



AGENDA

REGULAR MEETING OF THE MAYWOOD CITY COUNCIL AND THE SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY REDEVELOPMENT AGENCY

Maywood City Council Chambers
4319 E. Slauson Avenue, Maywood, CA 90270
Wednesday, February 26, 2020 at 7:00 p.m.

Rules of Decorum

*“Members of the Public are advised that all **ELECTRONIC DEVICES, CELLULAR TELEPHONES and any OTHER COMMUNICATION DEVICES** are to be turned off upon entering the City Council Chambers.” If you need to have a discussion with someone in the audience, kindly step out into the lobby.*

Reglas de Comportamiento

*“Al público en general se le avisa que todos los **teléfonos celulares, pagers y demás aparatos de comunicación deben ser apagados** al entrar a la sala de audiencias del Consejo Municipal de la Ciudad.”*
Si usted necesita tener una conversación con alguien que está en la audiencia, amablemente le pedimos que salga del recinto y tenga su conversación en el vestíbulo de la sala de audiencias.

ROLL CALL:

Eduardo De La Riva, Mayor
Ricardo Lara, Mayor Pro Tem
Ramon Medina, Councilmember
Carlos Alvarez, Councilmember
Heber Marquez, Councilmember
Gloria Viramontes, City Treasurer
Gerardo Mayagoitia, City Clerk
Jennifer Vasquez, City Manager
David Mango, Director of Building and Planning
Hrant Manuelian, Finance Director
Roxanne Diaz, City Attorney

*In order to address the Council, please complete a Public Comment Card.
No Public Comment Cards will be accepted after 7:15 p.m. Time allotted per speaker: 3 minutes.
No agenda item may be taken after 9:00 p.m. without a motion to extend time by the majority of Council present.*

INVOCATION* AND PLEDGE OF ALLEGIANCE

**In permitting a nonsectarian invocation, the City does not intend to proselytize, advance, or disparage any faith or belief. Neither the City nor the City Council endorses any particular belief or form of invocation.*

COUNCIL MEMBERS' COMMENTS (3 MINUTES EACH)

PUBLIC PARTICIPATION (Agenda Items Only)

At this time speakers wishing to address the City Council on items on the agenda will be called upon in the order that the speaker card is received. The maximum time allotted for individuals to speak shall not exceed three (3) minutes.

PRESENTATION(S)

Tobacco Control and Prevention Presentation by Tobacco-Free Partnership Maywood/Montbello

Parks and Open Space Grants Presentation by David Marquez, Consultant from California Consulting, Inc.

PUBLIC HEARING

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council request specific items to be removed from the Consent Calendar for separate discussion or action.

1. Minutes for 02/12/2020 Regular City Council Meeting.
2. Resolution of the City Council of the City of Maywood and Successor Agency to the Maywood Community Redevelopment Agency Approving Prepaid Warrants.
3. Approve a Household Hazardous Waste Collection Program Siting Liability Agreement with The County of Los Angeles and The County Sanitation District No. 2 of Los Angeles County and authorize the Mayor to execute said Agreement.
4. Approve an amendment to the agreement with Veronica Tam and Associates, Inc. for the preparation and submittal of the City's 2019 Housing Element Annual Progress Report to the California Department of Housing and Community Development
5. Adopt a Resolution authorizing the destruction of obsolete documents.

DISCUSSION/ACTION ITEMS

6. Consideration of an Emergency Services Agreement, and approval of a Resolution for Comprehensive Solid Waste Services and establishing the maximum rates.
7. FY 19-20 Midyear Financial Report and Consider Adoption of Resolution No. 6094 to amend the FY 19-20 Budget
8. Discussion regarding the sales/licensing of vaping products in the City of Maywood

CLOSED SESSION

PUBLIC PARTICIPATION (Non-Agenda Items)

At this time speakers wishing to address the City Council on an item not on the agenda will be called upon in the order that the speaker card is received. The maximum time allotted for individuals to speak shall not exceed three (3) minutes.

ADJOURNMENT – In the memory of Victoria Rogers (mother of James Rogers) and Kimberly Cruz.

The next Regular Meeting of the Maywood City Council is on March 11, 2020.

PUBLIC ACCESS TO CITY COUNCIL MEETING AGENDA AND AGENDA PACKETS

I, G. Padilla, Gerardo Mayagoitia, City Clerk or Guillermo Padilla, Deputy City Clerk, hereby certify that this agenda was duly posted by law at 4319 E. Slauson Avenue, Maywood, CA 90270 and the City Website. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection at the Maywood City Hall, 4319 E. Slauson Avenue, Maywood CA 90270. If you challenge in court any discussion or action taken concerning an item on this Agenda, you may be limited to raising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting. In compliance with the ADA, if you need special assistance for the meeting, call (323) 562-5723 within 72 hours prior to the meeting so the City can make reasonable arrangements to ensure  accessibility.



AGENDA 1
ITEM NO. _____

February 12, 2020

**MINUTES OF THE REGULAR MEETING
OF THE MAYWOOD CITY COUNCIL HELD IN THE COUNCIL CHAMBERS,
4319 EAST SLAUSON AVENUE, MAYWOOD, CALIFORNIA**

Mayor opened the meeting at approximately 7:00 p.m.

ROLL CALL: Eduardo De La Riva, Mayor
Ricardo Lara, Mayor Pro Tem
Ramon Medina, Councilmember
Carlos Alvarez, Councilmember
Heber Marquez, Councilmember
Gloria Viramontes, City Treasurer (Absent)
Gerardo Mayagoitia, City Clerk
Jennifer Vasquez, City Manager
David Mango, Director of Building and Planning
Hrant Manuelian, Director of Finance
Roxanne Diaz, City Attorney

COUNCIL MEMBERS' COMMENTS (3 MINUTES EACH)

PUBLIC PARTICIPATION (Agenda Items Only)

At this time speakers wishing to address the City Council on items on the agenda will be called upon in the order that the speaker card is received. The maximum time allotted for individuals to speak shall not exceed three (3) minutes.

The following spoke on Agenda Items only:

1. David Perez;
2. Mary Mariscal (Filled out speaker card but did not speak);
3. Heather Wilson (Filled out speaker card but did not speak);
4. Carmen Perez.

PRESENTATION(S)

PRESENTATION(S)

Heart Health in Maywood

Presenters: Melissa Ponce, Anahy Barajas Bautista and Kaylee Portillo

Recognition of Christmas Home Decorating Finalist

PUBLIC HEARING

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council request specific items to be removed from the Consent Calendar for separate discussion or action.

1. Minutes for 01/22/2020 Regular City Council Meeting. **Motion to approve by Lara. Second by Marquez. AYES: Marquez, Lara, and De La Riva. ABSTAIN: Alvarez and Medina. PASSESS**
2. Minutes for 01/29/2020 Adjourned City Council Meeting. **Motion to approve by Lara. Second by Marquez. AYES: Marquez, Lara, and De La Riva. ABSTAIN: Alvarez and Medina. PASSESS**
3. Revenue Report from July 2019 To January 2020. **Motion to approve by Lara. Second by Alvarez. AYES: Marquez, Alvarez, Medina, Lara, and De La Riva. PASSES**
4. Resolution of the City Council of the City of Maywood and Successor Agency to the Maywood Community Redevelopment Agency Approving Prepaid Warrants. **Motion to approve by De La Riva. Second by Lara. AYES: Marquez, Alvarez, Medina, Lara, and De La Riva. PASSES**
5. Consideration of Adoption of a Resolution appropriating CDBG Funds to provide funding for Sewer Replacement Project CDBG No. 601890-16 EPA Grant No. XP-99T51901-0. **Motion to approve by Marquez. Second by Alvarez. AYES: Marquez, Alvarez, Medina, Lara, and De La Riva. PASSES**
6. Authorize appropriation of General Fund monies to replace Riverfront Park playground parts and equipment as needed and to award contract to Miracle Recreation Equipment Co. and Ortco, Inc. **Motion to approve by Lara. Second by Alvarez. AYES: Marquez, Alvarez, Medina, Lara, and De La Riva. PASSES**
7. Authorize the Special Event and temporary use of Maywood Riverfront Park by the Los Angeles County Bicycle Coalition for the Los Angeles River Ride on June 7th, 2020. **Motion to approve by Marquez. Second by Lara. AYES: Marquez, Alvarez, Medina, Lara, and De La Riva. PASSES**

DISCUSSION/ACTION ITEMS

8. Discuss funding options for the 2020 National Fitness Campaign (“NFC”) Fitness Court Program and consider approval of a Letter of Intent to maintain grant and program eligibility. **Motion by Lara to authorize the execution of Letter of Intent and direct staff to look at moving forward with sponsorships to pay our portion of the matching funds for this project. Second by Medina. AYES: Marquez, Alvarez, Medina, Lara, and De La Riva. PASSES**

CLOSED SESSION

Conference with Legal Counsel, Anticipated Litigation-Significant Exposure to Litigation Government Code Section 54956.9(d)(2)
Number of cases: 2. **No reportable action was taken.**

PUBLIC PARTICIPATION (Non-Agenda Items)

At this time speakers wishing to address the City Council on an item not on the agenda will be called upon in the order that the speaker card is received. The maximum time allotted for individuals to speak shall not exceed three (3) minutes.

The following spoke on Non-Agenda Items:

1. Juana Tenaud;
2. Francisca Padilla;
3. Gerardo Mayagoitia;
4. Mary Mariscal;
5. Veronica Guardado;
6. Heather Wilson;
7. Gustavo Pantoja
8. David Perez;
9. Maria Acencio.

ADJOURNMENT Meeting adjourned at approximately 9:23 p.m. on February 12, 2020 to February 26, 2020 at 7:00 pm for the regular meeting of the Maywood City Council.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

COUNCIL AGENDA

ITEM No. 2

RESOLUTION NO. 6093

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MAYWOOD AND SUCCESSOR AGENCY TO THE MAYWOOD COMMUNITY
REDEVELOPMENT AGENCY APPROVING THE WARRANTS FOR PAYMENT**

WHEREAS, the following listed demands have been reviewed by the Director of Finance, and

WHEREAS, the Director of Finance has certified to the accuracy and availability of funds for payment thereof, and

WHEREAS, the register of audited demands is hereby submitted to the City Council of the City of Maywood and Successor Agency to the Maywood Community Redevelopment Agency for approval.

NOW, THEREFORE, BE IT RESOLVED, that the listed Warrants and Wire Transfers/Automated Clearing House (ACH) Transactions for \$1,129,959.02 are hereby ratified:

- Exhibit A – Summary of Warrants and Wire Transfers/ACH Transactions
- Exhibit B – Detail of Warrants

PASSED, APPROVED AND ADOPTED THIS 26th day of February, 2020.

Eduardo De La Riva, Mayor

ATTEST:

APPROVED AS TO FORM:

Gerardo Mayagoitia, City Clerk

Roxanne Diaz, City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF MAYWOOD

)
)
)

I, Gerardo Mayagoitia, City Clerk of the City Council of the City of Maywood, do hereby certify that foregoing Resolution No. 6093 was duly passed and adopted by the City Council of the City of Maywood, at a regular meeting of the City Council held on the 26th of February, 2020 by the following roll call vote, to wit:

AYES:

NAYES:

ABSENT:

ABSTAINED:

Gerardo Mayagoitia, City Clerk

City of Maywood
Summary Warrants for Payment and Wire Transfers/ACH Transactions
Council Meeting Date
Wednesday, February 26, 2020

Accounts Payable

Accounts Payable prepaid warrants for payment: Checks No. 086872 - 086889	Amount
	\$ 429,448.40
Accounts Payable regular warrants for payment: Checks No. 086890 - 086911	\$ 449,206.33
Sub-total	\$ 878,654.73

Wire Transfers/ACH Transactions

02/05/20	Lease Payment for Front Counter Cash Registers - February 2020	\$ 129.57
02/05/20	CalPERS Health Premium February 2020	\$ 30,150.64
02/05/20	CalPERS Unfunded Liability Payment Plan - Safety & Misc. Employees	\$ 110,480.44
02/05/20	California Joint Powers Insurance Authority (CJPIA) repayment plan agreement	\$ 12,000.00
02/05/20	US Bank Bond Interest Payment	\$ 90,438.55
02/07/20	CalPERS Employer Contribution - Pay Period 1/19/2020-2/1/2020	\$ 6,786.33
02/14/20	US Bank Analysis Service Charge	\$ 1,318.76
Sub-total		\$ 251,304.29

Total Demands **\$ 1,129,959.02**

City of Maywood
Detail Warrants for Payment
Warrants No. 086872 to 086911

EXHIBIT B

Check No.	Prepays	Date	Vendor Name	Check Amt	Transaction Description
086872	P	2/14/2020	Lucas Builders, Inc.	395,000.00	Settlement for various roadway work CDBG Project #601890-16
086873	P	2/14/2020	Municipal Waste Solutions	2,707.50	December 2019 Waste & Recycling Consulting
086874	P	2/19/2020	Brinks, Inc.	541.96	January 2020 & February 2020 Cash Handling Service
086875	P	2/19/2020	CoreLogic Solutions, LLC.	150.00	Property Finder February 2020
086876	P	2/19/2020	Department of Industrial Relations	675.00	Elevator Unit Inspection 4319 Slauson Avenue
086877	P	2/19/2020	Dewey Pest Control	92.00	February 2020 Pest Control City Hall
086878	P	2/19/2020	Division of the State Architect	593.90	DSA Fees Collected January 2019 - December 2019
086879	P	2/19/2020	L.B. Johnson Hardware Co.	173.72	Public Works Supplies
086880	P	2/19/2020	Maywood Car Wash	635.78	Car Wash/Gas January 2020
086881	P	2/19/2020	Tri-City Mutual Water Company	863.40	Various Locations 01-03-2020 to 01-31-2020
086882	P	2/19/2020	OnTrac	55.64	Document Shipping/Delivery Service: Building & Planning
086883	P	2/19/2020	Preferred Benefit Insurance Administrators, Inc.	2,593.20	Dental & Vision Insurance: February 2020
086884	P	2/19/2020	Southern California Edison	23,814.34	Various Locations 12-24-2019 to 01-23-2020
086885	P	2/19/2020	Sparklets Drinking Water Corp	107.91	City Hall Office Water
086886	P	2/19/2020	The Gas Company	310.40	Various Locations (01-08-2020 - 02-06-2020)
086887	P	2/19/2020	Time Warner Cable	626.78	Internet & Phone Service: February 2020
086888	P	2/19/2020	Xerox	353.57	January 2020 Base Charge and Printing Fee
086889	P	2/19/2020	Xerox Financial Services	153.30	Copier Lease: 01-22-2020 - 02-21-2020
086890		2/19/2020	American Guard Services, Inc.	5,618.34	Crossing Guard Services - January 2020
086891		2/19/2020	American Paper Plastic	656.28	Janitorial Supplies: City Hall
086892		2/19/2020	BMO Harris Bank NA	5,599.99	Trash Bin/Cart Rental February 2020
086893		2/19/2020	Bremer, Whyte, Brown & O'Meara, LLP	9,929.08	Legal Services October 2019 & January 2020
086894		2/19/2020	California Consulting, Inc.	3,000.00	Grant Writing Services: February 2020
086895		2/19/2020	Calmex Graphics	304.14	City of Maywood Window Envelopes (Business License)
086896		2/19/2020	Carpenter Rothan & Dumont LLP	9,223.20	Legal Services December 2019

City of Maywood
Detail Warrants for Payment
Warrants No. 086872 to 086911

Check No.	Prepays	Date	Vendor Name	Check Amt	Transaction Description
086897		2/19/2020	Daily Journal Corporation	480.00	Publication of Official Notices
086898		2/19/2020	Dapeer, Rosenblit & Litvak, LLP	3,534.60	Code Enforcement Legal Services: January 2020
086899		2/19/2020	Diana Cho & Associates	1,912.50	CDBG Consulting: January 2020
086900		2/19/2020	Edith Carrillo	13.50	Census Training Mileage Reimbursement
086901		2/19/2020	Graffiti Protective Coatings	2,000.00	January 2020 Bus Shelter Maintenance
086902		2/19/2020	HDL Coren & Cone	2,217.38	Property Tax Service: January 2020 - March 2020
086903		2/19/2020	HdL Software, LLC	975.94	Quarterly Use Fee - Permit Tracking Software 03/01/20-05/31/20
086904		2/19/2020	Heliotrope Avenue Elementary School	1,030.00	Reimbursement Bus Trip Griffith Park Observatory (1-22-2020)
086905		2/19/2020	Interwest Consulting Group	6,585.32	Building & Safety Plan Review Services November 2019 Professional Services November 2019 Building Inspection
086906		2/19/2020	Jani-King of California, Inc. Los Angeles/Colton Region	4,990.00	Park Custodial February 2020
086907		2/19/2020	Jennifer E. Vasquez	872.81	CA Cities Legislative Conference Lodging Reimbursement City Managers Conference February 2020 Mileage Reimbursement
086908		2/19/2020	KB1 Auto Detail	750.00	City Vehicle Fleet: Car Wash November 2019 & December 2019
086909		2/19/2020	Redfire Technology Services	2,211.20	February 2020 I.T. Services
086910		2/19/2020	Sheriff's Department	385,742.05	Public Safety Services - December 2019
086911		2/19/2020	West Coast Arborists, Inc.	1,560.00	5942 Atlantic Blvd - Emergency Tree Removal/Clean-Up
TOTAL:				\$878,654.73	



AGENDA 3
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 26, 2020

TO: HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*

BY: DAVID MANGO, DIRECTOR OF BUILDING AND PLANNING

RE: APPROVE A HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM SITING LIABILITY AGREEMENT WITH THE COUNTY OF LOS ANGELES AND THE COUNTY SANITATION DISTRICT NO. 2 OF LOS ANGELES COUNTY AND AUTHORIZE THE MAYOR TO EXECUTE SAID AGREEMENT

RECOMMENDATION

Staff recommends that the City Council approve the attached Household Hazardous Waste ("HHW") Collection Program Siting Liability Agreement with the County of Los Angeles ("County") and the County Sanitation District No. 2 of Los Angeles County ("District") and authorize the Mayor to execute said agreement.

FISCAL IMPACT

There is no fiscal impact associated with this action.

LEGAL REVIEW

The City Attorney has reviewed this staff report and the attached agreement.

BACKGROUND

The County and District co-sponsor Household Hazardous and Electronic Waste Collection Events ("Roundups") to provide Los Angeles County residents an environmentally safe means and place to dispose of HHW and Electronic Waste ("E-Waste").

HHW is any product labeled: toxic, poison, combustible, corrosive, flammable or irritant that is disposed of. A typical home can contain an array of household hazardous products for cleaning, painting, beautifying, lubricating and disinfecting the house, yard, workshop and garage. The health and safety of our families, neighborhoods and environment is threatened when household hazardous waste is stored or disposed of improperly.

The term E-Waste is applied to consumer electronic equipment that is no longer wanted. E-waste can include computers, printers, televisions, VCRs, cell phones, fax machines, stereos, and electronic games. Electronics may contain lead, copper, and other heavy metals or potentially toxic substances.

DISCUSSION

The Roundups operated by the County and District, are free one-day, drive-through collection events where residents can drop off their HHW and E-Waste. Most events are held on Saturdays from 9 a.m. to 3 p.m. and are open to all Los Angeles County residents. No appointment is needed.

The City has allowed the County and District to hold a roundup event for many years. The attached agreement must be signed by the City prior to any future HHW events. The City agrees to permit County, District and their agents, employees and waste collection contractors to use City property located at Southeast Rio Vista YMCA at Maywood Park, 57th Street and Heliotrope Avenue, beginning, May 22, 2019, at 8 a.m. to prepare for the Roundup and to conduct the Roundup to be held on May 23, 2019. The Roundup will be scheduled, advertised, and available to the public between the hours of 9 a.m. and 3 p.m. on May 25, 2019, although HHW and E-Waste may be accepted as early as 8 a.m. and as late as 4 p.m.

ATTACHMENT: Los Angeles County HHW Program Siting Liability Agreement

ATTACHMENT NO. 1

COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM SITING LIABILITY AGREEMENT

This Agreement is made and entered into this 26 day of February, 2020, by and between the COUNTY OF LOS ANGELES, (hereinafter referred to as "County"), County Sanitation District No. 2 of Los Angeles County (hereinafter referred to as "District"), and City of Maywood (hereinafter referred to as "Owner").

Whereas, the County and District have agreed to co-sponsor a Household Hazardous and Electronic Waste Collection Event ("Roundup") to provide Los Angeles County residents an environmentally safe means and place to dispose of household hazardous waste and electronic waste.

Whereas, the County and the District have entered into that certain Household Hazardous Waste Collection Agreement dated February 1, 1992 (the "County-District Agreement"), which sets forth the obligations of the County and the District in connection with Household Hazardous Waste Collection Events such as the Roundup.

Whereas, Owner desires to support this worthwhile project by offering use of its property located at Southeast Rio Vista YMCA at Maywood Park, 57th Street and Heliotrope Avenue, Maywood for the Roundup. The Roundup is scheduled for May 23, 2020.

NOW, THEREFORE, County, District, and Owner agree as follows:

Article 1. DEFINITIONS

Household hazardous waste includes, but is not limited to, pesticides, cleaning solvents, automotive fluids, waste oil, paint and related products, hobby and art chemicals, batteries, and similar items. Electronic waste includes, but is not limited to computers, printers, cables, televisions, VCRs, stereos, and similar items.

Article 2. USE OF PROPERTY

Owner agrees to permit County, District and their agents, employees and waste collection contractors to use Owner's property located at Southeast Rio Vista YMCA at Maywood Park, 57th Street and Heliotrope Avenue, Maywood beginning, May 22, 2020, at 8 a.m. to prepare for the Roundup and to conduct the Roundup to be held on May 23, 2020. The Roundup will be scheduled, advertised, and available to the public between the hours of 9 a.m. and 3 p.m. on May 23, 2020, although household hazardous and electronic waste may be accepted as early as 8 a.m. and as late as 4 p.m.

Owner agrees to permit the County and District to use the area where the Roundup is held for a reasonable time, not to exceed 24 hours following termination of the Roundup on May 23, 2020, by 4 p.m., to package and remove all collected hazardous, nonhazardous, and electronic waste from Owner's property. Limited rental equipment such as fork lifts, etc., may be left at Owner's property until pick up by the rental company no later than the second work day of the week following the Roundup. The County and District will store such equipment away from traffic areas, approved by the Owner, until picked up by the rental company. The Owner shall not be responsible for any loss, damage, or liabilities arising out of the use or storage of such rental equipment.

Owner further agrees to provide such use of its property to the County and District without compensation.

Article 3. COUNTY AND DISTRICT'S RESPONSIBILITIES:

A. County is a self-insured agency and shall provide Owner a Certificate of Self-Insurance.

B. County agrees to release, indemnify, defend, and hold harmless Owner, its partners, employees, officers, and agents against any and all liability and expense, including defense costs and legal fees and claims for damages, including but not limited to, bodily injury, death, personal injury or property damage, arising out of or associated with the use of Owner's property for the purposes of the Roundup, including but not limited to the acts or omissions of County or District's contractors in conducting the Roundup, except to the extent caused by an act or omission of Owner or its officers, employees or agents.

C. County and District agree to comply with all applicable Federal, State, and local laws in conducting the Roundup, and in packaging, removing, and disposing of all waste collected.

D. County and District agree to remove and clean up any spill or other release of hazardous, non-hazardous waste, or electronic waste resulting from the Roundup and restore affected site facilities to their original condition.

E. County and District agree to provide all overnight security and protection personnel/services necessary for the County's, District's, and their contractor's equipment/supplies that are stored on the Owner's property prior to or following the Roundup, until such time that all such equipment/supplies are removed from the Owner's property.

F. The responsibilities of the County and the District to each other with regard to the Roundup are governed by the County-District Agreement, which shall remain in full force and effect which is not intended to be superseded by this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, duly authorized, by COUNTY SANITATION DISTRICT NO. 2 LOS ANGELES COUNTY on _____, 2020, and by the COUNTY OF LOS ANGELES on _____, 2020, and by the OWNER on _____, 2020.

COUNTY SANITATION DISTRICT No. 2
OF LOS ANGELES COUNTY

By _____
Chief Engineer and General Manager

ORIGINAL APPROVED AS TO FORM:

LEWIS, BRISBOIS, BISGAARD & SMITH, LLP
District Counsel

By _____

COUNTY OF LOS ANGELES

By _____
Director of Public Works

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By _____
Deputy

City of Maywood

By Eddie De la Riva

APPROVED AS TO FORM:

(OWNER COUNSEL)

By [Signature]

Eddie De la Riva
Print Name

Mayor
Title

FM:vc

P:\EA\EA\HHWLA\2020\Maywood20agr



AGENDA 4
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 12, 2020

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*

BY: *DM* DAVID MANGO, DIRECTOR OF BUILDING AND PLANNING

SUBJECT: APPROVE AN AMENDMENT TO THE AGREEMENT WITH VERONICA TAM AND ASSOCIATES, INC. FOR THE PREPARATION AND SUBMITTAL OF THE CITY'S 2019 HOUSING ELEMENT ANNUAL PROGRESS REPORT TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

RECOMMENDATION

Staff recommends that the City Council approve an amendment to the July 1, 2019 agreement with Veronica Tam and Associates, Inc. to revise the scope of work for the preparation and submittal of the City's 2019 Housing Element Annual Progress Report to the California Department of Housing and Community Development.

FISCAL IMPACT

The current agreement with Veronica Tam and Associates, Inc. provided for a budget and compensation in the amount of \$49,440 for the preparation of the City's Housing Element. After the payment of final invoices for that project, there will be approximately \$10,000 remaining. The cost for the preparation and submittal of the 2019 Annual Housing Element Progress Report is \$2,500. Therefore, there are sufficient funds budgeted for this additional work.

BACKGROUND

Veronica Tam and Associates (VTA) entered into a professional services agreement with the City on July 1, 2019. The purpose of the agreement was for VTA to review, evaluate and then amend the City's 2013-2021 (5th Cycle) General Plan Housing Element, based on correspondence and recommendations provided by HCD. The scope of work also included making amendments to the Maywood Zoning Ordinance as needed to achieve compliance and ultimately adoption of a State housing law compliant Housing Element. On January 29, 2020, the Housing Element was adopted by Council and we are awaiting verification of acceptance by HCD. An amendment is required to revise the scope of work for the preparation and submittal of the City's 2019 Housing Element Annual Progress Report.

DISCUSSION

Every year the City is required to prepare and submit to the California Department of Housing and Community Development an annual progress report of the City's Housing Element. The budget that was approved and became part of the original agreement with VTA was \$49,440 and to date, the total of all billings from VTA is \$30,270. Although one additional billing will be received for the final tasks performed prior to completion of the Housing Element update, staff estimates that approximately \$10,000 will remain unspent.

The original scope of work listed all anticipated tasks that would be required to achieve Housing Element compliance. Although not specifically listed in the scope of work, the Annual Housing Element Progress Report is required to achieve and to maintain compliance, and should be added to any future Housing Element Compliance scope of work. The budget for this work, will not require any amendment to the original budget.

ATTACHMENT: Amendment with VTA Proposal Letter

ATTACHMENT

AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MAYWOOD AND VERONICA TAM AND ASSOCIATES

This Amendment is entered into as of February 26, 2020 ("Amendment") and amends the Professional Services by and between the City of Maywood, a municipal corporation ("City") and Veronica Tam and Associates, Inc. ("Consultant") dated July 1, 2019.

RECITALS

A. City and Consultant entered into an agreement for professional services for technical assistance related to the preparation and completion of the City's Housing Element on July 1, 2019 ("Agreement").

B. City and Consultant desire to amend the Agreement to modify the scope of work.

NOW THEREFORE, it is mutually agreed by and between the City and Consultant as follows:

Section 1. Additional Services. City has requested and Contractor has agreed to provide the City with additional services related to the preparation of the Housing Element Annual Progress Report as more particularly described in Exhibit A to this Amendment ("Additional Services") The Additional Services shall be performed pursuant to the terms of the Agreement.

Section 2. Compensation. The City shall pay Contractor an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500) at the rates set forth in the Agreement to complete the Additional Services.

Section 3. Except as expressly modified by this Amendment, all other provisions of the Agreement shall remain in full force and effect. In the event of a conflict between the provisions of this Amendment and the provisions of the Agreement, the provisions of this Amendment shall control.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

CITY OF MAYWOOD:

CONSULTANT: VERONICA TAM &
ASSOCIATIONS, INC.

By: _____
Eduardo De La Riva, Mayor

By: _____
Veronica Tam, President

ATTEST:

By: _____
Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

By: _____
Roxanne Diaz, City Attorney

EXHIBIT A

ADDITIONAL SERVICES AND COMPENSATION



January 13, 2020

David Mango, Director of Building and Planning
City of Maywood
Building and Planning Department
4319 E. Slauson Avenue
Maywood, CA 90270

Subject: Housing Element Assistance

Dear Mr. Mango:

Veronica Tam and Associates, Inc. (VTA) is pleased to submit this proposal to provide assistance to the City of Maywood regarding Housing Element implementation. Specifically, our scope includes the following:

- 2019 Housing Element Annual Progress Report - The APR is required to be presented before the City Council prior to submitting to HCD. Our budget includes preparing the APR and staff report. However, attendance at the City Council meeting is not included.

Estimated Budget: \$2,500

- Zoning text amendments - Cleanups for the Emergency Shelter Overlay and Affordable and Senior Housing Overlay as requested by HCD. Our budget includes preparing the text amendments, resolutions and staff reports for the Planning Commission and City Council. However, attendance at the hearings is not included.

Estimated Budget: \$1,500

We believe we are well-qualified to assist the City of Maywood. Please contact me if you have questions or need additional information.

Respectfully,

Veronica Tam, AICP
Principal



AGENDA 5
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 26, 2020
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*
BY: SHIRLEY QUINONES, EXECUTIVE ASSISTANT *SQ*
SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE DESTRUCTION OF OBSOLETE DOCUMENTS

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 6095 authorizing the destruction of obsolete documents.

FISCAL IMPACT:

There is no fiscal impact as the shredding of documents will be done by City Staff.

LEGAL REVIEW:

The City Attorney has reviewed this staff report.

BACKGROUND:

State law allows public agencies to purge and destroy obsolete public records. In general, the Government Code sets a two-year minimum as a starting point for retention of records. However, other laws and regulations impose longer retention periods for certain records.

Government Code Section 34090 et. seq. sets forth the process for permissibly destroying obsolete City records and provides that unless otherwise provided by law, "with the approval of the legislative body by resolution and the written consent of the city attorney, the head of a city department may destroy any city record, document,

instrument, book or paper, under his charge, without making a copy thereof, after the same is no longer required.” However, Section 34090 does not permit destruction of: (a) records affecting the title to real property or liens thereon; (b) court records; (c) records required to be kept by statute; (d) records less than two years old; and (e) the minutes, ordinances, or resolutions of the legislative body or of a city board or commission. Other laws and regulations impose specific retention periods for certain records. If a public officer or employee does not have proper authorization, Government Code Sections 6200 and 6201 make it a crime to destroy a City record.

In summary, unless a law specifically requires a particular type of document to be kept, the general rule is that a City record falls under the minimum two-year retention rule or a longer retention period as specified in a retention schedule if so adopted by the public entity.

DISCUSSION:

In 2009, the City Council adopted Resolution 5478 adopting a “Records Retention and Destruction Policy” (“Policy”) for the retention and destruction of City records. The Policy also includes a request form for the destruction of obsolete records and a records retention schedule. The retention schedule is organized by categories of records with the retention period for each category. The following procedure is outlined in the policy:

- Department Head completes and signs a request form, listing the date and description of documents to be destroyed, and submits the form to the City Clerk.
- City Clerk checks the documents listed on the form to confirm the documents are not required to be permanently retained and that the document has been retained for the legally required period of time. City Clerk also confirms the applicable reproduction of the documents is complete and that the documents must not be retained for any other reason, such as being relevant to a lawsuit in progress or reasonably anticipated.
- City Clerk submits the form to the City Attorney to review, sign, and return the form to the Clerk.
- City Clerk submits the form and a resolution to the City Council for approval to destroy the documents.
- After City Council approval, the City Clerk oversees the destruction, indicating method of destruction on the form and signing the form.
- City Clerk retains all original signed request forms for a minimum of two years.
- City Clerk keeps a master log of all destroyed documents.

Staff has determined that certain records set forth in Attachment 2 are obsolete and are older than the applicable retention period as set forth in the City's Records Retention Schedule. Accordingly, in order to destroy such records, the proposed Resolution is required to be approved by the City Council.

ATTACHMENTS

Attachment No.1 – Proposed Resolution No. 6095

Attachment No. 2 – Request for destruction of obsolete records

ATTACHMENT NO. 1

RESOLUTION NO. 6095

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD AUTHORIZING THE DESTRUCTION OF OBSOLETE CITY RECORDS

WHEREAS, Resolution 5478 sets forth the City of Maywood's ("City") adopted Records Retention Policy in conformance with Government Code Section 34090 ("Policy");

WHEREAS, the Policy sets forth the retention period for records of the City and authorizes the destruction of certain records and documents by a department head, with the approval of the legislative body by resolution and the written consent of the City Attorney; and

WHEREAS, staff has recommended that certain obsolete records identified on Exhibit A are no longer required or necessary; and

WHEREAS, the City Attorney has given written consent for the destruction of the records herein set forth as Exhibit A;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES HEREBY FIND, RESOLVE AND ORDER AS FOLLOWS:

Section 1. The City Council hereby finds and determines that the records identified on Exhibit A are older than the applicable retention period set forth in the City's Policy and are no longer needed or required to be kept by statute or law.

Section 2. The City Council hereby authorizes and directs the destruction of the records described on Exhibit A in accordance with the terms and conditions of the City's Policy.

Section 3. This Resolution shall be effective immediately upon its passage and approval.

Section 4. The City Clerk shall certify to the passage and adoption of this Resolution and shall enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 26th day of February 2020.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Resolution No.6095 was adopted at a regular meeting of the City Council of the City of Maywood held on the 26th day of February, 2020 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Gerardo Mayagoitia, City Clerk

EXHIBIT A

RECORDS FOR DESTRUCTION

<u>FILE NAME/ SUBJECT/ DESCRIPTION</u>	<u>Dates of Records</u>	<u>Retention Period</u>	<u>Destruction Date*</u>
Vending Machine- 2016 Business License Stickers	2016	2 years	February 2020
HDL Duplicate overnight parking applications	2015	2 years	February 2020
HDL Duplicate overnight parking applications	2016	2 years	February 2020
Closed Business Licenses	2016 and prior years	current + 2 years	February 2020

ATTACHMENT NO. 2



MEMORANDUM REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

To: City Clerk

From: Shirley Quinones, Executive Assistant

Subject: Request for Destruction of Obsolete Records

Department Head

Date

Date of Record	Description of Record
1/7/2020	Vending Machine – 2016 Business License Stickers
1/7/2020	2015 – HDL Duplicate overnight parking applications (2017 all overnight parking permit holder need to complete a new application)
1/7/2020	2016- HDL Duplicate overnight parking applications (2017 all overnight parking permit holder need to complete a new application)
2/7/2020	2016 and prior years – Closed Business Licenses

(If additional space is needed to describe records, please attach additional pages)

APPROVED

City Attorney

Date

The obsolete records described above (and on any attached pages) were approved by the city council for destruction on:

Date: _____ Resolution No. _____

☐ Shredding

☐ Burning

☐ Other (specify method)

I certify that such destruction meets the requirements of the City's Records Retention and Destruction Policy and all applicable requirements of State and federal law.

City Clerk

Date of Record Destruction



AGENDA 6
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 26, 2020

TO: HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*

RE: CONSIDERATION OF AN EMERGENCY SERVICES AGREEMENT, AND APPROVAL OF A RESOLUTION FOR COMPREHENSIVE SOLID WASTE SERVICES AND ESTABLISHING THE MAXIMUM RATES

RECOMMENDATION

Staff recommends that the City Council select a hauler and adopt the Resolution approving the Emergency Comprehensive Solid Waste Services Agreement and direct the Mayor to execute the Emergency Services Agreement, substantially in the form attached to this agenda report.

FISCAL IMPACT

Entering into an Emergency Services Agreement will not have a fiscal impact on the City. However due to the termination of the CWS agreement the will continue to incur costs for such items as rental of residential carts and street sweeping.

LEGAL REVIEW

The City Attorney's office has reviewed this item.

BACKGROUND

On November 27, 2019, the City Council adopted a resolution terminating the Collection Agreement with CWS due to the company's violation of the Collection Agreement and its failure to make contractually required payments to the City,

including (1) the Utility Users Tax ("UUT") remittances for the first and second quarters of 2019 and (2) the Collector Fee for the second quarter of 2019.

Following this action, the City Manager requested that Athens Services immediately commence to collect all solid waste in the City (including recyclables and organics), for the period up to and including January 15, 2020 ("Emergency Engagement Period"). This time period was subsequently extended to January 22, 2020. During this emergency period the Collector has provided services consistent with those specified in the now terminated CWS Agreement, at the rates specified in that agreement.

On February 13, 2020 the City received notice from Athens Services that their emergency services will end on February 29, 2020.

Consequently, staff has met with two haulers who have expressed interest in entering into an Emergency Services Agreement with the City. They include Universal Waste Services and Waste Management.

DISCUSSION

The City is obligated to protect the public health and safety of the residents and businesses in the City, and arrangements made by solid waste enterprises and recyclers for the collection of Residential and commercial solid waste should be made in a manner consistent with the exercise of the City's police power for the protection of public health and safety. Due to health and safety obligations it is recommended that the City select a hauler to immediately provide solid waste collection services.

In that regard, it should be noted that California law provides broad discretion to cities in the determination of the process to follow for the procurement of solid waste handling services. Specifically, Public Resources Code Section 40059 provides that each city may determine: "Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of its governing body, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding." Accordingly, the City has discretion to determine how best to provide such services on an emergency or long-term basis.

Company Background

Universal Waste Systems (UWS)

UWS, a privately held California Corporation by the Blackburn family, has operated since 1986. UWS has six areas of exclusive residential automated and semi-automated service in the Los Angeles region. UWS has one exclusive

commercial franchise in the North East franchise area of the City of Los Angeles. UWS also serves 15 cities in Los Angeles and Orange counties under non-exclusive service arrangements for commercial bin and roll-off services. WM owns the Santa Fe Springs Material Recovery Facility, Green Wise Soil Technologies in South Gate, and a transfer station in Los Angeles.

Waste Management (WM)

Waste Management of California, Inc. is wholly owned by Waste Management, Inc., the largest solid waste service provider in North America. The parent company owns and operates landfills and processing/transfer facilities in surrounding counties, and throughout the country. WM has provided solid waste collection and recycling services to jurisdictions in Los Angeles County and surrounding areas for over 40 years. WM has 20 exclusive municipal agreements throughout the greater Los Angeles area. WM owns the Antelope Valley Recycling and Disposal Facility, Azusa Transfer Station, El Sobrante Landfill, and two C&D recycling facilities.

Attached as Attachment No. 2 is the draft Emergency Services Agreement for comprehensive solid waste services. The Agreement obligates a hauler to provide programs for the collection of solid waste, recyclables, and green waste from residential and commercial customers, consistent with those specified in the now terminated CWS Agreement.

The Emergency Services Agreement would be for a term of 60 days, with the option to extend for an additional 30 days if needed. The Agreement includes a provision that during that time, the parties would negotiate the terms of an Interim Services Agreement, for a term of approximately 21 months (inclusive of the original 60 days). During that period, the City would undertake the competitive procurement process for a long term solid waste collection agreement.

The proposals from the haulers are due Friday evening; following the submission staff will review and provide the additional information at the City Council meeting. However, it is anticipated that the proposed rates will be higher than the CWS rates. This can be partly attributed to the CWS rates being in effect since September 2018 with no increases although the agreement called for increases in September 2019, the current recycling market and various State mandates that have been put forth by CalRecycle.

ATTACHMENT(S)

Attachment No. 1 – Resolution Approving an Agreement for Emergency Comprehensive Solid Waste Services and Establishing the Maximum Rates

Attachment No. 2 – Draft Emergency Services Agreement for comprehensive solid waste services

ATTACHMENT NO. 1

RESOLUTION NO. 6096

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, APPROVING AN AGREEMENT FOR EMERGENCY COMPREHENSIVE SOLID WASTE SERVICES AND ESTABLISHING THE MAXIMUM RATES

THE CITY COUNCIL OF THE CITY OF MAYWOOD HEREBY RESOLVES AS FOLLOWS:

Section 1. The City Council of the City of Maywood does hereby find, determine and declare that:

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939" California Public Resources Code Section 40000 et seq.) has declared that it is in the public interest to require local agencies to make adequate provisions for solid waste handling within their jurisdictions to meet the goals and requirements of AB 939.

B. On November 27, 2019, the City Council adopted a resolution terminating the Collection Agreement with its then current solid waste collection company CWS. Subsequently, Athens Services commenced the collection of solid waste in the City (including recyclables and organics) for a period up to and including January 15, 2020 ("Emergency Engagement Period"). This Emergency Engagement Period was subsequently extended. The City has subsequently received notice from Athens Services that their emergency services will end on February 29, 2020.

C. The City is obligated to protect the public health and safety of the residents and businesses in the City, and arrangements made by solid waste enterprises and recyclers for the collection of residential and commercial solid waste should be made in a manner consistent with the exercise of the City's police power for the protection of public health and safety.

D. In accordance with California Public Resources Code Section 400059(a)(2), the City has determined that the public health, safety and well-being require that an agreement for emergency solid waste services be granted to a qualified company for the collection, transportation, recycling, processing, and disposal of solid waste (including recyclables and organics), and for other related services, to meet the goals and requirements of California Integrated Waste Management Act of 1989 and ensure the public health and safety of its residents and businesses.

Section 2. The City Council of the City of Maywood hereby approves the Agreement for Emergency Comprehensive Solid Waste Services and Establishes the Maximum Rates with _____. The Mayor is authorized and directed to execute the Agreement on behalf of the City in substantially the form attached hereto as Exhibit A.

Section 3. The City Council hereby authorizes the City Manager to make minor non-substantive amendments to the Agreement for Emergency Comprehensive Solid Waste Services prior to its execution, upon the concurrence of the City Attorney

Section 4. This Resolution shall be effective immediately upon its passage and approval.

Section 5. The City Clerk shall certify to the passage and adoption of this Resolution and shall enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 26th day of February 2020.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Resolution No. 6096 was adopted at a regular meeting of the City Council of the City of Maywood held on the 26th day of February, 2020 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Gerardo Mayagoitia, City Clerk

EXHIBIT A

**AGREEMENT FOR EMERGENCY COMPREHENSIVE
SOLID WASTE SERVICES**

ATTACHMENT NO. 2

**AGREEMENT FOR
EMERGENCY COMPREHENSIVE SOLID WASTE SERVICES**

THIS AGREEMENT is made and entered into as of March 1, 2020 ("Effective Date"), by and between the CITY OF MAYWOOD, a California municipal corporation, hereinafter referred to as "City", and _____, a _____ hereinafter referred to as "Collector" (each a "Party"; collectively the "Parties").

RECITALS

WHEREAS, in November 2019 City terminated the Solid Waste Collection Agreement with Waste & Recycling Services Inc. dated September 1, 2018, which was assigned to Commercial Waste Services, Inc. by that certain Assignment Agreement dated September 6, 2018 (collectively, the "2018 Agreement") and authorized Arakelian Enterprises, Inc. ("Athens") to provide solid waste handling services (as that term is defined in Section 40195 of the California Public Resources Code) in the City on an emergency basis; and

WHEREAS, on or about February 13, 2020, Athens notified City that it would cease providing solid waste handling services after February 29, 2020; and

WHEREAS, the Parties desire to enter into an Emergency Collection Agreement for the term specified herein, during which time Collector will provide the solid waste handling services specified herein, and the Parties will finalize the terms of an Interim Collection Agreement for a term of approximately 21 months (inclusive of the term of this Emergency Services Agreement) for the same services described in the 2018 Agreement and at the maximum rates provided in **Exhibit 1** of this Emergency Services Agreement, during which period City will undertake a competitive procurement of a long term contract for solid waste handling services; and

NOW THEREFORE, in consideration of the promises and covenants contained herein, the above recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. 2018 Agreement

Collector acknowledges having received and reviewed a copy of the 2018 Agreement. Whenever any term used in this Agreement has been defined in the 2018 Agreement, the definitions in the 2018 Agreement shall apply, unless the term is otherwise defined in this Agreement, in which case this Agreement shall control.

2. Services

Collector shall provide all solid waste handling services required by the 2018 Agreement, in the manner, at the times, and subject to the limitations set forth in the 2018 Agreement. Notwithstanding the preceding sentence, Collector shall have no obligation to provide street sweeping services.

3. Governing Requirements

Collector shall require and maintain all necessary permits and licenses, and shall comply with and be bound by all provisions of this Agreement, the Maywood Municipal Code (MMC), which is incorporated herein by reference, and all other applicable laws, rules and regulations, as they, from time to time, may be amended, specifically including, but not limited to the Act, CERCLA, RCRA, and the American with Disabilities Act (28 U.S.C. §§ 12001, et seq.).

4. Exclusivity

Subject to the terms and conditions of this Agreement, and applicable state laws, City hereby grants and issues to Collector the exclusive authority, right, license and privilege to collect, pick up, gather, remove, dispose and transport all Solid Waste and Recyclable Materials generated and or accumulated within the municipal boundaries of the City as presently existing or subsequently amended, for the term of this Agreement, unless otherwise terminated as provided herein.

5. Term

The term of this Agreement (the "Term") shall commence on the Effective Date, and expire April 30, 2020, unless extended or earlier terminated. The Term can be extended by the City Manager up to 30 days; any such extension must be memorialized in a writing.

6. Operational Decision-making

It is expressly understood that the solid waste handling services are conducted by Collector and not City, and while City grants the right to conduct the business within the terms of this Agreement, the Collector must determine what personnel to employ, terms and conditions of employment; what equipment to utilize and at what cost; and all methods, costs, obligations, and mechanisms to undertake the terms of the Agreement.

7. Administrative Obligations

Collector shall collect and remit to City the Utility Users Tax, pursuant to 3-5.507 of the Maywood Municipal Code, and remit the Collector Fee pursuant to Section 3.2 of the 2018 Agreement. Collector acknowledges that the Interim Collection Agreement, if approved by the Parties, will include the obligation to pay the Annual Program Payments pursuant to Section 3.3 of the 2018 Agreement.

8. Diversion and Reporting Obligations

Collector shall comply with all diversion and reporting obligations set forth in Article 5 and Section 11.4 of the 2018 Agreement, to the extent applicable during the term of this Agreement.

9. Vehicles, Equipment and Personnel

Collector shall comply with all requirements of Article 6 of the 2018 Agreement, to the extent applicable during the term of this Agreement.

10. Compensation; Maximum Rate Schedule

In the attached **Exhibit 1**, which is incorporated herein by this reference ("Maximum Rate Schedule"), City has approved the maximum rates that may be charged by Collector to its customers in the City. Collector shall not receive any other fees or compensation for the services to be performed pursuant to this Agreement in excess of those provided in the Maximum Rate Schedule and obtained from customers. Collector shall receive no compensation from City. There shall be no adjustments to the Maximum Rate Schedule during the term of this Agreement.

11. Billing

Collector shall comply with Sections 7.5 and 7.6 of the 2018 Agreement regarding billing and delinquent accounts. Collector is responsible for obtaining all information necessary to bill customers.

12. Accounting and Records

Collector shall comply with Article 8 of the 2018 Agreement regarding Accounting and Records.

13. Termination

Either Party may terminate this Agreement, with or without cause, upon 30 days written notice to the other Party.

14. Transfers of Interest

Collector shall comply with Article 10 of the 2018 Agreement.

15. Insurance

Collector shall comply with the insurance requirements set forth in Section 11.1 of the 2018 Agreement.

16. Indemnification

Collector shall indemnify, defend, and hold harmless City, its representatives, officers, agents and employees, in accordance with the indemnity set forth in **Exhibit 2**, attached hereto and incorporated herein by this reference.

17. General Provisions

The provisions of Article 12 of the 2018 Agreement are incorporated herein by this reference, except that notices shall be provided to the following addresses:

If to Collector:

If to City: City of Maywood
City Manager
4319 E. Slauson Ave.
Maywood, CA 90270

With copy to: Roxanne M. Diaz, City Attorney
Richards Watson Gershon
355 S. Grand Avenue
Los Angeles, CA 90071

18. Entire Agreement

This Agreement represents the full and entire Agreement between the parties with respect to the matters contained herein. Any prior agreements, promises, negotiations or representations not expressly set forth herein are of no force or effect. Subsequent modifications to this Agreement shall be effective only if in writing and signed by each party.

IN WITNESS WHEREOF, the Parties hereto do hereby set their hands and seals as of the day and the year first written above.

Collector: City Of Maywood

By: _____
Eddie De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne M. Diaz, City Attorney

EXHIBIT 1
MAXIMUM RATE SCHEDULE

EXHIBIT 2

INDEMNIFICATION AND HOLD HARMLESS

Without regard to the limits of any insurance coverage, Collector agrees to indemnify, defend with counsel appointed by the City, protect and hold harmless the City, its representatives, officers, agents and employees against any and all fines, response costs, assessments, actions, suits, injunctive relief, claims, damages to persons or property, losses, costs penalties, obligations, errors, omissions or liabilities, ("claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with (i) violations of the commerce clause of the U.S. Constitution, AB 939, the Comprehensive Environmental Response, Compensation and Liability Act, Title 42 U.S.C. §9601 et seq. ("CERCLA"), HSAA, RCRA, any other Hazardous Waste laws, or other federal, state or local environmental statutes, ordinances and regulations which arise from this Agreement; (ii) the negligent performance of the work or services of Collector, its agents, employees, subcontractors, or invitees, provided for in this Agreement; (iii) the negligent acts or omissions of Collector hereunder, or arising from Collector's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence on the part of the City, its representatives, officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the City, its representatives, officers, agents or employees, who are directly responsible to the City, and in connection therewith:

- i. Collector shall defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
- ii. Collector shall promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work or services of Collector hereunder; and Collector agrees to save and hold the City, its officers, agents and employees harmless therefrom;
- iii. In the event the City, its officers, agents, or employees is made a party to any action or proceeding filed or prosecuted against Collector for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work or services of Collector hereunder, Collector agrees to pay to the City, its officers, agents, or employees, any and all costs and expenses incurred by the City, its officers, agents, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees;
- iv. Collector's obligations hereunder shall survive the termination or expiration of this Agreement.



AGENDA **7**
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 26, 2020

TO: HONORABLE MAYOR, AND MEMBERS OF THE CITY COUNCIL

FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*

BY: HRANT MANUELIAN, FINANCE DIRECTOR *HM*

RE: FISCAL YEAR (FY) 19/20 MIDYEAR FINANCIAL REPORT AND
CONSIDER ADOPTION OF RESOLUTION NO.6094 TO AMEND
THE FY 19/20 BUDGET

RECOMMENDATION

Staff recommends that the City Council receive and file this report and adopt Resolution No. 6094, A Resolution of the City of Maywood Amending the Fiscal year 2019-2020 Budget.

FISCAL IMPACT

If the City Council approves the resolution, the General Fund adopted budget expenditures will increase by \$543,863.50 revenues will increase by \$304,597 and the General Fund balance will decrease by \$334,117.

LEGAL REVIEW

The City Attorney has reviewed this report.

BACKGROUND

The Midyear Budget report summarizes the status of the City's FY 19-20 budget at the halfway point. Additionally, the report includes adjustments to revenues

and expenditures that have been approved by the City Council after the adoption of the budget.

Original & Current FY 19-20 General Fund Budget

The FY 19-20 budget was adopted on June 28, 2019 with a General Fund estimated fund balance of \$2,881,600. After the budget was adopted several items occurred that had not been budgeted for and did not have subsequent budget resolutions adopted by Council. This mid-year budget accounts for all those items that are needed to adjust the budget.

	FY 19-20 Adopted Budget	FY 19-20 Mid- Year Proposed Budget
Beginning Balance	2,268,000	2,173,150
Revenue	10,471,300	10,775,897
Expenditures	10,141,700	10,685,564
Net Transfers	284,000	284,000
Ending Balance	2,881,600	2,547,484

Staff has analyzed the first seven (7) months of activity and proposes a series of further amendments and re-classifications to the FY 19-20 General Fund budget with this report.

Summary FY 19-20 General Fund Revenue

The following chart summarizes the current year actuals, current year budget, and updated expectations for the General Fund. In total we expect the General Fund will receive \$304,597 more than previously estimated.

	Current Fiscal Year to Date Revenue	Adopted Budget FY 2019-20	Revised FY 2019-20 Revenue Budget	Change in Budget
Taxes	\$3,244,445.73	\$4,841,200.00	\$ 5,090,000.00	\$248,800.00
Licenses and Permits	\$1,998,719.80	\$3,471,400.00	\$ 3,606,697.00	\$135,297.00
Charges for Services	\$85,167.80	\$153,300.00	\$ 137,000.00	(\$16,300.00)
Fines and Forfeitures	\$169,492.10	\$418,000.00	\$ 291,000.00	(\$127,000.00)
Leases and Concessions	\$37,566.18	\$61,400.00	\$ 61,400.00	\$0.00
Miscellaneous	\$118,414.61	\$576,000.00	\$ 639,800.00	\$63,800.00
Retiree Pension Levy	\$512,480.95	\$950,000.00	\$ 950,000.00	\$0.00
General Fund Revenue Totals	\$6,166,287.17	\$10,471,300.00	\$ 10,775,897.00	\$304,597.00

Discussion

Discussion of FY 19-20 Expected Revenue Variances in the General Fund

Taxes - Much of the increase in taxes is due to an increase of Cannabis Sales taxes collected. This year we have an increase in cannabis businesses that are fully collecting taxes. There has also been a slight increase in Sales taxes and TOT taxes collected during the first 2 quarters of FY 19-20.

Licenses and Permits – Increases in licenses and permits is mainly due to the collection of license renewals for the commercial cannabis businesses. There was no budget adopted however, the City has collected in excess of \$117,000.

Charges for Service – There is a slight decrease expected as compared to the adopted budget. This is because the City budgeted for Cannabis compliance and review fees however this should not have been budgeted as the City is no longer taking new applications for cannabis related businesses.

Fines and Forfeitures – The decrease here is due to the reduced income from parking fines due to a vacancy of a part-time parking enforcement officer. With the current staff the City expects to receive \$170,000 in parking fines as compared to \$290,000 that was budgeted for, a reduction of \$120,000. The City expects to fill this position soon.

Miscellaneous – The City has received an increase in interest income. Previously the City had not been investing its excess cash and therefor was not earning interest. Now the City invests all excess cash with the Local Agency Investment Fund (LAIF), which is managed by the state and is considered a very safe investment earning about 2% per year. The City will also investigate other possible investments to further increase interest income.

Proposed amendments to General Fund Expenditures

Staff is requesting amendments and re-classifications to the adopted budget that would add a total of \$543,863.50 to the General Fund expenditure budget. The detailed amendments and re-classes along with justifications are listed in Exhibit B. Below is a summary of the changes by department for the General Fund.

Department	Total Budget - Adopted	YTD Actual	Total Budget Variance - Adopted	Percent Total Budget Used - Adopted	Proposed Budget	Increase/ (Decrease)
601 City Council	171,300.00	73,691.95	97,608.05	43%	143,222.00	(28,078.00)
602 City Administration	277,207.00	114,409.77	162,797.23	41%	271,966.00	(5,241.00)
604 Finance	477,413.00	239,736.69	237,676.31	50%	491,150.00	13,737.00
614 General Government	6,396,000.00	3,652,835.39	2,743,164.61	57%	6,799,919.00	403,919.00
645 Building and Planning	369,318.00	405,326.14	(36,008.14)	110%	508,024.50	138,706.50
648 Public Works	35,862.00	165,408.37	(129,546.37)	461%	533,039.00	497,177.00
681 Community Services	1,089,200.00	274,395.77	814,804.23	25%	592,843.00	(496,357.00)
14 Pension/Retirement Fund	1,325,400.00	773,363.08	552,036.92	58%	1,345,400.00	20,000.00
General Fund Total	10,141,700.00	5,699,167.16	4,442,532.84	56%	10,685,563.50	543,863.50

City Council – The budget is being reduced by \$16,000 as staff will re-class Public Notices. Public Notices will be budgeted in the Building and Planning department as they handle these expenditures.

City Administration – Changes in this department were mainly due to the addition of the Analyst position in January and a correction was made to the amounts budgeted for overall salary and benefits.

Finance – Minimal changes were made due to the calculation of salary and benefits being in line with the budgeted actuals.

General Government – Below is a breakdown of the increase for this department:

- Staff proposes an increase in the budget by \$283,919. This is due to the hiring of an Interim Finance Director during the first half of the fiscal year. Also, the City hired other temporary help all of which amounted to about \$100,000 for the fiscal year. These positions have now been filled and the City is not expecting to hire additional temporary help at this point.
- The City was involved in a legal claim. As a result, there is a need to increase the budget in an amount of about \$265,000.
- Due to the termination of the hauling agreement with CWS in November, the City is paying two banks for the rental of the residential carts. Additionally, the City is paying for street sweeping services. This is expected to continue until a new hauler is selected as the City is currently going through the selection process. An additional \$120,000 is needed to cover these expenditures for the remainder of the fiscal year.
- Lastly, the City was behind in issuing the audited financial statements. Consequently, the City will be issuing two audit reports during this fiscal year. One of which was issued on September 17, 2019 for Fiscal year 2017-18 and the other report for Fiscal Year 2018-19 is expected to be issued within the next two months. As such an additional budget of \$40,000 will be needed to cover the cost of both audits. This was not originally budgeted for and therefor an amendment is needed.

Building and Planning – The increase in the Building and Planning department is due to an increase in number of public notices published and due to additional engineering and consulting services.

Public Works – The increase in the Public Works budget is due to the re-class of contractual services from Community Services in the amount of \$389,100. These expenses were re-classed to Public Works because they service park maintenance, landscaping, and janitorial services. There is also an increase of

approximately \$45,000 in the salary and benefits budget as it did not include enough funds to cover payroll for the year.

Community Services – The decrease in the community services budget is primarily due to re-classifying the contractual service budget to Public Works as these were for park maintenance, landscaping and janitorial services which are all managed by the Public Works department. These contracts account for \$438,500 in decreases. This budget also includes a reduction in salary and benefits, for approximately \$115,000

ATTACHMENT(S)

Attachment No. 1 – Resolution No.6094, A RESOLUTION OF THE CITY OF MAYWOOD AMENDING THE FISCAL YEAR 2019-2020 BUDGET

Attachment No. 2 – Budget Amendments Expenditures

Attachment No. 3 – Budget Amendment Revenues

ATTACHMENT NO. 1

RESOLUTION NO. 6094

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, AMENDING THE FISCAL YEAR 2019-2020 BUDGET

WHEREAS, the City Council adopted the Fiscal Year 2019-2020 budget on June 28, 2019 for the General Fund of the City pursuant to Resolution No. 6043; and

WHEREAS, a midyear analysis of the budget for fiscal year 2019-2020 has been performed and staff recommends additional expenditure appropriations based upon the most current information available; and

WHEREAS, the City Council has determined it necessary to amend the Fiscal Year 2019-2020 budget.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:

Section 1. The City Council hereby approves the following amendments to the City's Fiscal Year 2019-2020 budget:

601 City Council		
5025	Miscellaneous Expense	(1,000.00)
5120	Office Supplies	(1,000.00)
5151	Social Security	200.00
5410	Public Notices	(16,000.00)
5432	Professional Services	(500.00)
5470	Group Insurance	(9,778.00)
602 City Administration		
5001	Salaries	24,299.00
5150	Medicare Expense	663.00
5470	Group Insurance	(18,382.00)

5500	P.E.R.S. Expense	(11,821.00)
604 Finance		
5001	Salaries	20,883.00
5150	Medicare Expense	234.00
5151	Social Security	(2,900.00)
5335	Phone Stipend	(660.00)
5470	Group Insurance	(11,803.00)
5500	P.E.R.S. Expense	7,983.00
614 General Government		
5025	Miscellaneous Expense	(7,500.00)
5026	Miscellaneous-Bank Fees & Expenses	6,000.00
5031	Fees & Fines	(12,000.00)
5120	Office Supplies	2,000.00
5125	Computer Software	14,900.00
5141	New Recruit Expense	275.00
5210	Postage & Freight	8,800.00
5296	Public Safety Service	(132,561.00)
5310	Electricity Service	(1,000.00)
5380	Equipment Repairs (Non-Auto)	(1,500.00)
5405	Legal Services	35,000.00

5410	Public Notices	(500.00)
5434	Temp Services	100,000.00
5490	Audit Expense	40,000.00
5630	Dump Charges	120,000.00
5710	Pre-Employment Cost	(2,000.00)
5795	Settlement	232,417.00
5920	Office Equipment	3,088.00
5978	Community Events	(1,500.00)
645 Building and Planning		
5001	Salaries	24,398.00
5025	Miscellaneous Expense	200.00
5120	Office Supplies	(1,100.00)
5121	Public Works - Materials & Supplies	2,500.00
5150	Medicare Expense	(153.00)
5335	Phone Stipend	(20.00)
5370	Gas/Car Wash	3,650.00

5410	Public Notices	20,000.00
5430	Contractual Service	75,700.00
5470	Group Insurance	(5,786.00)
5500	P.E.R.S. Expense	14,317.50
5510	Equipment Rental	5,000.00
648 Public Works		
5001	Salaries	35,880.00
5150	Medicare Expense	2,386.00
5151	Social Security	(500.00)
5430	Contractual Service	389,100.00
5470	Group Insurance	5,341.00
5500	P.E.R.S. Expense	(3,030.00)
5022	Street Repairs & Maintenance	68,000.00
681 Community Services		
5001	Salaries	(107,141.00)
5028	Community Food Distribution	600.00
5150	Medicare Expense	198.00
5271	Membership Dues	(13,100.00)
5430	Contractual Service	(389,100.00)
5432	Professional Services	(49,400.00)

5470	Group Insurance	(3,166.00)
5500	P.E.R.S. Expense	(4,748.00)
5560	Building Repair and Maintenance	2,500.00
5751	Processing Fees & Charges	65,000.00
5955	Autos & Trucks-Repairs & Maintenance	2,000.00
14 Pension/Retirement Fund		
5504	Active Unfunded Liability-Misc	20,000.00
Total General Fund Request		543,863.50

Section 2. The City Clerk shall certify to the adoption of the resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 26th day of February 2020.

Eduardo De La Riva, Mayor

ATTEST:

Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

Roxanne Diaz, City Attorney

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Resolution No. 6094 was adopted at a regular meeting of the City Council of the City of Maywood held on the 26th day of February, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gerardo Mayagoitia, City Clerk

ATTACHMENT NO. 2

Midyear Financial Report

Requested Budget Amendments

Exhibit 2

Account Code	Account Title	CHANGE	Justification
601 City Council			
5025	Miscellaneous Expense	(1,000.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.
5120	Office Supplies	(1,000.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.
5151	Social Security	200.00	Correction to budget for expected expenditure for the FY.
5410	Public Notices	(16,000.00)	Public notices are handles through the Buidling and Planning department and not City Council.
5432	Professional Services	(500.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.
5470	Group Insurance	(9,778.00)	Based on analysis of payroll this adjustment is needed to be more in line with actuals for the year.
602 City Administration			
5001	Salaries	24,299.00	To account for addition of Analyst position.
5150	Medicare Expense	663.00	To account for addition of Analyst position.
5470	Group Insurance	(18,382.00)	Based on analysis of payroll this adjustment is needed to be more in line with actuals for the year.
5500	P.E.R.S. Expense	(11,821.00)	Based on analysis of payroll this adjustment is needed to be more in line with actuals for the year.
604 Finance			
5001	Salaries	20,883.00	To re-class salaries and benefit expenditures to the correct departments.
5150	Medicare Expense	234.00	To re-class salaries and benefit expenditures to the correct departments.
5151	Social Security	(2,900.00)	To re-class salaries and benefit expenditures to the correct departments.

5335	Phone Stipend	(660.00)	To re-class salaries and benefit expenditures to the correct departments.
5470	Group Insurance	(11,803.00)	To re-class salaries and benefit expenditures to the correct departments.
5500	P.E.R.S. Expense	7,983.00	To re-class salaries and benefit expenditures to the correct departments.
614 General Government			
5025	Miscellaneous Expense	(7,500.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.
5026	Miscellaneous-Bank Fees & Expenses	6,000.00	Increase needed based on current year charges to date and comparison with the prior year.
5031	Fees & Fines	(12,000.00)	Was determined that this budget was not needed here.
5120	Office Supplies	2,000.00	Increase needed based on current year charges to date and comparison with the prior year.
5125	Computer Software	14,900.00	Computer equipment updates needed to improve performance of current computers servers City wide.
5141	New Recruit Expense	275.00	Advertising expense for recruitment of Finance Director.
5210	Postage & Freight	8,800.00	Additional funding needed to prepare and mail out monthly newsletter to all City residents. Newsletter is to keep the residents informed of the current happenings of the City.
5296	Public Safety Service	(132,561.00)	Original budget was calculated at the full contract rate. However as the contract calls for an additional Sheriff that was not provided until February. As a result we are recommending a reduction in the budget.
5310	Electricity Service	(1,000.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.
5380	Equipment Repairs (Non-Auto)	(1,500.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.
5405	Legal Services	35,000.00	Additional funding needed to cover costs for unforeseen legal fees needed for settlements reached during the FY.

5410	Public Notices	(500.00)	Public notices are handles through the Buidling and Planning department.
5434	Temp Services	100,000.00	City hired a temporary Finance Director until the position was permanently filled.
5490	Audit Expense	40,000.00	City had not yet issued the FY 17/18 audited finacial report and therefore will be issuing two audited financial statements during FY 19/20. FY 17/18 has been issued and FY 18/19 is expected to be issued by the end of April 2020.
5630	Dump Charges	120,000.00	Additional budget needed to cover the costs of the residential trash bins and street sweeping services. These services were prviously provided by the prior trash hauler however due to the contract termination they no longer provide these services. The City is currently in the process of selecting a new hauler and these items will most likely be incorporated into the contract.
5710	Pre-Employment Cost	(2,000.00)	Will not be used as this is similar to New Recruit Expense in account 5710.
5795	Settlement	232,417.00	The City was involved in a legal claim and as a result additional budget is needed.
5920	Office Equipment	3,088.00	Purchase of cash counting machine to detect for counterfits and speed up process of counting cash.
5978	Community Events	(1,500.00)	All events will be under the Community Services department. Therefore staff recommends all expenditures from department 614 - General Government be transferred to department 681 - Community Services.
645 Building and Planning			
5001	Salaries	24,398.00	To re-class salaries and benefit expenditures to the correct departments.
5025	Miscellaneous Expense	200.00	Staff requests additional budget for small dollar items needed.
5120	Office Supplies	(1,100.00)	Based on analysis of expenditures to date and future needs it was determined to reduce this budget.

5121	Public Works - Materials & Supplies	2,500.00	Based on analysis of expenditures to date and future needs an increase in the budget is needed.
5150	Medicare Expense	(153.00)	To re-class salaries and benefit expenditures to the correct departments.
5335	Phone Stipend	(20.00)	To re-class salaries and benefit expenditures to the correct departments.
5370	Gas/Car Wash	3,650.00	Staff requests additional budget for gas/car wash due to increased costs and keeping cars in good condition.
5410	Public Notices	20,000.00	Increased costs to numerous public notices needed that were not originally budgeted for.
5430	Contractual Service	75,700.00	More than expected Public Notices were done and also additional engineering and consulting services needed.
5470	Group Insurance	(5,786.00)	To re-class salaries and benefit expenditures to the correct departments.
5500	P.E.R.S. Expense	14,317.50	To re-class salaries and benefit expenditures to the correct departments.
5510	Equipment Rental	5,000.00	Rental equipment needed for the hanging of Christmas decorations that was not originally budgeted for.
648 Public Works			
5001	Salaries	35,880.00	To re-class salaries and benefit expenditures to the correct departments.
5150	Medicare Expense	2,386.00	To re-class salaries and benefit expenditures to the correct departments.
5151	Social Security	(500.00)	To re-class salaries and benefit expenditures to the correct departments.
5430	Contractual Service	389,100.00	These costs were originally budgeted for in the Community Services department. However they are managed by Public Works as they are for landscaping services, park maintenance, and janitorial services.
5470	Group Insurance	5,341.00	To re-class salaries and benefit expenditures to the correct departments.
5500	P.E.R.S. Expense	(3,030.00)	To re-class salaries and benefit expenditures to the correct departments.
5022	Street Repairs & Maintenance	68,000.00	Budget needed to be in compliance with the required City match for street related projects.

681 Community Services			
5001	Salaries	(107,141.00)	To re-class salaries and benefit expenditures to the correct departments.
5028	Community Food Distribution	600.00	Budget increase needed to cover all 12 month of the cost for the food distribution.
5150	Medicare Expense	198.00	To re-class salaries and benefit expenditures to the correct departments.
5271	Membership Dues	(13,100.00)	Staff recommends that this budget is be reclassified to 614 - General Government as it relates to general memberships of the City.
5430	Contractual Service	(389,100.00)	Staff recommends that this budget be re-classed to 648 - Public Works as they are for maintenance at the parks and city hall, tree service, and landscaping that were originally budgeted for here. As they are managed by Public Works it is more accurate to have the expenditures in the Public Works department.
5432	Professional Services	(49,400.00)	Being re-classed to Public Works and combined with Contractual Services.
5470	Group Insurance	(3,166.00)	To re-class salaries and benefit expenditures to the correct departments.
5500	P.E.R.S. Expense	(4,748.00)	To re-class salaries and benefit expenditures to the correct departments.
5560	Building Repair and Maintenance	2,500.00	Staff recommends that this budget be increased for major repairs done at the YMCA which are covered by the City.
5751	Processing Fees & Charges	65,000.00	Staff recommends that the budget be increased for this account. This is for the processing of parking permits by the City's third party vendor. When the switch was made there was several months worth that needed to be process which was more that expected.
5955	Autos & Trucks-Repairs & Maintenance	2,000.00	Staff requests additional budget for repairs and maintenance needed for City vehicles.
14 Pension/Retirement Fund			
5504	Active Unfunded Liability-Misc	20,000.00	
Total General Fund Request		543,863.50	

ATTACHMENT NO. 3

	Current Fiscal Year to Date Revenue	Adopted Budget FY 2019-20	Revised FY 2019-20 Revenue Budget	Change in Budget
<u>GENERAL FUND</u>				
Taxes:				
Franchise & Collectors Fee	\$37,544.96	\$165,000.00	\$ 40,000.00	(\$125,000.00)
Property Taxes	\$342,077.52	\$700,800.00	\$ 685,000.00	(\$15,800.00)
Utility Users Tax	\$559,073.76	\$980,000.00	\$ 950,000.00	(\$30,000.00)
Transfer Tax (Real Estate)	\$11,751.59	\$25,000.00	\$ 20,000.00	(\$5,000.00)
Transient Occupancy Tax	\$55,535.73	\$60,000.00	\$ 95,000.00	\$35,000.00
Cannabis Sales Tax	\$1,088,712.65	\$1,200,000.00	\$ 1,500,000.00	\$300,000.00
Sales Tax Revenue	\$1,149,749.52	\$1,710,400.00	\$ 1,800,000.00	\$89,600.00
Taxes Totals	\$3,244,445.73	\$4,841,200.00	\$ 5,090,000.00	\$248,800.00

<u>GENERAL FUND</u>				
Licenses & Permits:				
Compliance Program Fee	\$0.00	\$45,000.00	\$ -	(\$45,000.00)
Residential & Building Permits	\$19,768.90	\$47,000.00	\$ 34,000.00	(\$13,000.00)
Public Works Permit Fees	\$52,022.50	\$50,000.00	\$ 88,000.00	\$38,000.00
Temporary Parking Permits	\$0.00	\$0.00	\$ -	\$0.00
Other Fees & Permits	\$18,006.35	\$46,400.00	\$ 30,000.00	(\$16,400.00)
Occupancy Permits	\$7,414.90	\$25,000.00	\$ 12,500.00	(\$12,500.00)
Building Permits	\$32,624.31	\$75,000.00	\$ 56,000.00	(\$19,000.00)
Commercial Cannabis Applications	\$28,387.00	\$18,000.00	\$ 28,387.00	\$10,387.00
Commercial Cannabis Renewal	\$117,810.00	\$0.00	\$ 117,810.00	\$117,810.00
Parking Permits	\$57,702.33	\$100,000.00	\$ 100,000.00	\$0.00
Apartment License	\$18,486.94	\$30,000.00	\$ 30,000.00	\$0.00
Business License	\$169,519.57	\$215,000.00	\$ 290,000.00	\$75,000.00
Vehicle License Fee - LA County	\$1,476,977.00	\$2,820,000.00	\$ 2,820,000.00	\$0.00
Licenses and Permits Totals	\$1,998,719.80	\$3,471,400.00	\$ 3,606,697.00	\$135,297.00

	Current Fiscal Year to Date Revenue	Adopted Budget FY 2019-20	Revised FY 2019-20 Revenue Budget	Change in Budget
--	---	------------------------------	--------------------------------------	---------------------

GENERAL FUND

Charges for Services:

All Other Charges for Services	\$11,297.30	\$3,400.00	\$ 19,000.00	\$15,600.00
Compliance and Review Fees - Cannabis	\$0.00	\$36,000.00	\$ -	(\$36,000.00)
Rubbish Assessment	\$21,550.12	\$65,000.00	\$ 35,000.00	(\$30,000.00)
Plan Check Fees	\$37,005.28	\$25,900.00	\$ 60,000.00	\$34,100.00
Rents & Concessions	\$15,315.10	\$23,000.00	\$ 23,000.00	\$0.00
Charges for Services Totals	\$85,167.80	\$153,300.00	\$ 137,000.00	(\$16,300.00)

GENERAL FUND

Fines and Forfeitures:

Penalties: Apt & Bus License	\$540.00	\$8,000.00	\$ 1,000.00	(\$7,000.00)
Impound Vehicle Release	\$0.00	\$0.00	\$ -	\$0.00
SEMC: Court Collections (DMV)	\$70,482.33	\$120,000.00	\$ 120,000.00	\$0.00
Parking Fines	\$98,469.77	\$290,000.00	\$ 170,000.00	(\$120,000.00)
Fines and Forfeitures Totals	\$169,492.10	\$418,000.00	\$ 291,000.00	(\$127,000.00)

GENERAL FUND

Leases and Concessions:

Leased Property Rental Income	\$37,566.18	\$61,400.00	\$ 61,400.00	\$0.00
Leases and Concessions Totals	\$37,566.18	\$61,400.00	\$ 61,400.00	\$0.00

	Current Fiscal Year to Date Revenue	Adopted Budget FY 2019-20	Revised FY 2019-20 Revenue Budget	Change in Budget
<u>GENERAL FUND</u>				
Miscellaneous:				
Interest Income	\$99,622.78	\$116,000.00	\$ 220,000.00	\$104,000.00
Miscellaneous Revenue	\$18,791.83	\$64,900.00	\$ 32,000.00	(\$32,900.00)
Other (Recycle + ABx1 Reimbursement)	\$0.00	\$7,300.00	-	(\$7,300.00)
Trade of Prop A Funds	\$0.00	\$387,800.00	\$ 387,800.00	\$0.00
Miscellaneous Revenue Totals	\$118,414.61	\$576,000.00	\$ 639,800.00	\$63,800.00
<u>GENERAL FUND</u>				
Retiree Pension Levy:				
Retiree Pension Levy	\$512,480.95	\$950,000.00	\$ 950,000.00	\$0.00
Retiree Pension Levy Totals	\$512,480.95	\$950,000.00	\$ 950,000.00	\$0.00
General Fund Revenue Totals	\$6,166,287.17	\$10,471,300.00	\$ 10,775,897.00	\$304,597.00



AGENDA 8
ITEM NO. _____

CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 26, 2020
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: JENNIFER E. VASQUEZ, CITY MANAGER *JV*
BY: EDITH CARRILLO, ADMINISTRATIVE ANALYST *EC*
RE: DISCUSSION REGARDING VAPING PRODUCTS IN THE CITY OF MAYWOOD

RECOMMENDATION

Staff recommends that the City Council discuss limiting access to specific tobacco products used by children, teenagers, and young adults. If there is a desire to limit access, the City Council should direct staff to work with the City Attorney's office to review and return with recommendations for the revision of City's tobacco regulations.

FISCAL IMPACT

There is no fiscal impact associated with this discussion.

LEGAL REVIEW

The City Attorney has reviewed this report.

BACKGROUND

It has been brought to the attention of staff that there is a community concern regarding tobacco and vaping. Due to this concern staff has reached out to the Tobacco-Free Partnership and requested that they provide a presentation for the City Council. The partnership is currently active in the cities of Montebello and Maywood.

DISCUSSION

More than 50 communities in California and 250 throughout the nation have taken formal action to discourage children, teenagers, and young adults from smoking. The emphasis of these actions has been on new and emerging flavored and menthol tobacco products.

As of January 14, 2020, a total of 2,668 hospitalized E-cigarette or Vaping Product Use-Associated Lung Injury (EVALI) cases or deaths have been reported to the United States (US) Centers for Disease Control and Prevention (CDC) from all 50 states, the District of Columbia, and two US territories (Puerto Rico and US Virgin Islands). Sixty deaths have been confirmed in 27 states and the District of Columbia. According to the California Department of Public Health (CDPH), the vast majority of teenagers say their first use of a tobacco product was flavored. A "flavored tobacco product" is defined as any tobacco product that contains a component that imparts a characterizing flavor.

Currently, the City's Municipal Code requires that any person that is a "tobacco retailer" obtain and maintain a "tobacco retailer's license" prior to the sale of tobacco (See, Maywood Municipal Code Section 4-10.100, et. seq.). Tobacco, as defined in Section 4-10.101 does not specifically reference electronic cigarettes. Recently some cities have taken action to prohibit the sale of flavored tobacco products along with electronic smoking devices. Attached is the City's current tobacco regulations. It should be noted, however, that the City Council did adopt an ordinance to prohibit smoking in parks and such ordinance included an updated definition of tobacco and smoke to include electronic cigarettes and vaping.

ATTACHMENT(S)

Attachment 1- Chapter 10 of Title 4 of the Maywood Municipal Code regarding Tobacco Regulations

ATTACHMENT NO. 1

Chapter 10 - TOBACCO REGULATIONS

Sections:

4-10.101 - Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) "Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.
- (b) "Department" means the City's Finance Department.
- (c) "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (d) "Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten (10%) percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.
- (e) "Self-service display" means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.
- (f) "Significant tobacco retailer" means any tobacco retailer whose principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any of the following: twenty (20%) percent or more of floor area and display area is devoted to the sale or exchange of tobacco products, tobacco paraphernalia, or both; sixty-seven (67%) percent or more of gross sales receipts are derived from the sale or exchange of tobacco products, tobacco paraphernalia, or both; or fifty (50%) percent or more of completed sales transactions include a tobacco product or tobacco paraphernalia.
- (g) "Smoking" means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind), the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind).
- (h) "Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.
- (i) "Tobacco product" means: (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing

biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

- (j) "Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low cost samples of tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.
- (k) "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or any other form of payment that is designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.102 - Tobacco retailer license required.

- (a) It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer's license is a public nuisance.
- (b) A tobacco retailer or proprietor without a valid tobacco retailer license, including, for example, a person whose license has been revoked:
 - (1) Shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a license under Section 4-10.112.
 - (2) Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.
- (c) Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the right to act as a tobacco retailer at the location in the City identified on the face of the permit. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including but not limited to, any provision of this Code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. For example, obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.103 - Limits on tobacco retailer licenses.

- (a) No license may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.

- (b) No license may issue to authorize tobacco retailing by a significant tobacco retailer; provided, however that significant tobacco retailer operating legally on the date that the ordinance enacting this chapter was first in and that would otherwise be entitled to receive a license may receive a license and may continue to operate (1) the license is renewed continually without lapse; (2) the significant tobacco retailer is not closed for business more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the premises or business operation; and (4) the significant tobacco retailer's maintains the right to operate under the terms of other applicable laws.
- (c) No license may issue to authorize tobacco retailing at any location that is licensed under State law to serve alcoholic beverages for consumption on the premises (e.g., an "on-sale" license issued by the California Department of Alcoholic Beverage Control) and no license may issue to authorize tobacco retailing at any location offering food for sale for consumption by guests on the premises. For example, tobacco retailing in bars and restaurants is prohibited.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.104 - Application procedure.

Application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof.

It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's license. No proprietor may rely on the issuance of a license as a determination by the City that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 4.10.11(d) of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the department and shall contain the following information:

- (a) The name, address, and telephone number of each proprietor of the business that is seeking a license.
- (b) The business name, address, and telephone number of the single fixed location for which a license is sought.
- (c) A single name and mailing address authorized by each proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of this chapter. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subsection (b) of this section.
- (d) Proof that the location for which a tobacco retailer's license is sought has been issued a valid State tobacco retailer's license by the California Board of Equalization.
- (e) Whether or not any proprietor has admitted violating, or has been found to have violated, this chapter or whose proprietorship has admitted violating, or has been found to have violated, this chapter, and, if so, the dates and locations of all such violations within the previous six years.

- (f) Such other information as the department deems necessary for the administration or enforcement of this chapter.
- (g) All information required to be submitted in order to apply for a tobacco retailer's license shall be updated with the department whenever the information changes. A tobacco retailer shall provide the department with any updates within ten (10) business days of a change.
- (h) The information specified in subsections (b) and (c) of this section shall be available to the public for all currently licensed tobacco retailers. Upon request, the department shall provide a compilation of this information to any person within a reasonable time and subject to a fee approximating the actual cost of compiling and presenting the information.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.105 - Issuance of license.

Upon the receipt of an application for a tobacco retailer's license and the license fee required by this chapter, the department shall issue a license unless substantial evidence demonstrates that one (1) or more of the following bases for denial exists:

- (a) The information presented in the application is incomplete, inaccurate, or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.
- (b) The application seeks authorization for tobacco retailing at a location for which this chapter prohibits issuance of tobacco retailer licenses. However, this subparagraph shall not constitute a basis for denial of a license if the applicant provides the City with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction.
- (c) The application seeks authorization for tobacco retailing for a proprietor to whom this chapter prohibits a license to be issued.
- (d) The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this Code, or that is unlawful pursuant to any other law.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.106 - License renewal and expiration.

- (a) *Renewal of license.* A tobacco retailer license is invalid unless the appropriate fee has been paid in full and the term of the license has not expired. The term of a tobacco retailer license is one (1) year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's license and submit the license fee no later than thirty (30) days prior to expiration of the term.
- (b) *Expiration of license.* A tobacco retailer's license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired, or to renew a license not timely renewed pursuant to subsection (a) of this section, the proprietor must:
 - (1) Submit the license fee plus a reinstatement fee of ten (10%) percent of the license fee.
 - (2) Submit a signed affidavit affirming that the proprietor:

- (i) Has not sold and will not sell any tobacco product or tobacco paraphernalia after the license expiration date and before the license is renewed; or
- (ii) Has waited the appropriate ineligibility period established for Tobacco Retailing without a license, as set forth in Section 4-10.112(a) of this chapter, before seeking renewal of the license.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.107 - License nontransferable.

- (a) A tobacco retailer's license may not be transferred from one (1) person to another or from one (1) location to another. Whenever a tobacco retailing location has a change in proprietors a new tobacco retailer's license is required.
- (b) Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
 - (1) The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and
 - (2) The new proprietor(s) provide the City with clear and convincing evidence that the new proprietor(s) have acquired or is acquiring the location in an arm's length transaction.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.108 - Fees for license.

The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the City Council. The fee shall be calculated so as to recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.109 - Other requirements and prohibitions.

- (a) *Lawful business operation.* In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to:
 - (1) Violate any local, State or Federal law applicable to tobacco products, tobacco paraphernalia, or tobacco retailing;
 - (2) Violate any local, State or Federal law regulating exterior, storefront, window, or door signage.
- (b) *Display of license.* Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.
- (c) *Positive identification required.* No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven

(27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the tobacco product or tobacco paraphernalia.

- (d) *Minimum age for persons selling tobacco.* No person who is younger than the minimum age established by State law for the purchase or possession of tobacco products shall engage in tobacco retailing.
- (e) *Self-service displays prohibited.* No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display.
- (f) *Smoking prohibited.* Smoking shall be prohibited inside the location of a tobacco retailer and in all outdoor areas that are within twenty (20) feet of any door, window, or other opening into the tobacco retailer except in such places in which smoking is already prohibited by State or Federal law, in which case the State or Federal law applies in lieu of this subsection. A tobacco retailer shall not permit smoking in violation of this subsection and shall post conspicuous "no smoking" signs at all entrances to the licensed location and in all outdoor portions of the licensed location in which smoking is prohibited.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.110 - Compliance monitoring.

- (a) Compliance with this chapter shall be monitored by the City employees designated by the Director of Finance (the "Enforcement Employees"). Any peace officer may enforce the penal provisions of this chapter.
- (b) The enforcement employees shall check the compliance of each tobacco retailer at least three (3) times per twelve (12) month period. The enforcement employees may check the compliance of tobacco retailers previously found to be in compliance a fewer number of times so that the enforcement employees may check the compliance of tobacco retailers previously found in violation of the licensing law a greater number of times. Nothing in this subsection shall create a right of action in any licensee or other person against the City or its agents.
- (c) Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.
- (d) The City shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "Youth Decoy") if the potential violation occurs when:
 - (1) The Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the City; or
 - (2) The Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the County Health Department or the California Department of Health Services.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.111 - Revocation of license.

- (a) *Revocation of license for violation.* In addition to any other penalty authorized by law, a tobacco retailer's license shall be revoked if the department finds or any court of competent jurisdiction determines, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or, in a different legal proceeding, has pleaded "no contest" or its equivalent, or admitted to a violation of any law designated in Section 4-10.109(a) of this chapter.
- (b) *New license after revocation.*
- (1) After revocation for a first violation of this chapter at a location within any sixty (60) month period, no new license may issue for the location until ten (10) days have passed from the date of revocation.
 - (2) After revocation for a second violation of this chapter at a location within any sixty (60) month period, no new license may issue for the location until thirty (30) days have passed from the date of revocation.
 - (3) After revocation for a third violation of this chapter at a location within any sixty (60) month period, no new license may issue for the location until ninety (90) days have passed from the date of revocation.
 - (4) After revocation for four (4) or more violations of this chapter at a location within any sixty (60) month period, no new license may issue for the location until five (5) years have passed from the date of revocation.
- (c) *Appeal of revocation.* A decision of the department to revoke a license is appealable to Chief Administrative Officer and must be filed within ten (10) days of mailing of the department's decision. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to Chief Administrative Officer is not available for a revocation made pursuant to subsection (d) of this section.
- (d) *Revocation of license issued in error.* A tobacco retailer's license shall be revoked if the department finds, after the licensee is afforded reasonable notice and an opportunity to be heard, that one (1) or more of the bases for denial of a license under Section 4-10.105 existed at the time application was made or at any time before the license issued. The decision by the department shall be the final decision of the City. The revocation shall be without prejudice to the filing of a new license application.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.112 - Tobacco retailing without a license.

- (a) In addition to any other penalty authorized by law, if the department finds or any court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the person shall be ineligible to apply for or be issued a tobacco retailing license for that location as follows:
- (1) After a first violation of this chapter at a location within any sixty (60) month period, no new license may issue for the person at the location until thirty (30) days have passed from the date of the violation.
 - (2) After a second violation of this chapter at a location within any sixty (60) month period, no new license may issue for the person at the location until ninety (90) days have passed from the date of the violation.

- (3) After of a third or subsequent violation of this chapter at a location within any sixty (60) month period, may issue for the person at the location until five (5) years have passed from the date of the violation.
- (b) Tobacco products and tobacco paraphernalia offered for sale or exchange in violation of this chapter are subject to seizure by the department or any peace officer and shall be forfeited after the licensee and any other owner of the tobacco products and tobacco paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the tobacco products and tobacco paraphernalia were not offered for sale or exchange in violation of this chapter. The decision by the department may be appealed pursuant to the procedures set forth in Section 4-10.111(c) forfeited tobacco products and tobacco paraphernalia shall be destroyed.
- (c) For the purposes of the civil remedies provided in this chapter:
 - (1) Each day on which a tobacco product or tobacco paraphernalia is offered for sale in violation of this chapter; or
 - (2) Each individual retail tobacco product and each individual retail item of tobacco paraphernalia that is distributed, sold, or offered for sale in violation of this chapter; whichever is greater, shall constitute a separate violation of this chapter.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.113 - Settlement in lieu of hearing.

For a second alleged violation of this chapter within any sixty (60) month period, the City Attorney may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter without approval from the City Council. Notice of any settlement shall be provided to the department and no hearing shall be held. Settlements shall not be confidential and shall contain the following minimum terms:

- (a) After a first alleged violation of this chapter at a location within any sixty (60) month period:
 - (1) An agreement to stop acting as a tobacco retailer for at least one (1) day;
 - (2) A settlement payment to the City of at least One Thousand and No/100ths (\$1,000.00) Dollars; and
 - (3) An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
- (b) After a second alleged violation of this chapter at a location within any sixty (60) month period:
 - (1) An agreement to stop acting as a tobacco retailer for at least ten (10) days;
 - (2) A settlement payment to the City of at least Five Thousand and No/100ths (\$5,000.00) Dollars; and
 - (3) An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

(§ 1, Ord. 06-531, eff. August 22, 2006)

4-10.114 - Enforcement.

- (a) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

- (b) Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen (18) years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
- (c) Violations of this chapter are subject to a civil action brought by the City Prosecutor, punishable by a civil fine not less than Two Hundred Fifty and No/100ths (\$250.00) Dollars and not exceeding One Thousand and No/100ths (\$1,000.00) Dollars per violation.
- (d) Violations of this chapter may, in the discretion of the City Prosecutor, be prosecuted as infractions or misdemeanors.
- (e) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- (f) Violations of this chapter are declared to be public nuisances.
- (g) In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

(§ 1, Ord. 06-531, eff. August 22, 2006)