CITY OF
HAYWARD
HEART OF THE BAY

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DATE: September 28, 2010

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Resolution in Support of State Proposition 22

RECOMMENDATION

That Council adopts the attached resolution in support of California State Proposition 22, "The Local Taxpayer Protection Act of 2010."

BACKGROUND

In 2004, the League of California Cities authored Proposition 1A, which was passed by the voters of California. This Proposition was designed to protect local revenue from State taking. While it did provide some constitutional protections, it did not eliminate all possibilities for State take-aways. For instance, it allowed State borrowing of local funds without the agreement of the impacted local agencies and did not protect Redevelopment Agency funds.

Since the passage of Proposition 1A, the State of California has exercised its right to borrow municipal funds, directly taken RDA funds, and otherwise threatened local revenue such as the Highway User Tax Act (HUTA - gas tax monies), which is designated for local streets and roads projects. It became clear that additional protections were needed to prevent the State of California from attempting to use local funds to resolve the state budget crisis.

Council supported the passage of Proposition 1A and has consistently sent a strong message to our local State Legislators and others at the State level that local revenue must remain local, and that local control is not to be eroded in any way. Staff has been asked to bring this resolution in support of Proposition 22, an initiative aimed at closing the Proposition 1A loopholes, forward for adoption.

DISCUSSION

Earlier this year, the League of California Cities' Board of Directors, in cooperation with the California Transit Association and the California Alliance for Jobs, authored "The Local Taxpayer Protection Act of 2010." This initiative, which proposes a constitutional amendment strengthening

the protections initiated under Prop 1A, successfully qualified for the November 2010 General Election with over 1.1 million signatures, and is designated Proposition 22.

If approved in the November election, Proposition 22 would strengthen the principles of Prop 1A approved by voters in 2004 and prevent future shifts of local revenues for statewide uses. In the official ballot title, the Attorney General states that Proposition 22 *"Prohibits the State from Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services."*

Proponents of the measure include statewide organizations such as the Howard Jarvis Taxpayer Association, the State Building and Construction Trades Council of California, the California Chamber of Commerce, the Greenbelt Alliance, the League of California Cities, the California Transit Association, the California Fire Chiefs Association, the California Police Chiefs Association, the Peace Officers Research Association of California (PORAC), and many local groups.

The major provisions of Proposition 22 are as follows:

- Revokes the State's ability to borrow local government property tax funds that are used to fund local services, such as police, fire, emergency response, parks, libraries, and other government services.
- Prohibits the State from taking or borrowing HUTA funds, which currently fund city, county, and state roads, highways, public transit, and other transportation improvements and services.
- Prevents the State from redirecting or diverting locally levied taxes, including parcel taxes, sales taxes, utility user taxes, TOT's, and other locally imposed taxes that are currently passed by local governments and/or their voters and dedicated to cities, counties, and special districts.
- Prohibits the State from taking, borrowing, or redirecting existing funding for public transit, including existing taxes on gas and funds dedicated to the Public Transportation Account.
- Adds additional constitutional protections to prevent the State from taking redevelopment funds or shifting redevelopment funds to other State purposes.

Opponents claim that Proposition 22 reduces funding for education, shrinks budgets for fire and public safety, and makes it even harder to balance the State's general fund budget. They further claim that it locks protections for redevelopment agencies into the State constitution, and that cities *"... use RDA funds to fund subsidies for local developers — with no direct voter oversight."*

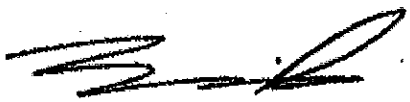
Opponents argue that it is the State's right to take locally intended revenue to balance the State's budget, in order to prevent reduction of education funding and budgets for fire and public safety. Their arguments are generally erroneous and misleading to the voters. Those organizations in opposition to Proposition 22 include the California Democratic Party, the California Nurses Association, the California Professional Firefighters, the California School Employees Association, and the California Teachers Association, among others.

FISCAL IMPACT

The State has taken $93.9 million dollars from the City of Hayward since 1994, including the various versions of the Educational Revenue Augmentation Funds (ERAF); and has taken $7.8 million from the Hayward Redevelopment Agency. In FY 2010 alone, the City's property tax revenue was reduced by $7.6 million for ERAF I/II; and the City paid $4.4 million in RDA funds. The City also securitized $3.6 million in State Proposition 1A borrowing. This uncontrollable loss of revenue, usually after the City has passed their own balanced budgets, has been devastating to both the City and the RDA.

Prepared by: Fran David, City Manager

Approved by:



Fran David, City Manager

Attachment: Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 10-

Introduced by Council Member

RESOLUTION IN SUPPORT OF PROPOSITION 22, THE LOCAL TAXPAYER PROTECTION ACT OF 2010, AN INITIATIVE THAT PROPOSES TO AMEND THE STATE CONSTITUTION TO PROTECT LOCAL REVENUES

WHEREAS, in 2004, the voters of the State of California passed Proposition 1A, which was designed to protect local revenues from being taken by the State; and

WHEREAS, Proposition 1A did not eliminate all possibilities for State takes of local revenue, and, since the passage of Proposition 1A, the State has exercised its right to borrow local funds without the agreement of the impacted local agency, directly taken redevelopment agency funds, and threatened to take cities' Highway User Tax Act ("HUTA") revenue, which funds are designated for local streets and roads projects; and

WHEREAS, the League of California Cities, in conjunction with the California Transit Association and the California Alliance for Jobs, has authored "The Local Taxpayer Protection Act of 2010," a proposed amendment to the State constitution that has qualified for the November ballot as Proposition 22 and is supported by statewide organizations, including the Howard Jarvis Taxpayer Association, the State Building and Construction Trades Council of California, the California Chamber of Commerce, the Greenbelt Alliance, the California Fire Chiefs Association, the California Police Chiefs Association, the Peace Officers Research Association of California (PORAC), and many local groups; and

WHEREAS, if passed, Proposition 22 would revoke the State's ability to borrow local government property tax funds used to fund local services, such as police, fire, emergency response, parks, libraries, and other government services; prohibit the State from taking or borrowing HUTA funds, which currently fund city, county, and state roads, highways, public transit, and other transportation improvements and services; prevent the State from redirecting or diverting locally levied taxes, including parcel taxes, sales taxes, utility user taxes, TOT's, and other locally imposed taxes that have been passed by local governments and/or their voters and dedicated to cities, counties, and special districts; prohibit the State from taking, borrowing, or redirecting existing funding for public transit, including existing taxes on gas and funds dedicated to the Public Transportation Account; and add additional constitutional protections to prevent the State from taking redevelopment funds or shifting redevelopment funds to other State purposes.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward hereby joins the League of California Cities and other state and local organizations in support of California State Proposition 22, "The Local Taxpayer Protection Act of 2010."

IN COUNCIL, HAYWARD, CALIFORNIA, _____, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

_____
City Attorney of the City of Hayward