management District Plan" dated April 2018 and the "Downtown Hayward Community Benefit District Engineer's Report" dated May 3rd, 2018 have been prepared and contain all the information required by the Ordinance, including, but not limited to, a description of the boundaries of the proposed CBD, the special benefit improvements and activities and an assessment amount for every parcel within the District; and

WHEREAS, Articles XIIC and XIID of the California Constitution and Section 53753 of the California Government Code (Proposition 218 Omnibus Implementation Act) also impose certain procedural and substantive requirements relating to the notice, protests and hearing requirements pertaining to new or increased assessments; and

WHEREAS, On May 15th, 2018, the City Council adopted Resolution 180-80, a Resolution of Intent to the Downtown Hayward Community Benefit District, approved the Management District Plan and Engineer's Report, and among other things and consistent with the State Constitution and State government Code, directed the City Clerk to mail Ballot Packets to the proposed district property owners and set July 10th at 7:00 PM as the date and time for convening a public hearing in the City Council Chambers, 777 B Street, in Downtown Hayward for the purpose of receiving public testimony and tabulating the weighted votes; and

WHEREAS, As directed by the Resolution of Intent, on May 15th, 2018, no less than 45-days prior to the public hearing, the City Clerk mailed to 150 record owners of affected parcels a Ballot Packet including a notice of July 10, 2018 public hearing on the formation of the Community Benefit District, and a Ballot Packet consisting of the ballot with the proposed assessment amount, and a link to the Management Report, Engineer's Report and other data describing the process, as required by Article XIII D, Section 4 of the California Constitution and Section 53753 of the Government Code; and

WHEREAS, As directed by the Resolution of Intent, the City Clerk published on May 21, 2018, the Notice of Public Hearing and the Resolution of Intent in the local Hayward Californian newspaper announcing the public hearing July 10th to discuss the proposed establishment of the Downtown Hayward Community Benefit District; and

WHEREAS, On July 10th, 2018 at 7:00 PM or as soon thereafter as was practicable, in the City Council Chambers, 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 the Resolution of Intent; 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 assessment proposed regarding the Downtown Hayward CBD; and

WHEREAS, The property within the area of the CBD will be benefited by the improvements and activities funded by the assessments levied in connection with the CBD. The assessment against each parcel does not exceed the reasonable cost of the proportional special benefit conferred on that parcel.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. Pursuant to Article 20 of Chapter 8 of the Hayward City Code (Ordinance 15-12) which incorporates provisions of Section 36621 of the PBID Law, the Downtown Hayward Community Benefit District (the "District") is hereby formed.

Section 3. The boundaries of the Downtown Hayward CBD as described in the Management Plan, and generally encompass approximately 24 whole or partial blocks with 239 parcels owned by 150 property owners. The District is generally bounded by Civic Center Drive and Hazel Avenue on the north, D Street on the south the Downtown Hayward BART station on the west and both sides of 2nd Avenue from Russell to C Street on the east.

Section 4. The proposed activities of the CBD as set forth in the Management Plan include sidewalk operations, marketing, district identity, beautification, security, maintenance, administration/corporate operations and an appropriate contingency/reserve. All proposed services and improvements will provide a special benefit to real property located within the District.

Section 5. The activities of the Downtown Hayward CBD will be funded by a total assessment levied and collected within the proposed Downtown Hayward CBD for fiscal year 2018-2019 of \$595,644.

Section 6 of the Management Plan sets forth the proposed Downtown Hayward CBD annual assessment amount by Assessor's Parcel Number. The amount to be levied and collected for subsequent years may be increased by an amount not to exceed five percent (5%) per year.

Section 7. The initial duration of the Downtown Hayward CBD is 10-years.

Section 8. The future CBD management corporation shall adopt a Hardship Policy for non-profit and ecumenical properties within the district.

Section 9. For a complete description of the CBD, its boundaries and activities, as well as a complete description of the assessment authorized in connection with the Downtown Hayward CBD, reference is made to the Downtown Hayward Management District Plan dated April 2018, and the Downtown Hayward Community Benefit District Engineer's report dated May 3rd 2018, each of which are on file in the Office of the City Clerk, available for public inspection, available on the City's website, and incorporated herein by reference. The Management Plan and Engineer's Report are hereby finally approved. Properties in the Downtown Hayward CBD shall be subject to any amendments to the law.

Section 10. The adoption of this Resolution constitutes the levy of the assessment in each of the fiscal years referred to in the Management District Plan; however, each year's levy shall be conditioned on approval, by resolution, of an annual report pursuant Section 36650 of the PBID Law. The approval of such report is at the discretion of the Council.

Section 11. The City Clerk is hereby authorized and directed to record notice of assessment required by Section 36627 of the PBID Law.

Section 12. This resolution shall take immediate effect.

IN COUNCIL, HAYWARD, CALIFORNIA July 10, 2018

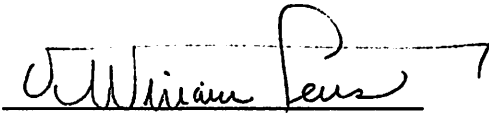
ADOPTED BY THE FOLLOWING VOTE:

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

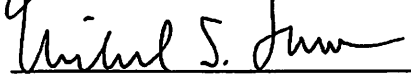
NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: Márquez, Salinas

ABSTAIN: COUNCIL MEMBERS: None

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward