



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
OCTOBER 23, 2012

MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE MARVIN PEIXOTO
COUNCIL MEMBER BARBARA HALLIDAY
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARK SALINAS
COUNCIL MEMBER GREG JONES
COUNCIL MEMBER AL MENDALL

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CITY COUNCIL MEETING FOR OCTOBER 23, 2012
777 B STREET, HAYWARD CA 94541
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CLOSED SESSION
Closed Session Room 2B – 5:30 PM

1. PUBLIC COMMENTS

2. Conference with Labor Negotiators

Pursuant to Government Code 54957.6

- Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager McAdoo, Human Resources Director Robustelli, Finance Director Vesely, and Director of Maintenance Services McGrath

Under Negotiation: All Groups

3. Adjourn to Special Joint City Council/Redevelopment Successor Agency/Housing Authority Meeting

**SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT SUCCESSOR AGENCY/
HOUSING AUTHORITY MEETING**
Council Chambers – 7:00 PM

CALL TO ORDER Pledge of Allegiance Council Member Peixoto

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION Business Recognition Award: Cyclepath

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session, or Informational Staff Presentation items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

ACTION ITEMS: *(The Council will permit comment as each item is called for the Boards and Commissions, Consent Calendar, Public Hearings, and Legislative Business. In the case of Boards and Commissions or the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Boards and Commissions Section or Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

BOARDS, COMMISSIONS, COMMITTEES, AND TASK FORCES

1. Appointment of Members of the General Plan Update Task Force and Swearing-In Ceremony of Members (Oath of Office Administered by City Clerk Lens)

[Staff Report](#)

[Attachment I Resolution](#)

CONSENT CALENDAR

2. Approval of Minutes of the City Council Meeting on September 25, 2012

[Draft Minutes](#)

3. Approval of Minutes of the City Council Meeting on October 2, 2012

[Draft Minutes](#)

4. Water System Master Plan Update: Authorization for the City Manager to Execute a Professional Services Agreement

[Staff Report](#)

[Attachment I Resolution](#)

5. Revisions to the City's Conflict-of-Interest Code

[Staff Report](#)

[Attachment I Resolution](#)

[Attachment II](#)

[Attachment III List of Designated Positions](#)

[Attachment IV Proposed Disclosure Categories](#)

[Attachment V Current Disclosure Categories](#)

6. I-880/SR 92 Landscaping Project: Authorization for the City Manager to Execute a Cooperative Agreement with Caltrans for Use of Federal Demonstration Funds

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)

7. Industrial Parkway Landscaping Improvement Project: Approving Addenda No. 1 and 2, Award of Contract, and Appropriate Additional Funds

[Staff Report](#)

[Attachment I](#)

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[Attachment II](#)
[Attachment III](#)

8. Authorization for the City Manager to Execute a Professional Services Agreement for Evaluation, Design, and Construction Administration Services for the Centex Sewer Lift Station Upgrade Project

[Staff Report](#)
[Attachment I Resolution](#)

9. Construction of Shoring for Future 72-Inch Effluent Pipeline at the Water Pollution Control Facility: Authorization for City Manager to Execute Professional Services Agreement for Engineering Services

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10. Authorization to Negotiate a Professional Services Agreement with Data Ticket for Parking Citation Processing and Collections; Appropriate Funding; and Amend the Master Fee Schedule

[Staff Report](#)
[Attachment I Contract Resolution](#)
[Attachment II Appropriations Resolution](#)
[Attachment III Master Fee Resolution](#)

11. Acceptance of the COPS Hiring Grant Award

[Staff Report](#)
[Attachment I Resolution](#)

12. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2013

[Staff Report](#)
[Attachment I](#)
[Attachment II](#)

13. Authorization to Negotiate and Execute the Documents Necessary to Accept Prepayment of Principal and to Forgive Interest on CDBG Loan for Park Manor Apartments

[Staff Report](#)
[Attachment I Resolution](#)

14. Revisions to the Council Member Handbook

[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Proposed Handbook](#)

15. New Cogeneration Power System at the Water Pollution Control Facility: Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement for Design

[Staff Report](#)
[Attachment I Resolution](#)

OCTOBER 19, 2012



[Attachment II Location Map](#)

16. Approval of Use of the Agency-Controlled Operating Reserve to Fund Additional Improvements at Tennyson Gardens

[Staff Report](#)

[Attachment I Resolution](#)

17. Approval of Transfer of Specified Properties from the City of Hayward to the Hayward Successor Agency and Approval of Fund Balance Transfer from the Housing Authority to the Hayward Successor Agency

[Staff Report](#)

[Attachment I City Property Resolution](#)

[Attachment II Successor Agency Property Resolution](#)

[Attachment III Housing Authority Resolution](#)

[Attachment IV Property Listing and Map](#)

18. Approval of Contract Amendment with Godbe Research for Completion of the Biannual Resident Satisfaction Survey

[Staff Report](#)

[Attachment I Resolution](#)

[Attachment II Scope of Services](#)

The following order of business applies to items considered as part of Public Hearings and Legislative Business:

- *Disclosures*
- *Staff Presentation*
- *City Council Questions*
- *Public Input*
- *Council Discussion and Action*

LEGISLATIVE BUSINESS

19. Amendment of Hayward Municipal Code, Chapter 5, Article 7, Sections 5-7.25, Relating to Unlawful Nuisance on Public Property – Illegal Dumping (Report from Maintenance Services Director McGrath)

[Staff Report](#)

[Attachment I Ordinance Amendment](#)

[Attachment II Resolution Update to Master Fee](#)

[Attachment III Update Master Fee Schedule](#)

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items

ADJOURNMENT

NOVEMBER 6, 2012 MEETING CANCELED – ELECTION DAY

OCTOBER 19, 2012



NEXT MEETING, TUESDAY, NOVEMBER 13, 2012

PUBLIC COMMENT RULES: *The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name and their address before speaking and are expected to honor the allotted time. A Speaker Card must be completed by each speaker and is available from the City Clerk at the meeting.*

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. **PLEASE TAKE FURTHER NOTICE** that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

***Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ***

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

Please visit us on:



DATE: October 23, 2012
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Appointment of Members of the General Plan Update Task Force

RECOMMENDATION

That the City Council adopts the attached resolution confirming fifteen appointments to the General Plan Update Task Force.

BACKGROUND

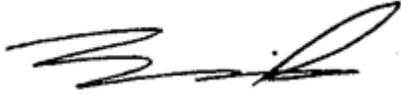
On July 17, 2012, the City Council directed staff to initiate the formation of the General Plan Update Task Force. The recruitment for the Task Force began on August 6, 2012, and staff reached out to the community: by handing out flyers at the Downtown Street Party in July and at National Night Out; distributing flyers at Hayward Area Recreation and Park District facilities; sending email blasts to various groups; by meeting with the Hayward Coalition for Healthy Youth, South Hayward Neighborhood Collaborative, Hayward Youth Commission, and Hijos del Sol; posting information on KHRT and electronic billboards; publishing articles in the Daily Review and in the Tri-City Voice; and by posting information on the City’s website, Facebook, and Twitter.

On [September 25, 2012](#), the City Council directed staff to revise the selection criteria for General Plan Update Task Force members and extended the recruitment period to October 10, 2012. Recruitment was conducted from August 6 through October 10, 2012. On October 16, 2012, the City Council conducted forty interviews, resulting in the following fifteen recommended appointments:

- | | |
|---------------------------|-----------------------|
| Mr. Edward Bogue | Mr. Justin King |
| Ms. Dana Caines | Ms. Diane Laine |
| Ms. Heather Enders | Ms. Veronica Martinez |
| Mr. Ray “Rocky” Fernandez | Mr. Alan Parso |
| Mr. Pedrito Gella | Ms. Monica Schultz |
| Mr. Daniel Goldstein | Ms. Stacy Snowman |
| Mr. Alex Harmon | Mr. Julius Willis Jr. |
| Ms. Lory Hawley | |

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution Confirming the General Plan Update Task Force

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION CONFIRMING THE APPOINTMENT OF MEMBERS OF THE GENERAL PLAN TASK FORCE

BE IT RESOLVED that the City Council of the City of Hayward does hereby confirm the appointment of the following as members of the General Plan Task Force so designated:

- Edward Bogue
- Dana Caines
- Heather Enders
- Ryan "Rocky" Fernandez
- Pedrito Gella
- Daniel Goldstein
- Alex Harmon
- Lory Hawley
- Justin King
- Diane Laine
- Veronica Martinez
- Alan Parso
- Monica Schultz
- Stacy Snowman
- Julius Willis Jr.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012.

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



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, September 25, 2012, 7:00 p.m.**

The City Council meeting was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Halliday.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall
MAYOR Sweeney
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that Council met with labor negotiators pursuant to Government Code 54957.6, regarding all groups; with legal counsel pursuant to Government Code 54956.9, regarding Sipple, et al. v. City of Alameda, et al., Los Angeles County Superior Court No. BC462270; and with legal counsel pursuant to Government Code 54956.9, regarding anticipated litigation. There were no reportable items.

PROCLAMATIONS

October Breast Cancer Awareness Month

Mayor Sweeney read a proclamation which stated that during October Hayward Firefighters Local 1909 would be participating in the national “Firefighters in Pink” campaign to raise awareness about breast cancer and to raise funds for local Hayward treatment centers. Mayor Sweeney proclaimed October 2012 as National Breast Cancer Awareness Month in the City of Hayward. On behalf of Hayward Firefighters Local 1909, President Jason Livermore accepted the proclamation and thanked the Council for such a special recognition and specially Council Member Halliday. Mr. Livermore noted that last year Local 1909 raised \$7500 for the St. Rose Hospital Women’s Imaging Center.

Let’s Do Lunch Hayward ... and Breakfast, Too

Mayor Sweeney read a certificate of commendation for the Hayward Unified School District through its Department of Nutrition Services for working collaboratively with the City of Hayward, Hayward non-profits, and faith-based organizations to develop ways to continue delivering nutritional meals to Hayward kids. It was noted that in 2011 “Let’s Do Lunch Hayward...and Breakfast, Too” was established with the mission to provide breakfasts and lunches to Hayward kids when school was not in session. Mayor Sweeney commended “Let’s Do Lunch Hayward...and Breakfast, Too” for its outstanding efforts to provide a healthy breakfast and lunch for all Hayward students. Director of Nutrition Services, Robin Jones, accepted the commendation and thanked the

Council for the collaboration and especially Council Member Salinas for his vision and commitment.

PRESENTATIONS

National Anti-Bullying Awareness Month

Lieutenant Sheryl Boykins noted that October is National Bullying Prevention Awareness Month – a campaign founded by the National Center for Bullying Prevention. Ms. Boykins noted the Hayward Police Department supports the anti-bullying effort and presented a ten-minute anti-bullying video which she had developed and produced to commensurate with National Bullying Prevention Awareness Month. The video, produced in English and Spanish, was presented to Council in advance of release to the public and distribution to the Hayward Unified School District. The Council thanked Lieutenant Boykins and the Hayward Police Department.

Bequests to Hayward Library and Hayward Animal Shelter

City Manager David acknowledged that the Hayward Animal Services Bureau had received from the Margaret Perry trust a bequest in the amount of \$186,400.86, and the Hayward Public Library received an amount of \$186,400.08. It was noted that Ms. Perry and her husband were both teachers and greatly valued education. Ms. Perry was eighty-four years old when she passed away in 2011, and although not a Hayward resident, she had included Hayward in her trust. City Manager David acknowledged Ms. Perry's generosity and thoughtfulness; and she noted that during the mid-year budget update staff would present suggestions on how to utilize the bequests.

PUBLIC COMMENTS

Mr. Jim Drake, Franklin Avenue resident, expressed concern about car jumps and road hazards due to incorrect grading and the additional funds spent to redo the paving on Carlos Bee Boulevard at the intersection of Mission Boulevard and Harder Road. Mr. Drake also expressed concern about the paving at the intersection of Foothill Boulevard and Grove Way.

Mr. Byron Asberry, with business address on Foothill Boulevard, noted that businesses on Foothill Boulevard would benefit from having street parking for their clientele and requested that the street be cleaned, especially before the holiday season.

Ms. Patricia Shannon, Castro Valley resident and Chabot College faculty member, requested Council's support for Proposition 30 (Temporary Taxes to Fund Education) and Measure I (Chabot-Las Positas Community College District Special Parcel Tax Measure) which are both on the November 6, 2012, ballot.

Mr. Mark Smythe, Castro Valley resident, spoke in support of Measure I noting that if the measure passed it would allow local funding revenue to have a direct impact on resources for programs at Chabot College and Las Positas College. Mr. Smythe asked Council to consider a resolution in support of Measure I.



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Council Member Zermeño noted that during the Public Comments section before the Closed Session he recommended that Council consider supporting Measure I.

There was Council consensus to place an item in support of Measure I on the agenda at the next Council meeting.

Mr. Doug Ligibel, Grand Terrace resident and member of the Downtown Neighborhood Watch leadership group, presented downtown crime statistics and spoke about the increase in Hayward homicides, narcotic-related problems, crimes committed by Hayward youth, and the deterioration of his group's relationship with the Hayward Police Department. Mr. Ligibel asked for more cooperation, accountability and follow-up from the Hayward Police Department. Mayor Sweeney directed staff to provide Council with an update on the issues raised by Mr. Ligibel.

Ms. Evelyn Cormier, representing the League of Women Voter (LWV), announced that the LWV was sponsoring several candidate and ballot measure forums for the November 6, 2012, Presidential election. Ms. Cormier submitted the informational flyer to the City Clerk.

Ms. Betty Moose, Chair of the Hayward Area Shoreline Planning Agency Citizen Advisory Commission, spoke about the importance of preserving Hayward's shoreline and to not disregard the need and purpose of the Strategic Plan of the S.F. Bay Trail Project.

City Clerk Lens announced September 25 was National Voter Registration Day, and reminded eligible citizens that October 22 was the last day to register to vote in the November election, and October 30 was the last day to apply for a vote-by-mail ballot. Ms. Lens added the League of Women Voters would be hosting three election-related forums at City Hall on October 3, 5, and 17, 2012.

CONSENT

Consent Item Nos. 3, 4, and 5 were removed for further discussion.

1. Approval of Minutes of the City Council Meeting on September 11, 2012

It was moved by Council Member Zermeño, seconded by Council Member Halliday, and unanimously carried to approve the minutes of the City Council Meeting of September 11, 2012.

2. Adoption of an Ordinance Establishing Policies Regarding the Fats, Oils, and Grease (FOG) Receiving Station, and Establishing Fees for Disposal

Staff report submitted by City Clerk Lens, dated September 25, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Halliday, and unanimously carried, to adopt the following:

Ordinance 12-04, “An Ordinance Establishing Policies Regarding the Fats, Oils and Grease (FOG) Receiving Station, and Establishing Fees for Disposal”

3. Resolutions Authorizing Staff to Negotiate and Execute Professional Services Agreements with Mintier Harnish and Jones Planning & Design for the General Plan Update

Staff report submitted by Senior Planner Pearson, dated September 25, 2012, was filed.

Mr. Jim Drake, Franklin Avenue resident, inquired about the total cost to provide assistance with the General Plan update, the hourly rate for the consultants, and the process for selecting the consultants.

Development Services Director Rizk noted staff had released two Requests for Proposals (RFPs) and interviewed three teams in response to the Technical Services RFP and three teams for the Contract Planning Services RFP. Mr. Rizk noted the cost to provide technical assistance with the General Plan update would not exceed \$1,134,460, and the cost to contract planning services would not exceed \$290,000, and the firm’s hourly rate was \$100 per hour.

Mayor Sweeney reemphasized Council’s comments about reducing costs and shortening the time frame.

It was moved by Council Member Halliday, seconded by Council Member Mendall, and unanimously carried, to adopt the following:

Resolution 12-150, “Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Mintier Harnish to Provide Technical Assistance with the Preparation of the 2014 General Plan Update”

Resolution 12-151, “Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement with Jones Planning and Design to Contract Planning Services During the Preparation of the 2014 General Plan Update”

4. Clarification of Criteria for Selection of General Plan Update Task Force Members

Staff report submitted by City Attorney Lawson, City Clerk Lens, and Development Services Director Rizk, dated September 25, 2012, was filed.

In response to Council Member Mendall’s inquiry, Mayor Sweeney mentioned that Council had discussed the size of the General Plan Task Force and suggested ten to fifteen would be the ideal size.



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Tuesday, September 25, 2012, 7:00 p.m.**

It was moved by Council Member Mendall, seconded by Council Member Halliday, and unanimously carried, to direct staff to revise the selection criteria for General Plan Task Force members and extend the recruitment period to October 10, 2012.

5. Support for Measure A1 on the November 2012 Ballot: Oakland Zoo Parcel Tax

Staff report submitted by Assistant City Manager Morariu, dated September 25, 2012, was filed.

Council Member Halliday noted Measure A1 would authorize a parcel tax of \$12 per year per parcel in support of the Oakland Zoo. Ms. Halliday noted the Oakland Zoo hosted more than 660,000 visitors each year and served over 50,000 children and youth in Alameda County.

Mr. Joel Parrot submitted a card but did not speak.

It was moved by Council Member Halliday, seconded by Council Member Mendall, and unanimously carried, to adopt the following:

Resolution 12-152, "A Resolution in Support of Measure A1: A Parcel Tax to Support the Oakland Zoo"

PUBLIC HEARING

6. Zone Change Application PL-2010-0372 / Vesting Tentative Tract Map Application PL-2010-0373 – John Weber (Applicant/Owner) – Request for a Zone Change from Light Manufacturing District to Planned Development District, and a Vesting Tentative Tract Map to Create Fourteen Parcels. The project is located at 3596 Baumberg Avenue at the southerly terminus of Baumberg Avenue and Bridge Road in a Light Manufacturing Zoning District

Staff report submitted by Associate Planner Koonze, dated September 25, 2012, was filed.

Development Services Director Rizk announced the report and Planning Manager Patenaude provided a synopsis of the report. Mr. Patenaude noted the proposal was to reclassify the zoning designation from Light Manufacturing (LM) District and Industrial (I) District to Planned Development (PD) District. Mr. Patenaude noted there was an amendment to Condition of Approval No. 2 of the Vesting Tentative Tract Map 8039 – PL – 2010-0373 by adding language, "*The deed restriction shall also insure that, following final construction of the adjacent Weber Light Manufacturing Project, cultivation of the lands will cease and the site can be grazed by livestock for management purposes in order to maintain low growing vegetation conditions that provide suitable burrowing owl forage habitat.*"

Council Member Peixoto noted he had received questions related to why a full Environmental Impact Report was not conducted for the proposed project. Planning Manager Patenaude explained that all impacts were alleviated by utilizing a simpler, less costly mitigated negative declaration that also achieved the needed protections for the wetland areas.

Council Member Halliday referred to a letter from the Citizens Committee to Complete the Refuge which stated the mitigated measures were inadequate for the burrowing owl habitat. Mr. Patenaude noted the proposal provided increased protection for burrowing owls.

Planning Manager Patenaude confirmed for Council Member Mendall that the Planned Development (PD) District would have all the same uses as Light Manufacturing (LM) District with the addition to allow warehouse usage. Mr. Mendall confirmed that Condition of Approval No. 69 would need to change the Homeowners' Association (HOA) reference to Property Owners' Association (POA). In response to Mr. Mendall, Assistant City Attorney Conneely noted that by approving the proposed zone change the City would not be obligated to protect the land from rising sea-levels.

Planning Manager Patenaude confirmed for Council Member Zermeño that raising the building pads eight feet above sea level, and finished floors at least nine feet above sea level, was based on the flood elevation determined by the Federal Emergency Management Agency.

In response to Council Member Jones' question, Planning Manager Patenaude noted the buffer zone would be between the proposed industrial development and the existing open space areas and it would be planted with native vegetation and located outside the fenced property line.

Planning Manager Patenaude confirmed for Council Mendall that a portion of the open space that was currently designated Light Manufacturing (LM) District would be converted to a Planned Development (PD) District designation but would remain protected open space by the irrevocable deed restriction.

Mayor Sweeney opened the public hearing at 8:39 p.m.

Mr. Anthony Varni, attorney representing the Weber property, asked to reserve his time to respond to questions and thanked staff for their diligent work.

Mr. Frank Delfino, Castro Valley resident, spoke about three ladies who fought to preserve the Hayward shoreline and he questioned the zone change in order to allow warehousing.

Ms. Evelyn Cormier, Hayward resident, President of the Ohlone Audubon Society, and member of the Hayward Area Shoreline Planning Agency (HASPA), spoke in support of preserving wetlands, mentioned the buffer zone was inadequate, and expressed concern for the burrowing owl population.

Ms. Cormier noted the proposed 2.39-acre wetland site would be more appropriate as part of the larger preserved wetland area and asked who would maintain and monitor the wetland areas and if the reports would be available to the public. Ms. Cormier asked for clarification on Condition of Approval No. 69, which referred to both a Property Owners Association and a Homeowners



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Association.

Ms. Carin High, member of Citizens Committee to Complete the Refuge, expressed concern that sensitive species immediately adjacent to the proposed property on the Eden Landing Ecological Reserve would not be protected from construction impacts and noted that geotechnical mitigated measures were not identified. Ms. High pointed out that burrowing owls cannot exist in saturated soil and mentioned there needed to be a provision for the burrowing owl within the plans if the mitigation goes through.

Ms. Betty Moose, Chair of the Hayward Area Shoreline Planning Agency Citizen Advisory Commission, spoke about the dangers of constructing buildings on land vulnerable to liquefaction and provided a copy of the newspaper article "California Sea Level," dated June 23, 2012. Ms. Moose urged the Council to not take action on the item and conduct further research about the proposal and keep the area as open space.

Mr. Anthony Varni, representing the Weber property, noted that in the past there had been a full Environmental Impact Report conducted for the Weber property and there were multiple agencies involved with the Urban Limit Line which was established between the upland and wetland areas and noted the proposed project was to be built on uplands. Mr. Varni said the applicant addressed the issue of burrowing owls by preserving 55 acres for burrowing owl foraging. He added that all issues had been resolved and approved by the Planning Commission and various government agencies.

Mr. Terry Huffman, Scientist and President of Huffman Broadway Group, noted the developer planned to mitigate the loss of the wetland by creating and expanding the wetland area and creating a buffer zone. Mr. Huffman noted there were plans to form a Wetlands Mitigation Bank for the area below the Urban Limit Line and various agencies could contribute to have the area converted into a wetland mitigated area. Mr. Huffman spoke about plans to set up areas for burrowing owls and ground squirrels with the hope that the burrowing owls would utilize this area for breeding and not just for foraging.

Mr. Gary Deghi, Biologist and Vice President of Huffman Broadway Group, noted the property was only marginally suitable to support burrowing owls and there were only two transient owls. Mr. Deghi noted the mitigation would include the Burrowing Owl Management Plan and explained how the 55 acres would be prepared to encourage habitation by the burrowing owls and ground squirrels.

Mr. Huffman explained for Council Member Mendall that under the Burrowing Owl Management Plan, the 2.39-acre mitigation site would be funded, but the mitigation plan for the 55-acre site would need endowments.

Ms. Minane Jameson, Chicoine Avenue resident, concurred with the concern raised on behalf of

burrowing owls and that of sea level rise. Ms. Jameson wondered if the entire site could be saved and added to the Eden Landing Ecological Reserve. Ms. Jameson expressed concern about sea level rise and thought there should be further consideration to mitigate possible damage that would be costly to tax payers.

Mayor Sweeney closed the public hearing at 9:17 p.m.

Council Member Halliday referred to the Supplemental Development Application for Shoreline Area Projects and asked how the applicant had answered the questions related to the level of inundation predicted to occur and strategies to deal with inundations predicted for 2050 and 2100. Development Services Director Rizk noted the applicant indicated they plan to raise ground level, and should the need arise the site would follow the protection strategy that would be implemented for existing developments around the bay which would also require a global solution.

Council Member Zermeño noted the proposal had green protections and encouraged jobs and industrial growth; therefore, he offered a motion per staff's recommendation and the Planning Commission's recommendation with added language to Condition of Approval No. 2 of the Vesting Tentative Tract Map 8039, and a correction to Condition of Approval No. 69 by changing the Homeowners' Association reference to Property Owners' Association.

Council Member Peixoto seconded the item.

Council Member Mendall noted he would have preferred to leave the area as open space, restore the wetlands and buy the land, but also mentioned that the property owner had the right to develop the property and pointed out that with the proposed plan the City was gaining open space, the buffer zone, and the 2.39 acres of mitigation. He noted that if the project was voted down, the City could end up with more development.

Council Member Halliday, also the City's delegate to HASPA, acknowledged the individuals who helped preserve the Hayward shoreline and added that, under the current zoning ordinance, the City had an obligation to allow the applicant to develop the land and recognized that the mitigation measures were well thought out, but cautioned against allowing more development that could be vulnerable to environmental issues.

Council Member Jones supported the motion, thought the proposal was a good compromise, and noted that, through mitigation measures, the developer was preserving amenities. Mr. Jones thanked the developer and staff for their efforts and added that the City needed investors and added that proposals needed to be geared toward job creation and preservation of industrial and commercial properties.

Council Member Mendall offered a friendly amendment to Conditions of Approval, No. 16, by adding a "public access easement," which would provide public access to shoreline trails and prevent private roadways.



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Mayor Sweeney invited comments and staff noted that there were pros and cons to having a public access easement. Mr. Varni pointed out that there was a staging area at Eden Landing Road with a trail system adjacent to the property, and did not know if a public access easement was a good idea. The friendly amendment died for lack of a second.

Council Member Salinas concurred with Council Member Jones' comments, recognized the investment of the various agencies that studied the project, and acknowledged the property owners' efforts to develop the area while ensuring that the project had minimal environmental impacts. Council Member Salinas also seconded the motion.

Mayor Sweeney noted that when the original plan was developed in the 1990s, the Council decided to preserve some areas and require areas suited for development to be well planned. He noted that Mr. Weber abided by those rules and pointed out that the developer could have proceeded with a development that was not as environmentally friendly. Mayor Sweeney thought the proposal was a reasonable compromise.

It was moved by Council Member Zermeño, seconded by Council Members Peixoto and Salinas, and unanimously carried, to adopt per staff recommendation with an amendment to Condition of Approval No. 2 of the Vesting Tentative Tract Map 8039 – PL – 2010-0373 by adding the following text, “...*The deed restriction shall also insure that, following final construction of the adjacent Weber Light Manufacturing Project, cultivation of the lands will cease and the site can be grazed by livestock for management purposes in order to maintain low growing vegetation conditions that provide suitable burrowing owl forage habitat;*” and with an amendment to Condition of Approval No. 69 of the Vesting Tentative Tract Map 8039 – PL – 2010-0373 by changing the Homeowners' Association (HOA) reference to Property Owners' Association (POA).

Resolution 12-153, “Resolution Adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Approving Zone Change Application PL-2010-0372 and Vesting Tentative Tract Map PL-2010-0373 to Change the Zoning from Light Manufacturing District to Planned Development District and Create Fourteen Industrial Parcels for the Property Located at 3596 Baumberg Avenue”

Introduction of Ordinance 12-_, “An Ordinance Reclassifying the Zoning Designation for 3596 Baumberg Avenue from Light Manufacturing (LM) District to Planned Development (PD) District”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño encouraged everyone to celebrate National Hispanic Heritage Month by patronizing local Hispanic restaurants.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:38 p.m.

APPROVED:

Michael Sweeney, Mayor City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 2, 2012, 7:00 p.m.**

The City Council meeting was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Mayor Sweeney.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Jones, Halliday, Peixoto, Salinas,
Mendall
MAYOR Sweeney
Absent: None

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson announced that Council met with property negotiators pursuant to Government Code 54956.8, regarding Hayward Executive Airport; I880/SR92 Reliever Route Project; and Parcels owned by the California Department of Transportation in the Route 238 Corridor. There were no reportable items.

PUBLIC COMMENTS

Mr. Jim Drake, Franklin Avenue resident, thanked staff for addressing the incorrect grade concerns at the road intersections so quickly and requested a report of the cost to have the intersections repaved.

Mr. Rudy Grasseschi, owner of The Cobblers on Foothill Boulevard, supported fellow business owners throughout the downtown area who have suffered drastic losses because of the Route 238 Mission Corridor Project and said the City needed to help businesses survive during challenging times.

Mr. Jarrod Carozza, owner of Foothill Coin and Jewelry on Foothill Boulevard, asked for a status update of staff's research regarding relief for business owners. Mr. Carozza mentioned researching the cost of publishing ads in local newspapers and sharing the cost among local businesses with assistance from the City. He also mentioned that having parking lot signs along the Foothill strip could help promote local businesses.

Ms. Cecilia Halim, owner of Downtown Consignments at the corner of A Street and Foothill Boulevard, said her business was severely impacted by the road construction and the lack of parking in front of the store. She noted that now that parking was available, the business needed to advertise to gain customers back. She also noted the downtown area needs to be clean and free of debris to make it inviting for customers.

Mr. Elie Goldstein, owner of Kraski's Nutrition on Foothill Boulevard, agreed with Ms. Halim about the amount of debris and the importance of having consistent parking for customers. Mr. Goldstein stressed the need for the City and the merchants to work together to bring customers to downtown during this construction period and cautioned the City about the potential loss of businesses.

Mr. Otis Sanders, with Nu Revelations Christian Book Store on Foothill Boulevard, suggested the City allot \$5,000 for advertisement for merchants along the A Street-Foothill Plaza. Mr. Sanders noted the advertisement could run through the holidays and asked that staff and merchants meet to discuss this possibility and work cooperatively.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, announced two events: the Hayward Chamber of Commerce's 4th Annual Business Expo at the Grand White Tent on October 10, 2012; and the Hayward's Restaurant Walk on October 18, 2012. Mr. Huggett noted proceeds from the Restaurant Walk would benefit the Hayward Library Afterschool Homework Support Center and the Chamber of Commerce's Leadership Hayward.

Mr. Kris Cabanesas, with the Mt. Eden High School Marching Band, invited everyone to attend two events sponsored by the band: the Mt. Eden High School Night-live performance on the Warriors Court before tip-off on November 7, 2012; and the Spaghetti Dinner Fundraiser on October 13, 2012.

In response to Mayor Sweeney's question related to the meeting between staff and merchants, City Manager David noted the meeting would occur by the following week.

Council Member Zermeño suggested the merchants could provide photographs to be placed on the City's website. Mr. Goldstein said the merchants could take pictures of the businesses and email them to staff.

Mayor Sweeney acknowledged the presence of two local boy scouts in the audience: Viliami Nau and Penieli Nau.

WORK SESSION

1. Overview of Hayward's Development Review Process

Staff report submitted by Development Services Director Rizk, dated October 2, 2012, was filed.

City Manager David announced the item and introduced Development Services Director Rizk who provided an overview of the staff report.

In response to Council Member Zermeño, Development Services Director Rizk noted there has been a slight increase in permits but more significantly an increase in more substantive projects such as the South BART Transient-Oriented Development and a new clubhouse at Stonebrae. Mr. Zermeño noted receiving positive comments about the online permit process and thanked staff for this step



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forward.

Council Member Halliday encouraged staff to continue to strive to meet standards. It was noted that workload and resources were areas that would impede staff for not meeting standards.

Council Member Mendall shared that there was a high level of satisfaction from individuals who had recently gone through a permit process in terms of efficiency and ease of use. Mr. Mendall noted that if the inspection process could be consolidated, it would lessen the number of complaints in that area. Mr. Mendall encouraged staff to keep striving to improve.

Council Member Peixoto noted receiving complaints about garage conversions performed without permits. Development Services Director Rizk noted that the enforcement capability could be improved by reporting. Mr. Peixoto mentioned he used to receive complaints from the construction sector about red tape in Hayward and complimented staff for recent improvements.

Council Member Jones acknowledged staff's efforts to measure data in order to find avenues to improve performance effectively and efficiently. Mr. Jones commented that folks needed to know Hayward was improving and mentioned that negative feedback and perception could be dispelled with accurate information. Mr. Jones commended staffs' good work and hoped that staff could apply the principles to other program areas.

Mayor Sweeney congratulated staff and agreed with Council members that Hayward had made progress in service delivery and encouraged staff to continue moving forward with their efforts.

City Manager David recognized Development Services Director Rizk and planning and building staff for their continued efforts to make improvements.

CONSENT

2. Approval of Minutes of the City Council Meeting on September 18, 2012

It was moved by Council Member Zermeño, seconded by Council Member Jones, and unanimously carried to approve the minutes of the City Council Meeting of September 18, 2012.

3. Adoption of an Ordinance Reclassifying the Zoning Designation for 3596 Baumberg Avenue from Light Manufacturing (LM) District and Industrial (I) District to Planned Development (PD) District

Staff report submitted by City Clerk Lens, dated October 2, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Jones, and unanimously carried, to adopt the following:

Ordinance 12-05, “An Ordinance Reclassifying the Zoning Designation for 3596 Baumberg Avenue from Light Manufacturing (LM) District and Industrial (I) District to Planned Development (PD) District”

4. Support for Measure I on the November 2012 Ballot: Chabot-Las Positas Community College District Parcel Tax

Staff report submitted by Management Fellow Thomas, dated October 2, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Jones, and unanimously carried, to adopt the following:

Resolution 12-154, “A Resolution in Support of Measure I: A Parcel Tax to Support the Chabot-Las Positas Community College District”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño mentioned the city has a Hayward Restaurants’ Guide and invited all to patronize Hayward restaurants. Mr. Zermeño recommended a new restaurant - Julian’s BBQ Beer and Wine on Foothill Boulevard.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 8:05 p.m.

APPROVED:

Michael Sweeney, Mayor City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward



DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Public Works –Utilities & Environmental Services

SUBJECT: Water System Master Plan Update: Authorization for the City Manager to Execute a Professional Services Agreement

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a Professional Services Agreement with West Yost Associates, Inc., for preparation of the Water System Master Plan Update, in an amount not to exceed \$380,000.

BACKGROUND

The City of Hayward obtains its water supply from the San Francisco Public Utility Commission (SFPUC) Hetch Hetchy System at two turnouts. Water is delivered to the City by two large diameter transmission pipelines. The distribution system consists of seven main pressure zones, approximately 380 miles of pipelines, thirteen water storage tanks, seven pump stations delivering water to the upper pressure zones, five emergency supply wells, transmission system pressure regulating valves, many zonal pressure reducing valves, and two booster pump stations. The water system serves approximately 33,000 residential and commercial/industrial accounts with an average daily demand in the range of seventeen million gallons a day (mgd) and peak demands that have reached as high as twenty-three million gallons a day during summer months.

The City last updated its water system master plan in 2002, utilizing the services of Carollo Engineers. Since that time, many of the capital improvements recommended by the master plan have been implemented, including a number of projects that increase storage, pumping capacity, reliability and structural integrity of the water facilities. Typically, water agencies update master plans about every ten years to consider the impact of constructed improvements, updated land development information, water use patterns, and physical condition of facilities. The master planning process also affords an opportunity to review operational and maintenance practices, as well as supply reliability in dry years and other critical issues.

DISCUSSION

The updated Water System Master Plan will primarily focus on hydraulic and operational analyses, assessment of the adequacy and physical condition of the existing facilities, system pressure management, water quality evaluation, emergency preparedness, assessment of the City's operations and maintenance practices, sustainability, and identification of capital improvement projects for the

next ten years. Specific tasks will include updating the City's computerized hydraulic water model to a GIS-based system that will allow for comprehensive impact analysis of development scenarios to evaluate whether the water system can continue to meet fire flow requirements for given developments and developing a sustainability plan to further incorporate energy and water conservation strategies into the City's water system.

Given the critical nature of this undertaking and the importance of a good, comprehensive master plan to inform future decisions, staff reviewed the qualifications of ten consultants and issued a request for proposals to the five firms with significant relevant experience. Three of the five invited firms submitted proposals for the City's consideration: Carollo Engineers, CDM Smith, and West Yost Associates.

A selection panel consisting of representatives from Utilities Operation and Maintenance, Utilities Field Services, and Utilities Engineering and Planning reviewed the proposals received and interviewed the candidate consultants. The following factors were considered for each firm: 1) the relevant experience of the firm and its sub-consultants; 2) the experience and qualifications of the project manager and professional team; 3) understanding of the City's specific issues of concern; 4) demonstrated ability to meet the City's needs within the defined budget and schedule; and 5) innovative proposal components that would add value to the project above and beyond the standard tasks. All of the proposals were solid with each firm having particular areas of strength.

While each of the three firms is highly qualified and assembled very strong teams for the City's project, in staff's view, West Yost Associates demonstrated the best combination of qualifications and responsiveness to the City's requirements. West Yost Associates achieved higher ratings in the selection criteria by providing a solid and innovative approach to water system planning, and proposing a knowledgeable and experienced project team. West Yost Associates indicated an excellent understanding of the City's needs and has performed satisfactorily on other Bay Area water system master plans.

Cost was not a factor in staff's recommendation, as the total proposed costs for each firm were very comparable. West Yost has proposed a reasonable number of labor hours and competitive hourly rates, and as part of the selection process, staff further negotiated and lowered the fees. Staff believes that the final negotiated not-to-exceed cost of \$380,000 is reasonable for the scope of services required.

ECONOMIC IMPACT

The Water System Master Plan will not have a direct fiscal impact on water customers as the project is funded in the Water System Improvement Fund and paid for mainly through water connection fees. There is a potential for future water system projects that will be recommended in the master plan to affect water rates depending on the nature of the projects and their benefits to existing customers. These impacts would be assessed and conveyed to Council as projects are conceptually developed and recommended for implementation.

FISCAL IMPACT

The estimated project costs are as follows:

Master Planning and Engineering Services – Consultant	\$ 380,000
Project Administration – City Staff	20,000
Total:	<u>\$ 400,000</u>

A total of \$400,000 is appropriated for this project in the Water System Capital Improvement Fund in the FY 2013 Ten-Year Capital Improvement Program.

PUBLIC CONTACT

No public contact is planned for this project. The data generated by the Water System Master Plan process will be incorporated into the General Plan update and used to inform policy issues related to the General Plan. Water system master planning is highly technical and the planning process, in and of itself, will not cause an impact to customers.

ENVIRONMENTAL REVIEW

The Water System Master Plan Update is considered a planning document only and is therefore statutorily exempt from the requirement to prepare an environmental impact report or negative declaration per the Guidelines for Implementation of the California Environmental Quality Act (CEQA), Article 18, Section 15262, titled Statutory Exemptions - Feasibility and Planning Studies. Such documents do require consideration of environmental factors, and CEQA requirements must be addressed for any capital improvement projects described in the Water System Master Plan that are implemented in the future.

SCHEDULE

The estimated schedule for this project is summarized as follows:

Execute Professional Service Agreement	October 2012
Complete Facility and System Assessment	June 2013
Master Plan Completion	October 2013

Prepared by: Henry Louie, Senior Utilities Engineer

Recommended by: Alex Ameri, Director of Public Works – Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachment: Attachment I - Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO.12-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST ASSOCIATES, INC. FOR THE WATER SYSTEM MASTER PLAN UPDATE , PROJECT NO. 7120

WHEREAS, the City last updated its water system master plan in 2002 and many of the capital improvements recommended in the master plan and other changes in the community have occurred; and

WHEREAS, Water System Master Plan process will be incorporated into the General Plan update and will be consistent with the City’s goal to deliver reliable service to the public and operating the water distribution system in a cost effective manner; and

WHEREAS, this master plan update will give City staff a tool to better manage increasingly more stringent water quality issues; and

WHEREAS, staff has determined that it is the appropriate time to update the master plan to reflect the improvements that have been made to the water system and policies in the City’s most recent adopted development plans; and

WHEREAS, staff reviewed the qualifications of ten consultants for the purpose of identifying a consultant to prepare the new water system master plan; and

WHEREAS, staff invited five consultants to submit proposals for the required engineering services; and

WHEREAS, staff has determined that West Yost Associates, Inc. is the most qualified of the consultants that were interviewed;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a Professional Services Agreement with West Yost Associates, Inc., for the Water System Master Plan Update, Project No. 7120, in an amount not to exceed \$380,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

DATE: October 23, 2012
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Revisions to the City's Conflict-of-Interest Code

RECOMMENDATION

That Council adopts the attached resolution accepting revisions to the Conflict of Interest Code for the City of Hayward.

BACKGROUND

The Political Reform Act of 1974 requires every government agency to review its conflict of interest code biennially to determine whether amendments are required. City Administrative Rule, Section 9.1, is the City's Conflict of Interest Code (Code).

DISCUSSION

The City's last Conflict of Interest Code update was approved on September 21, 2010. Based upon a review of the Code and discussions with the City Attorney's Office, the Code's Appendix has been revised to amend designated positions based on classification changes and departmental reorganizations and to revise disclosure categories. New designated positions which were added or reorganized since the last Code update are shown in ***bold and italics***, and designated positions which have been eliminated are shown by ~~strikeout~~. New disclosure categories are shown on Attachment IV.

There are three components of the Code: terms of the Code, designated positions, and disclosure categories.

Terms of the Code: The terms of the Code comprise the main body of the Code and provide provisions for reporting financial interests and disqualification procedures among others. The State's Fair Political Practices Commission (FPPC) recommends that cities incorporate by reference Regulation 18730, Title 2, Division 6 of the California Code of Regulations. Regulation 18730 (Provisions of Conflict-of-Interest Codes) contains all the information required to be contained in the City's Code and it is amended by the FPPC to include legislative and regulatory changes. Staff is not recommending any changes to the main body of the Code at this time.

Designated Positions: The Code must list all designated positions. Pursuant to **Government Code Section 82019**, a designated employee is an employee, officer, member, or consultant of an agency whose position is designated in the Code because the position entails the making or participation in the making of governmental decisions that may foreseeable have a material effect on his or her financial interest. Individuals holding positions listed in Attachment III are designated individuals who must file Form 700 Statements of Economic Interests.

In September 2011, the FPPC adopted two forms for agencies to use to document filing requirements. **Form 804** (Agency Report of New Position) was created to identify new positions that will make or participate in making governmental decisions on behalf of the agency and **Form 805** (Agency Report of Consultants) was created to identify consultants that will make or participate in making governmental decisions on behalf of the agency. It is recommended that the City use the forms accordingly.

The positions of City Manager, City Attorney, Finance Director, Mayor, Council Members, and Planning Commissioners are not listed in the City's Code because they are already required by State law to file disclosure of their economic interests under **Government Code Section 87200**.

Under Government Code 81008, individuals holding designated positions file their statements of economic interests with the Office of the City Clerk. Form 700 statements are available for public inspection and reproduction according to FPPC regulations.

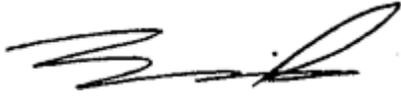
Disclosure Categories: The Code requires disclosure of the types of investment, interests in real property, sources of income and business positions that may be affected by the decision-making of designated positions. Attachment IV – Exhibit C has been amended to make the categories more comprehensive and eliminate some redundancies in the existing disclosure categories. The City currently has thirty-one disclosure categories, which have been streamlined into seven proposed categories. The new categories are modeled on the categories suggested by the FPPC.

NEXT STEPS

Upon adoption of the proposed resolution, Administrative Rule 9.1 will be revised and distributed to Form 700 filers. On September 24 2012, Governor Brown signed **Assembly Bill 2062 (Davis)**. The legislation authorizes local jurisdictions the option to eliminate the paper filing requirement for Statements of Economic Interests (Form 700) and replace it with an electronic form that meets the FPPC's electronic filing format. As soon as the FPPC provides more information about certification procedures, the City Clerk's office will evaluate the efficiencies and savings of having an electronic filing system in place, and will present findings to Council.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Accepting Changes to the Code
Attachment II	Terms of the Code – Exhibit A
Attachment III	List of Designated Positions – Exhibit B
Attachment IV	Proposed Disclosure Categories – Exhibit C
Attachment V	Current Disclosure Categories

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE ADDITIONS
AND REVISIONS TO
THE CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act of 1974 requires every local government agency to review its Conflict of Interest Code biennially to determine if it must be amended; and

WHEREAS, the majority of the changes reflect recent organizational changes and changes to the disclosure categories.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby accepts the additions and revisions to the Conflict of Interest Code for the City of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict-of-Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict-of-interest code within the meaning of Section 87300 or the amendment of a conflict-of-interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict-of-interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict-of-interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict-of-interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict-of-interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict-of-interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict-of-interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making

of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the

previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$420.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she

vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

- a. The date the loan was made.

- b. The date the last payment of \$100 or more was made on the loan.
- c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

- 1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
- 2. A loan that would otherwise not be a gift as defined in this title.
- 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
- 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
- 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect,

distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any

governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹Designated employees who are required to file statements of economic interests under any other agency's conflict-of-interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

²See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In

addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).

11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative

5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).
28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).
29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).
31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).
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Designations	Old Categories	New Categories
City Attorney Department		
Assistant City Attorney	2, 3, 4, 5	2, 3, 5, 6, 7
Deputy City Attorney I/II	2, 3, 4, 5	2, 3, 5, 6, 7
City Clerk Department		
City Clerk	7, 12	1
Deputy City Clerk	7, 12	2, 3
City Manager Department		
Assistant City Manager	4	1
Code Enforcement Supervisor	2, 3, 4, 5	2, 3, 5, 6
Community Preservation Inspector	30	2, 5
Community and Media Relations Coordinator	2, 3, 4, 5, 19	2, 3, 6
Economic Development Manager	2, 3, 4, 5	2, 3, 5, 6, 7
Economic Development Coordinator	2, 3, 4, 5	2, 3, 5, 6, 7
Housing Development Specialist	2, 3, 4, 5	2, 4, 5, 6, 7
Housing Inspector	30	2, 5, 7
Housing Manager	2, 3, 4, 5	
Neighborhood Partnership Manager	2, 3, 4, 5	2, 3, 5, 6, 7
Neighborhood Development Manager	2, 3, 4, 5	2, 3, 5, 6, 7
Redevelopment Director	2, 3, 4, 5	
Redevelopment Project Manager	2, 3, 4, 5	2, 3, 5, 6, 7
Senior Community Preservation Inspector	30	
Development Services Department		
Administrative Analyst II	2, 3, 4, 5, 19	2, 4, 5, 6
Associate Planner	3, 8	2, 4, 5, 6, 7
Building Inspector	30	2, 4, 5, 6, 7
City Building Official	2, 3, 4, 15, 26	2, 3, 5, 6
Development Review Engineer	3, 8	2, 4, 5, 6, 7
Director of Development Services	1	1
Housing Inspector	30	
Landscape Architect	3, 8, 28	2, 4, 5, 6, 7
Plan Check Engineer	3, 8	2, 4, 5, 6, 7
Planning Manager	2, 3, 4, 5	2, 3, 5, 6, 7
Senior Building Inspector/Structural	30	2, 4, 5, 6, 7
Senior Building Inspector/Electrical	30	2, 4, 5, 6, 7
Senior Building Inspector/Plumb-Mech	30	2, 4, 5, 6, 7
Supervising Building Inspector	30	
Supervising Housing Inspector	30	
Senior Plan Checker	3, 8	2, 4, 5, 6, 7
Plan Checker	3, 8	2, 4, 5, 6, 7
Senior Planner	3, 8	2, 4, 5, 6, 7

Designations	Old-Categories	New Categories
Finance Department		
Accounting Manager	11, 12	2,3,5,6,7
Administrative Analyst II	2, 3, 4, 5, 19	
Budget Administrator	2, 3, 4, 5	
Financial Analyst	???	2,3,5,6,7
Revenue Manager	2, 3, 4, 5, 13	2,3,5,6,7
Purchasing & Services Manager	1, 2, 3, 4, 5	2,3,5,6,7
Fire Department		
Administrative Analyst III	30	2,4,5,6
Battalion Chief	2, 3, 4, 5	2,4,5,6
Deputy Fire Chief	2, 3, 4, 5	2,3,5,6
Emergency Medical Service Coordinator	2, 3, 4, 5	2,4,5,6
Fire Chief	2, 3, 4, 5	2,4,5,6
Fire Marshal	2, 3, 4, 5	2,3,5,6
Fire Prevention Inspector	30	2,4,5,6
Fire Services Supervisor	2, 3, 4, 5	2,4,5,6
Hazardous Materials Investigator	30	2,4,5,6
Hazardous Materials Program Coordinator	2, 3, 4, 5	2,4,5,6
Staff Captain (Assistant Fire Marshal)	2, 3, 4, 5	2,4,5,6
Staff Captain (Public Education Officer)	2, 3, 4, 5	2,4,5,6
Training Officer	2, 3, 4, 5	2,4,5,6
Human Resources Department		
Employee Benefits Administrator	9	4
Human Resources Analyst II	9, 27	4
Human Resources Director	1	1
Human Resources Manager	9	4
Human Resources Technician	9	4
Senior Human Resources Analyst/ Affirmative Action Specialist	9	4
Library and Community Services Department		
Administrative Analyst I	2, 3, 4, 5, 8	2,4,7
Administrative Analyst II	2, 3, 4, 5, 8	2,4,7
Library and Community Services Director	1	1
Library Operations Manager	25	4,7
Paratransit Coordinator	2, 3, 4, 5	
Social Services Planning Manager	2, 3, 4, 5, 8	2,4,5,6,7
Senior Property Rehabilitation Specialist	2, 3, 4, 5, 8	2,4,5,6,7
Supervising Librarian I	25	4

Designations	Old Categories	New Categories
Maintenance Services Department		
Administrative Analyst II	2, 3, 4, 5, 19	2,4,5,6
Director of Maintenance Services	1	1
Equipment Manager	2, 3, 4, 5	
Facilities Manager	2, 3, 4, 5, 19	2,4,5,6
Fleet Supervisor	2, 3, 4, 5, 18, 20	2,4
Landscape Maintenance Manager	28	
Landscape Maintenance Supervisor	2, 3, 4, 5, 28	2,4
Street Maintenance Supervisor	5, 16, 18, 20, 28	2,4
Police Department		
Administrative Analyst III	2, 3, 4, 5	2,4,5
Animal Services Manager Administrator	6	4,7
Animal Services Supervisor	6, 14	4,7
Communications Manager Administrator	2, 3, 4, 5, 14	2,4,5
Operations Support Director Services Manager	2, 3, 4, 5, 14	2,4,5
Personnel and Training Lieutenant	2, 3, 4, 5	2,4,5
Personnel and Training Officer	2, 3, 4, 5	2,4,5
Police Captain	14	2,4,5,6,7
Police Chief	2, 3, 4, 5	1
Police Program Analyst	2, 3, 4, 5	2,4,5,6,7
Property and Evidence Manager Administrator	2, 3, 4, 5	2,4
Property and Evidence Supervisor	2, 3, 4, 5	2,4
Youth and Family Services Manager Administrator	27	2,4,5,7
Public Works Department		
Engineering and Transportation		
Administrative Analyst I/II (Airport)	2, 3, 4	2,4,5,6
Administrative Analyst II (Engineering & Transportation)	2, 3, 4	2,4,5,6
Airport Manager	24	2,4,5,6
Airport Operations Manager	24	2,4,5,6
Assistant City Engineer	2, 3, 4, 15, 26	2,3,5,6
Associate Transportation Engineer	3, 4, 17	
Construction Inspector	30	
Deputy Director of Public Works (City Engineer)	2, 3, 4, 15, 26	
Director of Public Works - Engineering and Transportation	1	1
Senior Civil Engineer	2, 3, 4, 15, 26	2,4,5,6
Senior Transportation Engineer	3, 17	2,4,5,6
Supervising Construction Inspector	16, 18	2,4,5,6
Transportation Manager	3, 4, 17	2,4,5,6
Utilities and Environmental Services		
Administrative Analyst I/II (Assigned to Admin Environmental Services)	2, 12	2,4,5,6
Administrative Analyst III (Assigned to Utilities)	2, 12	2,4,5,6
Cross-Connection Control Specialist	30	
Deputy Director of Public Works (Utilities)	4, 15, 22, 23, 26	

Designations	Old Categories	New Categories
Public Works Department		
Director of Public Works - <i>Utilities and Environmental Services</i>	1	1
<i>Environmental Services Manager</i>	2,3,4,5	2,4,5,6
Landscape Architect	3,8,28	
Recycling Specialist	2,3,4,5	
<i>Senior Utilities Engineer</i>	2,3,4,22	2,4,5,6
Senior Water Pollution Source Control Inspector	29,30	
Solid Waste Manager	2,3,4,5	2,4,5,6
Utilities Engineer	2,3,4,22	
<i>Utilities Field Services Supervisor</i>	2,3,4,22	2,4,5,6
Utilities Operations and Maintenance Manager	2,3,4,22	2,4,5,6
<i>Utilities Operations and Maintenance Supervisor</i>	2,3,4,22	2,4,5,6
Utilities Superintendent	2,3,4,22	
Water Pollution Control Administrator	29,30	2,4,5,6
Water Pollution Control Facility Manager	2,3,4,22	2,4,5,6
<i>Water Pollution Control Facility Maintenance Supervisor</i>		2,4,5,6
<i>Water Pollution Control Facility Operations Supervisor</i>		2,4,5,6
Water Pollution Source Control Inspector	30	
Technology Services		
Data & Systems Coordinator	12	
Information Systems Manager	1	2,3
Network Systems Specialist	12	2,4
Technology Services Director	1	1
Advisors, Consultants, and Task Force Members		
<i>Associated Community Action Program</i>	1	1
Citizens Advisory Commission	1	
<i>Community Services Commission</i>	1	2,4,5,6,7
Consultants	1	2,4,5,6,7
Council Economic Development Committee	1	2,4,5,6,7
Deferred Compensation Committee	1	2,3,5,6,7
Hayward Redevelopment Area Committee	1	
<i>Hayward Successor Agency Oversight Board</i>		1
Human Services Commission	1	
Investment Advisory Committee	1	2,3,5,6,7
Keep Hayward Clean and Green Task Force	1	2,4,5,7
Small Business Revolving Loan Fund Committee	1	2,4,7
Council Sustainability Commission	1	1
G.C. Section 87200 Designated Officers file with Sacramento		
City Attorney	1	1
City Council	1	1
City Manager	1	1
Director of Finance	1	1
Planning Commission	1	1

AMENDED—DISCLOSURE CATEGORIES - APPENDIX C

CATEGORY 1

All designated positions in this category shall disclose all sources of income, all investments and management positions with business entities, and all interests in real property located in the City of Hayward.

Designated positions in this category must complete **all** schedules on the Form 700 Statement of Economic Interests Form:

- Schedule A-1: Investments
- Schedule A-2: Investments, Income, and Assets of Business Entities/Trusts
- Schedule B: Interest in Real Property
- Schedule C: Income, Loans, and Business Positions
- Schedule D: Income – Gifts
- Schedule E: Income – Travel Payments, Advances, and Reimbursements

CATEGORY 2

All designated positions in this category shall disclose all interests in real property located in the City of Hayward.

Designated positions in this category must complete Form 700 Statement of Economic Interests Schedule B: Interest in Real Property.

CATEGORY 3

All designated positions in this category shall disclose investments, management positions with business entities and sources of income from business entities, which provide services, supplies, materials, machinery or equipment of the type utilized by the City of Hayward.

Designated positions in this category must complete the following schedules on the Form 700 Statement of Economic Interests Form:

- Schedule A-1: Investments
- Schedule A-2: Investments, Income, and Assets of Business Entities/Trusts
- Schedule C: Income, Loans, and Business Positions
- Schedule D: Income – Gifts

CATEGORY 4

All designated positions in this category shall disclose investments, management positions with business entities and sources of income from business entities which provide services, supplies, materials, machinery or equipment of the type utilized by the designated person's department, division, board, commission, committee or task force.

Designated positions in this category must complete the following schedules on the Form 700 Statement of Economic Interests Form:

- Schedule A-1: Investments
- Schedule A-2: Investments, Income, and Assets of Business Entities/Trusts
- Schedule C: Income, Loans, and Business Positions
- Schedule D: Income – Gifts

CATEGORY 5

All designated positions in this category shall disclose all investments, management positions with business entities and sources of income from business entities, and interests in real property, which are subject to the regulatory, permit or licensing authority of the City of Hayward.

Designated positions in this category must complete **all** schedules on the Form 700 Statement of Economic Interests Form:

- Schedule A-1: Investments
- Schedule A-2: Investments, Income, and Assets of Business Entities/Trusts
- Schedule B: Interest in Real Property
- Schedule C: Income, Loans, and Business Positions
- Schedule D: Income – Gifts
- Schedule E: Income – Travel Payments, Advances, and Reimbursements

CATEGORY 6

All designated positions in this category shall disclose all investments, management positions with business entities and sources of income from business entities which engage in land development, construction or the acquisition or sale of real property, and all interests in real property in the City of Hayward.

Designated positions in this category must complete **all** schedules on the Form 700 Statement of Economic Interests Form:

- Schedule A-1: Investments
- Schedule A-2: Investments, Income, and Assets of Business Entities/Trusts
- Schedule B: Interest in Real Property
- Schedule C: Income, Loans, and Business Positions
- Schedule D: Income – Gifts
- Schedule E: Income – Travel Payments, Advances, and Reimbursements

CATEGORY 7

All designated positions in this category shall disclose all investments, management positions with business entities and sources of income (including gifts, loans, travel payments, or income from a nonprofit organization) if the source is of the type to receive grants or other monies from or through the City of Hayward.

Designated positions in this category must complete the following schedules on the Form 700 Statement of Economic Interests Form:

- Schedule A-1: Investments
- Schedule A-2: Investments, Income, and Assets of Business Entities/Trusts
- Schedule C: Income, Loans, and Business Positions
- Schedule D: Income – Gifts

Disclosure Categories

CATEGORY 1 (All Schedules Apply)

Government Code Sections 87202 and 87203 require certain persons to file a disclosure statement in accordance with the provisions of the Political Reform Act. Pursuant to Government Code Section 87302(b), no further disclosure requirements may be established by this Conflict of Interest Code.

CATEGORY 2 (Schedules A-1, A-2)

Investments in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward.

CATEGORY 3 (Schedule B)

Interests in real property which is located in whole or in part within the jurisdiction of the City of Hayward.

CATEGORY 4 (Schedules C, D, E)

Sources of income as defined by the Political Reform Act of 1974, as amended, and the regulations and opinions of the Fair Political Practices Commission. Because the Act is subject to amendment at any time and regulations and opinions of the Commission are continuously issued, it is not possible to provide a precise definition of the term "source of income." Copies of the Act, any amendments to the Act, and the regulations and opinions of the Fair Political Practices Commission are available in the City Attorney's Office and any person designated by this Code is encouraged to consult with the City Attorney's Office about any question he or she may have concerning the term "source of income" or any other question about the Act, this Code, or his or her obligations under either.

CATEGORY 5 (Schedule C)

Positions of management with business entities, not otherwise reported, which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward.

CATEGORY 6 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two-year period within the jurisdiction of the City of Hayward and which provide:

- (1) veterinary services, or
- (2) equipment, materials, supplies, or services customarily used for the care or control of animals.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 7 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two-year period within the jurisdiction of the City of Hayward and which:

- (1) provide election equipment, materials, supplies, or services
- (2) provide records management equipment, materials, supplies, or services, or
- (3) engage in legal advertising or the publication of official documents.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 8 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which:

- (1) have interests in real property which is located in whole or in part within the jurisdiction of the City of Hayward, or
- (2) do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which engage in architectural design, appraisal of real property, planning, engineering, construction, building, real estate development, or a related field.

CATEGORY 9 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which provide:

- (1) services in the labor relations, medical, or testing field, or
- (2) equipment, materials, supplies, or services customarily used in personnel management, or
- (3) publication of employment announcements

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 10 (All Schedules Apply)

Interests in real property which is located in whole or in part within the City of Hayward, used for residential purposes, and which is leased by another, has been leased by another, or reasonably could be expected to be leased to another; and

Investments in, income from, and management positions held in business entities which have an interest in real property which is located in whole or in part within the City of Hayward, used for residential purposes, and which is leased by another, has been leased by another, or reasonably could be expected to be leased to another.

CATEGORY 11 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which provide, have provided during the preceding two year period, or reasonably could be expected to provide to the City of Hayward banking, financial, or investment services.

CATEGORY 12 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which furnish, have furnished during the preceding two year period, or could reasonably be expected to furnish, data processing equipment, software, supplies, systems, services, or consulting to the City of Hayward.

CATEGORY 13 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are or could reasonably be expected to be taxed under Sections 8-1.00 et seq. of the Hayward Municipal Code, commonly known as the business license tax article of the Code.

CATEGORY 14 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which engage in providing:

- (1) police services, equipment, materials, supplies or services, or
- (2) office equipment, materials, supplies or services.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 15 (Schedule C)

Positions of management with business entities, not otherwise reported, which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which are engaged in construction or building.

CATEGORY 16 (Schedule A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which are engaged in construction or building.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 17 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two-year period within the jurisdiction of the City of Hayward and which provide traffic maintenance or traffic control equipment, materials, supplies or services.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 18 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which are engaged in:

- (1) providing construction equipment, or
- (2) providing road, sewage, water works or traffic control equipment, materials, supplies and services, or
- (3) street, water or sewer construction

CATEGORY 19 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which provide building maintenance, auditorium, or convention equipment, materials, supplies or services.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 20 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which provide automotive or construction equipment materials, supplies, or services. Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 21 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which:

(1) provide park, recreation, landscaping, or agronomy equipment, materials, supplies, or services, or

(2) are engaged in construction of real estate development.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 22 (Schedule C)

Management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which:

(1) provide sewage treatment equipment, materials, supplies or services, or

(2) are engaged in construction.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 23 (Schedule C)

Management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which provide water works equipment, materials, supplies, or services.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 24 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which are engaged in aviation or a closely related field.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 25 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which:

(1) provide library equipment, materials, supplies, or services, or

(2) engage in publishing, or

(3) provide library software and related hardware.

Management positions, however, need only be reported if the business entity in which the position is held has not otherwise been reported.

CATEGORY 26 (Schedule C)

Positions of management with business entities, not otherwise reported which are located within, or do business, plan to do business, or have done business during the preceding two year period, within the jurisdiction of the City of Hayward and which engage in architectural, planning, engineering, or a related professional enterprise.

CATEGORY 27 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two year period within the jurisdiction of the City of Hayward and which provide counseling, crisis intervention, or related services.

CATEGORY 28 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which are located within, or do business, plan to do business, or have done business during the preceding two-year period within the jurisdiction of the City of Hayward and which provide park, recreation, landscaping, or agronomy equipment, materials, supplies, or services.

CATEGORY 29 (Schedules A-1, A-2, C, D, E)

Investments in, income from, and management positions held in business entities which have an interest in real property which is located in whole or in part within the City of Hayward and is used for commercial or industrial purposes and interests in real property upon which commercial or industrial activities are conducted.

CATEGORY 30 (Schedules B, C, D, E)

The information required by Government Code sections 87206, regarding interests in real property, and 87207, regarding sources of income, with respect to any person, business entity or parcel of real property which was the subject of an inspection assignment during the period covered by the statement.

CATEGORY 31 (All Schedules Apply)

Consultants shall disclose pursuant to the broadest disclosure categories in this code, that is, category 1 if the applicable filing officer is the Secretary of State and categories 2, 3, 4, and 5 if the filing officer is the City Clerk, provided that in any particular instance the City Manager may determine in writing that a specific consultant is retained to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. The written determination of the City Manager shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure required of the consultant to comply with the law. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.



CITY OF
HAYWARD
HEART OF THE BAY

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Engineering and Transportation

SUBJECT: I-880/SR 92 Landscaping Project: Authorization for the City Manager to Execute a Cooperative Agreement with Caltrans for Use of Federal Demonstration Funds

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a cooperative agreement with Caltrans for use of Federal Demonstration funds to construct landscaping in the vicinity of the I-880/SR 92 interchange.

BACKGROUND

In 2005, the federal transportation act referred to as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law. This act included federal funding for transportation projects across the country. One of the components of SAFETEA-LU is the allocation for local streets and roads funding, which has historically been utilized for maintenance-related projects. Another feature of SAFETEA-LU was the provision of funding for what are called “Demonstration,” or high-priority projects.

Prior to the passage of SAFETEA-LU, Caltrans was in the process of developing the design of the I-880/SR 92 interchange reconstruction project. Because the City required a higher level of landscaping to be provided as part of the Caltrans project, the City in collaboration with Caltrans, applied for and were successful in obtaining an additional \$1.4 million of Federal Demonstration funds to be utilized to enhance and augment project-related landscaping.

DISCUSSION

In 2007, Caltrans began construction of the I-880/SR 92 Interchange Project, after considerable input from City residents and Council. During the design of the project, the City and the public were not satisfied with the level of landscaping proposed by Caltrans’ initial design. Since Caltrans did not have sufficient funds within the construction contract for enhanced landscaping, the City, with partnership and support from Caltrans, sought additional funding from SAFETEA-LU as a “Demonstration” project.

The City's application for \$1.4 million of Federal Demonstration funds was approved and included in SAFETEA-LU. The Demonstration funds only covered a portion of the total \$4.4 million project cost. The Bay Area Toll Authority (BATA) provided the additional \$3 million to complete the project.

Caltrans and City staff have been working cooperatively on the landscaping design over the past year, with staff providing significant input into the design concept (see Attachment II for the conceptual design). Staff believes that the concepts provided thus far address the City's concerns; however, it will take about four years for the plants to be established. Therefore, residents will see a gradual increase in the level of landscaping over time.

It should be noted that this project is a component of a larger project; the second phase, which involves landscaping around the Hesperian/SR 92 interchange, will be performed under a separate contract.

Because the Federal Demonstration funds were applied for by the City, Caltrans and the City need to execute a cooperative agreement in order for the funds to be utilized for the landscaping project.

FISCAL AND ECONOMIC IMPACT

As noted previously, the total cost of the project is \$4.4 million, with Federal Demonstration funds and BATA providing funding of \$1.4 million and \$3 million, respectively. There will be no City funds expended on this project.

PUBLIC CONTACT

On September 26, 2012, Caltrans and City staff held a public information meeting to discuss the design and to present the landscaping concepts to the community, which are shown in Attachment II. Few residents attended and were generally pleased with the landscaping concepts. Notices were sent to the residents of the affected neighborhoods, including those who had previously shown interest in this project. In addition, the notice was posted to both the City's website and its social media sites (i.e. Twitter and Facebook). Staff will continue to work with the area residents, particularly those that did not attend the meeting, to provide them with information about the landscaping project.

SCHEDULE

Complete Design	January 2013
Award Contract	May 2013
Begin Landscape Installation	July 2013
Complete Landscape Installation	February 2014
Establishment of Landscaping	April 2017

Prepared by: Don Frascinella, Transportation Manager

Recommended by: Morad Fakhrai, Director of Public Works – Engineering and Transportation

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution
Attachment II: Landscape Concepts

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATIVE AGREEMENT WITH CALTRANS FOR USE OF FEDERAL TRANSPORTATION DEMONSTRATION FUNDS

BE IT RESOLVED by the City Council of the City of Hayward that:

WHEREAS, the City of Hayward received approval for \$1.4 million in the 2005 SAFETTEA-LU Federal Transportation Act; and

WHEREAS, the City desires to augment the landscaping installed as part of the I-880/SR 92 interchange project; and

WHEREAS, the City is working with Caltrans on a project to improve landscaping; and

WHEREAS, the City would like to use Federal Demonstration funds for the purpose of improving the landscaping associated with this project; and

WHEREAS, Caltrans has held a public meeting to discuss the proposed landscaping concepts.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City Council authorizes the City Manager to execute a cooperative agreement with Caltrans to authorize Caltrans to use Federal Demonstration funds for the landscaping project.

BE IT FURTHER RESOLVED by the City Council that the required match for the Federal funds will be borne by the Bay Area Toll Authority and that no City funds will be used for this project.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

92/ 880 LANDSCAPE PROJECT

SEPTEMBER 2012



CRABAPPLE



YANKEE POINT WILD LILAC



AUTUMN GOLD GINKGO BILOBA



COASTAL REDWOOD



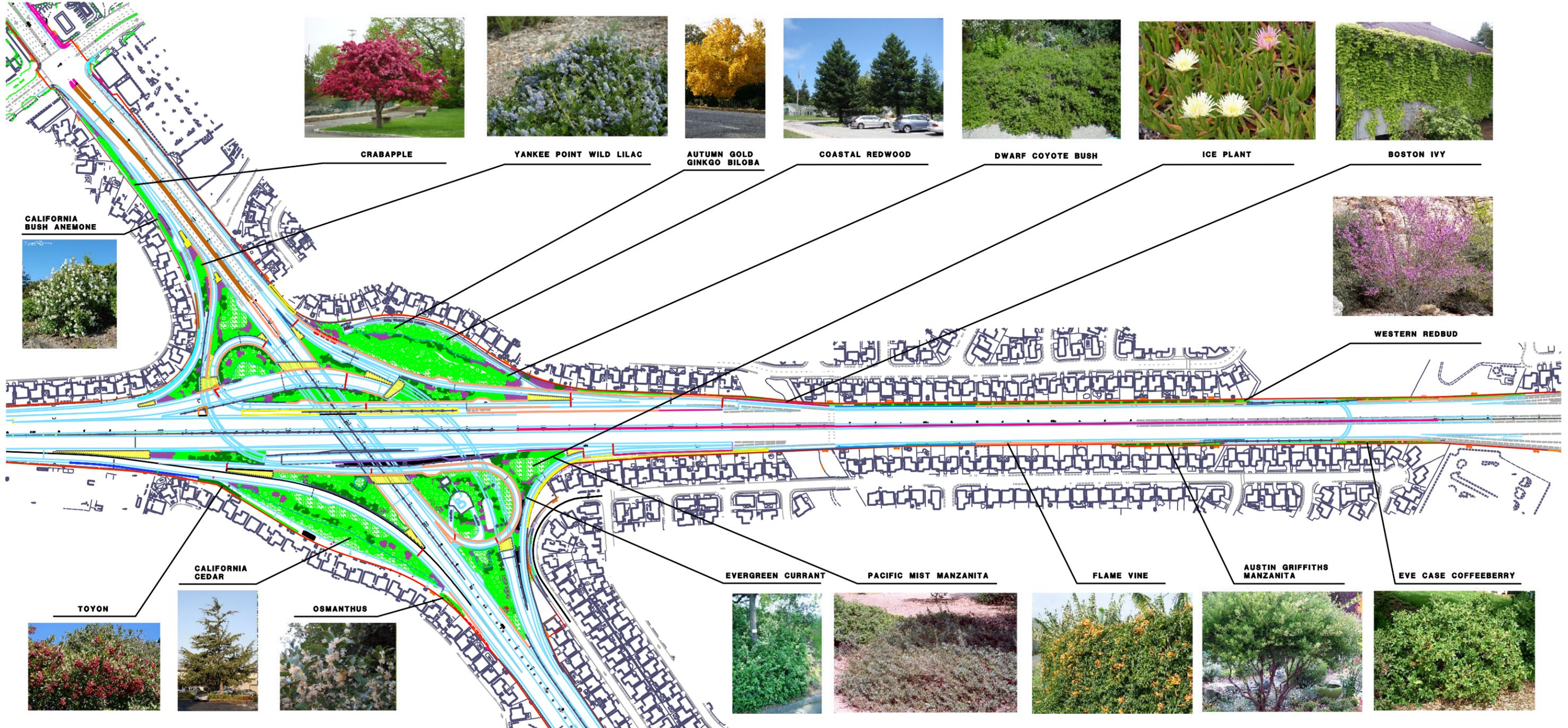
DWARF COYOTE BUSH



ICE PLANT



BOSTON IVY



CALIFORNIA BUSH ANEMONE



WESTERN REDBUD

CALIFORNIA CEDAR



EVERGREEN CURRANT



PACIFIC MIST MANZANITA



FLAME VINE



AUSTIN GRIFFITHS MANZANITA



EVE CASE COFFEEBERRY



TOYON



OSMANTHUS





CITY OF
HAYWARD
HEART OF THE BAY

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Engineering and Transportation

SUBJECT: Industrial Parkway Landscaping Improvement Project: Approving Addenda No. 1 and 2, Award of Contract, and Appropriate Additional Funds

RECOMMENDATION

That Council adopts the attached resolutions:

- 1) Approving Addenda No. 1 and 2, providing minor revisions to the specifications and bid sheet; and
- 2) Awarding the contract to Green Growth Industries, Inc. in the amount of \$766,066.

BACKGROUND

On July 17, 2012, Council approved the plans and specifications for the Industrial Parkway Landscaping Improvement Project and called for bids to be received on August 28, 2012. On August 24, 2012, Addendum No. 1 was issued to the bidders on the plan holder’s list. The addendum extended the bid opening date to September 11, 2012.. It also provided underground utility information and clarification to the bidders regarding the electrical work required for the irrigation controllers. Addendum No. 2 was issued to include additional electrical items.

This project is the second of several landscape improvement projects to be implemented during the next ten years in an effort to improve the appearance of key corridors throughout the City; the first project improved the roundabouts in the Fairway Park neighborhood. In 2010, a Master Plan for landscape and irrigation improvements was developed for key medians and streetscape corridors. The Master Plan was used to prioritize and divide the designated corridors into separate annual construction projects that could be implemented in stages based on available annual funding. The Master Plan primarily focused on median enhancements, with possible improvements to sidewalk and planter areas.

DISCUSSION

Staff selected Industrial Parkway, from I-880 to Mission Boulevard, as the next annual construction project. This segment was considered an ideal candidate because it is a main thoroughfare

providing access to an industrial corridor that also includes pockets of residential and retail businesses, a golf course, and a creek. In addition, this corridor connects with Mission Boulevard, where major landscape improvements are currently being installed as part of the Route 238 Corridor Improvement project.

The project primarily consists of: (1) removing and replacing the existing landscaping (shrubs/groundcover) and irrigation in the medians that are in disrepair, and (2) planting new trees in the median and in the planter areas on the sides of the street. Most of the existing trees will remain except for those that have been identified by a certified arborist to be in poor health.

During the design, staff worked with the consultant to determine the extent of improvements that could be included in this project based on available funding. After an initial assessment of the sidewalk and planter areas, the original median project was expanded to include tree planting on the sides of the street to provide for a more substantive streetscape corridor. However, based on the final cost estimates, it was anticipated that the project cost would exceed the available funding; therefore, the project was bid with a Base Bid and an Additive Alternate Bid. The Base Bid was limited to the segment of Industrial Parkway from Ruus Road to Mission Boulevard, and the remaining segment from I-880 to Ruus Road was included as a bid alternative. This bid structure would allow the Council flexibility for awarding either the Base Bid or the Base Bid plus the Additive Alternate Bid, depending on the bids received.

On September 11, 2012, the City received six bids for this project ranging from \$766,066 to \$963,076.70 for the Base Bid and from \$1,120,177.50 to \$1,381,778.21 for the Base Bid plus the Additive Alternate Bid. Green Growth Industries, Inc. of Pleasanton submitted the low Base Bid in the amount of \$766,066, which is 10.8% below the Engineer's Estimate of \$858,651.60. The total of their Base Bid, plus the Additive Alternate Bid in the amount of \$1,120,177.50, is 3.5 percent below the Engineer's Estimate of \$1,160,924.25. Bortolussi & Watkin, Inc. of San Rafael submitted the second lowest Base Bid in the amount of \$798,603.80, which is 7% below the Engineer's Estimate. The total of their Base Bid, plus the Additive Alternate Bid in the amount of \$1,141,786.05, is 1.6% below the Engineer's Estimate.

All bid documents and licenses are in order. Due to funding limitations, staff recommends award of a contract only for the Base Bid to the low bidder, Green Growth Industries, Inc., in the amount of \$766,066. Improvements to the landscaping for the section of Industrial Parkway extending from Mission to Ruus is more of a priority than the section from Ruus to I-880 due to its poor condition. The section of landscaping from Ruus to I-880 is in reasonably good condition, and therefore improvements to this section can be deferred to a future date.

The project design conforms to Bay-Friendly landscape practices and complies with the City's Civic Bay-Friendly Landscape Ordinance as well as the Bay-Friendly Water Efficient Landscape Ordinance. The project is being rated by an independent Bay-Friendly rater whose costs will be reimbursed through a grant from Alameda County Waste Management Authority (ACWMA). The ACWMA grant also includes technical assistance and incentives which are provided to projects that meet or exceed the standards of the Bay-Friendly scorecard for new civic, commercial and multi-family landscapes in Alameda County.

This project is categorically exempt under Section 15301(c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities.

FISCAL IMPACT

The estimated project costs are as follows:

Contract Construction – Base Project	\$766,066
Design and Administration	189,934
Inspection and Testing	<u>44,000</u>
Total	\$ 1,000,000

The Adopted FY 2013 Capital Improvement Program (CIP) includes \$1,000,000 in the Street System Improvements Fund for this project. The City will also receive a \$20,000 reimbursement from ACWMA for the Bay-Friendly grant.

PUBLIC CONTACT

During design, notification of the project was sent to the property/business owners and residents located in the project vicinity. City staff also held a public information meeting to provide information and details pertaining to the proposed project and to receive input from the community. At the meeting, staff responded to questions about the project cost, plant materials, irrigation and maintenance.

After the meeting, additional concerns were received from some residents of the Fairway Park neighborhood. One of the main concerns was a reaction to the removal of trees and shrubs. Staff explained that only the unhealthy trees that were identified in the Arborist’s tree survey would be removed and replaced. Staff further indicated that the existing shrubs and turf, which require much water and maintenance, will be replaced with drought tolerant plants that will enhance the median, provide more variety, and require less upkeep. In response to their concern that the new trees would be bare for many months, staff explained that the new evergreen trees will not lose their leaves and the deciduous Chinese Pistache trees, which have a nice fall color, are only bare for approximately three months of the year.

Lastly, staff also met with the representatives from the Fairway Park neighborhood to provide them with a set of the project plans and to further clarify the scope and details of the project. At this time, City staff has not received any additional comments but will continue to respond to questions and comments, if necessary.

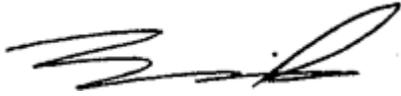
SCHEDULE

Award Contract	October 23, 2012
Begin Work	November 26, 2012
Complete Work	March 18, 2013

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works – Engineering and Transportation

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution
- Attachment II: Project Location Map
- Attachment III: Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-_____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDA 1 AND 2 AND AWARDING THE CONTRACT TO GREEN GROWTH INDUSTRIES, INC. FOR THE INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT, PROJECT NO. 5184

WHEREAS, by resolution on July 17, 2012, the City Council approved the plans and specifications for the Industrial Parkway Landscaping Improvement project, Project No. 5184, and called for bids to be received on August 28, 2012; and

WHEREAS, Addenda No. 1 and 2 were issued to postpone the bid opening date to September 11, 2012 and to make minor revisions to the specifications and bid sheet; and

WHEREAS, on September 11, 2012, the City received six (6) bids for this project ranging from \$766,066.00 to \$963,076.70 for the Base Bid and from \$1,120,177.50 to \$1,381,788.21 for the Base Bid plus Additive Alternative Bid; and

WHEREAS, Green Growth Industries, Inc. of Pleasanton, California submitted the low Base Bid in the amount of \$766,066.00, which is 12.3 percent below the Engineer's Estimate of \$860,000; the total of their Base Bid plus Additive Alternative Bid in the amount of \$1,120,177.50 is 3.6 percent below the Engineer's Estimate of \$1,160,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Green Growth Industries, Inc. is hereby awarded the contract for the Industrial Parkway Landscaping Improvement project, Project No. 5184, in an amount not to exceed \$766,066 for the Base Bid, in accordance with the plans and specifications adopted therefore and on file in the office of the City Clerk of the City of Hayward at and for the price named and stated in the bid of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the contract with Green Growth Industries, Inc. in the name of and for and on behalf of the City of Hayward, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

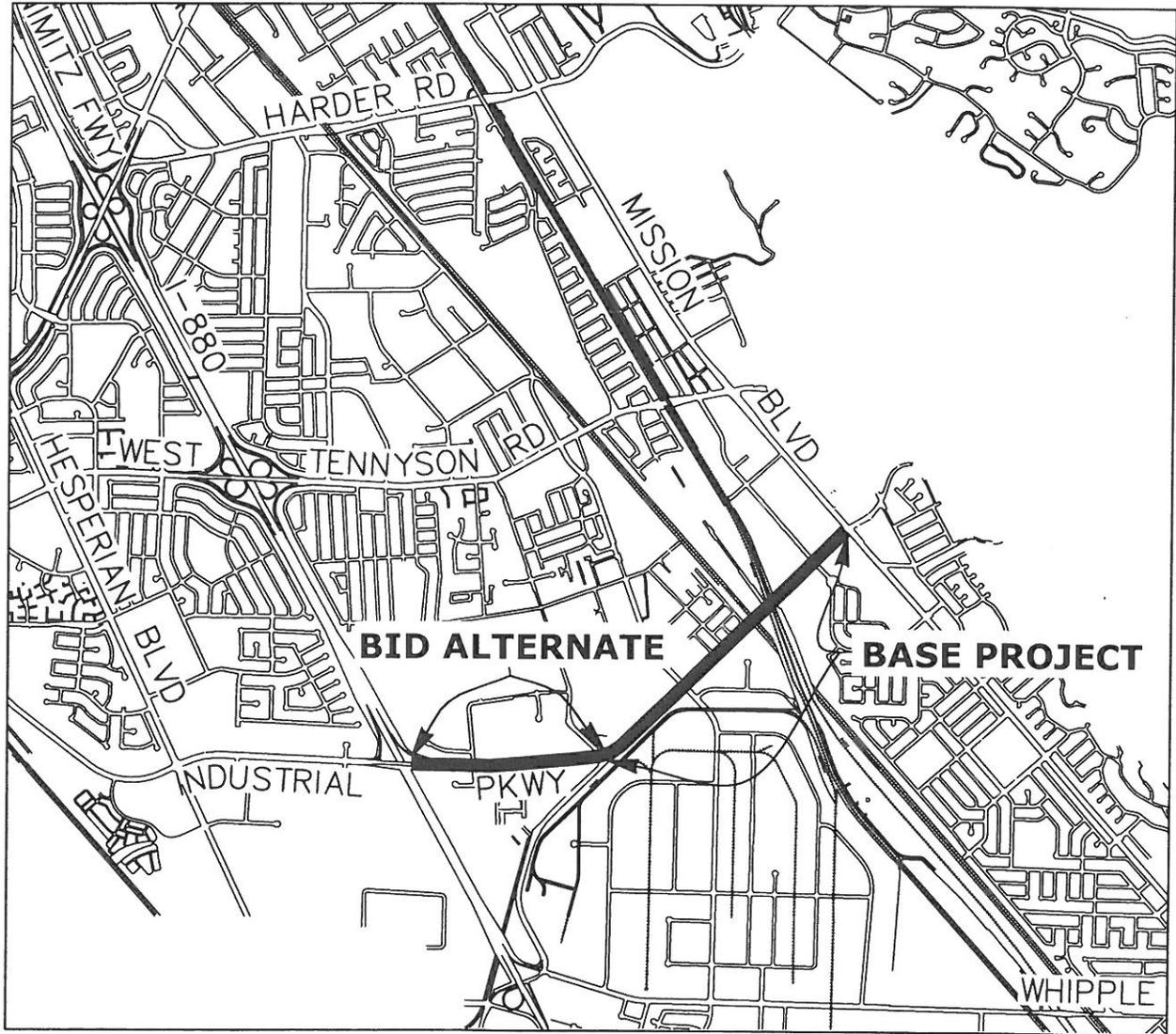
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



PROJECT LOCATION MAP

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY				ENGINEER'S ESTIMATE		Green Growth Industries, Inc.		Bortolussi and Watkin, Inc.		
						PO Box 1275 Pleasanton, CA 94566 (925) 484-0830 (925) 484-0937 Fax		77 Larkspur Street San Rafael, CA 94901 (415) 453-4675 (415) 453-2978 Fax		
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	50,000.00	50,000.00	26,000.00	26,000.00	72,000.00	72,000.00
2	10-1.11	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	28,500.00	28,500.00	10,000.00	10,000.00
3	02050	1,104	SF	CONCRETE DEMOLITION 46 TREE WELLS (4'X6')	10.00	11,040.00	7.00	7,728.00	30.00	33,120.00
4	02050	1,574	SF	ASPHALT DEMOLITION	2.00	3,148.00	2.50	3,935.00	4.00	6,296.00
5	02230	1	LS	CLEARING AND GRUBBING	30,000.00	30,000.00	18,000.00	18,000.00	10,000.00	10,000.00
6	02230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	10,000.00	10,000.00	6,000.00	6,000.00	5,000.00	5,000.00
7	02231	1	LS	TREE REMOVAL AND PROTECTION	55,000.00	55,000.00	35,000.00	35,000.00	13,750.00	13,750.00
8	10-1.15	1,271	SF	MINOR CONCRETE (SIDEWALK)	7.00	8,897.00	11.00	13,981.00	12.00	15,252.00
9	10-1.15	1	EA	MINOR CONCRETE (CURB RAMP)	4,000.00	4,000.00	4,000.00	4,000.00	5,000.00	5,000.00
10	02810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	165,000.00	165,000.00	197,000.00	197,000.00	220,000.00	220,000.00
11	10-1.05 10-1.19	250	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	75.00	18,750.00	65.00	16,250.00	100.00	25,000.00
12	02810	5	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	25,000.00	1,500.00	7,500.00	10,000.00	50,000.00
13	02900	45	EA	INSTALL TREES - 24 INCH BOX	375.00	16,875.00	435.00	19,575.00	200.00	9,000.00
14	02900	143	EA	INSTALL TREES - 15 GALLON	180.00	25,740.00	165.00	23,595.00	70.00	10,010.00
15	02900	429	EA	INSTALL SHRUBS - 5 GALLON	25.00	10,725.00	19.00	8,151.00	30.00	12,870.00
16	02900	1,947	EA	INSTALL SHRUBS, PERENNIALS & GROUND COVERS - 1 GALLON	12.00	23,364.00	9.00	17,523.00	6.00	11,682.00
17	02900	1,874	EA	INSTALL PERENNIALS & ORNAMENTAL GRASSES - 4 IN. POT	4.50	8,433.00	7.00	13,118.00	5.00	9,370.00
18	02900	3,836	EA	INSTALL ORNAMENTAL GRASSES - 2 IN. POT	2.75	10,549.00	6.00	23,016.00	2.00	7,672.00
19	02900	9,098	SF	INSTALL 4" DECOMPOSED GRANITE MAINTENANCE BAND WITH FILTER FABRIC MEMBRANE	4.00	36,392.00	4.50	40,941.00	3.50	31,843.00
20	02900	3,978	LF	INSTALL 2" X 6" HEADERBOARD AT MAINTENANCE BAND	7.00	27,846.00	5.00	19,890.00	8.00	31,824.00
21	02900	821	LF	INSTALL 2" X 4" HEADERBOARD AT RUUS TRIANGLE	7.00	5,747.00	4.00	3,284.00	8.00	6,568.00
22	02900	2,865	SF	PLACE NATIVE SOD	3.00	8,595.00	0.80	2,292.00	2.00	5,730.00

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Green Growth Industries, Inc.		Bortolussi and Watkin, Inc.	
					PO Box 1275 Pleasanton, CA 94566 (925) 484-0830 (925) 484-0937 Fax		77 Larkspur Street San Rafael, CA 94901 (415) 453-4675 (415) 453-2978 Fax			
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
23	02900	46,604	SF	PLACE SHEET MULCHING	1.40	65,245.60	1.00	46,604.00	1.00	46,604.00
24	02900	151	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	130.00	19,630.00	185.00	27,935.00	20.00	3,020.00
25	02900	3,084	LF	INSTALL ROOT CONTROL BARRIER	5.00	15,420.00	6.50	20,046.00	8.00	24,672.00
26	02900	46,604	SF	SOIL PREPARATION AND FINE GRADING	1.25	58,255.00	0.50	23,302.00	0.20	9,320.80
27	02900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	3,000.00	3,000.00	7,900.00	7,900.00	10,000.00	10,000.00
28	10-1.21	1	LS	RECYCLING IMPLEMENTATION	2,000.00	2,000.00	5,000.00	5,000.00	3,000.00	3,000.00
29	10-1.24	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
BID LIST TOTAL					858,651.60		766,066.00		798,603.80	
ALTERNATIVE BID - Industrial Pkwy Landscaping Improvement Project										
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
30	10-1.07	1	LS	MOBILIZATION	15,000.00	15,000.00	12,000.00	12,000.00	22,000.00	22,000.00
31	10-1.11	1	LS	TRAFFIC CONTROL	15,000.00	15,000.00	13,800.00	13,800.00	5,000.00	5,000.00
32	02050	1,409	SF	DECORATIVE COBBLESTONE DEMOLITION	1.50	2,113.50	4.00	5,636.00	3.00	4,227.00
33	02230	1	LS	CLEARING AND GRUBBING	12,000.00	12,000.00	9,000.00	9,000.00	5,000.00	5,000.00
34	02230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	3,500.00	3,500.00	2,800.00	2,800.00	2,000.00	2,000.00
35	02231	1	LS	TREE REMOVAL AND PROTECTION	10,000.00	10,000.00	28,000.00	28,000.00	6,150.00	6,150.00
36	02810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	41,000.00	41,000.00	83,000.00	83,000.00	120,000.00	120,000.00
37	10-1.05 10-1.19 02810	340	LF	STREET BORING (DIRECTIONAL DRILLING ACROSS STRATFORD ROAD)	50.00	17,000.00	80.00	27,200.00	100.00	34,000.00
38	10-1.05 10-1.19	50	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	75.00	3,750.00	60.00	3,000.00	55.00	2,750.00
39	02810	1	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	5,000.00	1,500.00	1,500.00	1,300.00	1,300.00
40	02900	17	EA	INSTALL TREES - 24 INCH BOX	375.00	6,375.00	435.00	7,395.00	200.00	3,400.00
41	02900	46	EA	INSTALL TREES - 15 GALLON	180.00	8,280.00	165.00	7,590.00	70.00	3,220.00
42	02900	227	EA	INSTALL SHRUBS - 5 GALLON	25.00	5,675.00	19.00	4,313.00	30.00	6,810.00
43	02900	1,017	EA	INSTALL SHRUBS, PERENNIALS & GROUND COVERS - 1 GALLON	12.00	12,204.00	9.00	9,153.00	6.00	6,102.00

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Green Growth Industries, Inc.		Bortolussi and Watkin, Inc.	
							PO Box 1275 Pleasanton, CA 94566 (925) 484-0830 (925) 484-0937 Fax		77 Larkspur Street San Rafael, CA 94901 (415) 453-4675 (415) 453-2978 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
44	02900	264	EA	INSTALL PERENNIALS & ORNAMENTAL GRASSES - 4 IN. POT	4.50	1,188.00	7.00	1,848.00	5.00	1,320.00
45	02900	2,410	EA	INSTALL ORNAMENTAL GRASSES - 2 IN. POT	2.75	6,627.50	6.00	14,460.00	2.00	4,820.00
46	02900	5,086	SF	INSTALL 4" DECOMPOSED GRANITE MAINTENANCE BAND WITH FILTER FABRIC MEMBRANE	4.00	20,344.00	5.00	25,430.00	3.50	17,801.00
47	02900	2,542	LF	INSTALL 2" X 6" HEADERBOARD AT MAINTENANCE BAND	7.00	17,794.00	5.00	12,710.00	8.00	20,336.00
48	02900	20,261	SF	PLACE SHEET MULCHING	1.40	28,365.40	1.00	20,261.00	1.00	20,261.00
49	02900	71	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	130.00	9,230.00	185.00	13,135.00	20.00	1,420.00
50	02900	900	LF	INSTALL ROOT CONTROL BARRIER	5.00	4,500.00	6.50	5,850.00	8.00	7,200.00
51	02900	20,261	SF	SOIL PREPARATION AND FINE GRADING	1.25	25,326.25	0.50	10,130.50	0.25	5,065.25
52	02900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	1,000.00	1,000.00	3,900.00	3,900.00	10,000.00	10,000.00
53	10-1.21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	2,000.00	2,000.00	3,000.00	3,000.00
54	10-1.24	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
ALTERNATIVE BID LIST TOTAL						302,272.65		354,111.50		343,182.25
TOTAL BID						1,160,924.25		1,120,177.50		1,141,786.05

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY				ENGINEER'S ESTIMATE		Del Conte's Landscaping, Inc.		Suarez & Munoz Construction, Inc.		
						41900 Boscell Rd Fremont, CA 94521 (510) 353-6030 (510) 353-6037 Fax		20975 Cabot Blvd Hayward, CA 94545 (510) 782-6065 (510) 782-6078 Fax		
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	50,000.00	50,000.00	8,024.21 *	8,024.21	40,000.00	40,000.00
2	10-1.11	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	21,890.58	21,890.58	25,000.00	25,000.00
3	02050	1,104	SF	CONCRETE DEMOLITION 46 TREE WELLS (4'X6')	10.00	11,040.00	7.18	7,926.72	4.00	4,416.00
4	02050	1,574	SF	ASPHALT DEMOLITION	2.00	3,148.00	1.29 *	2,030.46	4.00	6,296.00
5	02230	1	LS	CLEARING AND GRUBBING	30,000.00	30,000.00	14,998.97	14,998.97	15,000.00	15,000.00
6	02230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	10,000.00	10,000.00	2,950.33	2,950.33	5,000.00	5,000.00
7	02231	1	LS	TREE REMOVAL AND PROTECTION	55,000.00	55,000.00	53,247.33	53,247.33	35,000.00	35,000.00
8	10-1.15	1,271	SF	MINOR CONCRETE (SIDEWALK)	7.00	8,897.00	13.27	16,866.17	11.00	13,981.00
9	10-1.15	1	EA	MINOR CONCRETE (CURB RAMP)	4,000.00	4,000.00	1,498.19	1,498.19	3,000.00	3,000.00
10	02810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	165,000.00	165,000.00	212,891.62	212,891.62	240,000.00	240,000.00
11	10-1.05 10-1.19	250	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	75.00	18,750.00	125.36	31,340.00	55.00	13,750.00
12	02810	5	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	25,000.00	212.74	1,063.70	4,000.00	20,000.00
13	02900	45	EA	INSTALL TREES - 24 INCH BOX	375.00	16,875.00	319.38	14,372.10	289.00	13,005.00
14	02900	143	EA	INSTALL TREES - 15 GALLON	180.00	25,740.00	117.03	16,735.29	124.00	17,732.00
15	02900	429	EA	INSTALL SHRUBS - 5 GALLON	25.00	10,725.00	18.73	8,035.17	20.00	8,580.00
16	02900	1,947	EA	INSTALL SHRUBS, PERENNIALS & GROUND COVERS - 1 GALLON	12.00	23,364.00	8.67	16,880.49	9.00	17,523.00
17	02900	1,874	EA	INSTALL PERENNIALS & ORNAMENTAL GRASSES - 4 IN. POT	4.50	8,433.00	5.02	9,407.48	5.00	9,370.00
18	02900	3,836	EA	INSTALL ORNAMENTAL GRASSES - 2 IN. POT	2.75	10,549.00	3.58	13,732.88	4.00	15,344.00
19	02900	9,098	SF	INSTALL 4" DECOMPOSED GRANITE MAINTENANCE BAND WITH FILTER FABRIC MEMBRANE	4.00	36,392.00	5.82	52,950.36	6.00	54,588.00
20	02900	3,978	LF	INSTALL 2" X 6" HEADERBOARD AT MAINTENANCE BAND	7.00	27,846.00	8.14	32,380.92	6.00	23,868.00
21	02900	821	LF	INSTALL 2" X 4" HEADERBOARD AT RUUS TRIANGLE	7.00	5,747.00	5.18	4,252.78	5.00	4,105.00
22	02900	2,865	SF	PLACE NATIVE SOD	3.00	8,595.00	2.67	7,649.55	1.00	2,865.00

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Del Conte's Landscaping, Inc.		Suarez & Munoz Construction, Inc.	
					41900 Boscell Rd Fremont, CA 94521 (510) 353-6030 (510) 353-6037 Fax		20975 Cabot Blvd Hayward, CA 94545 (510) 782-6065 (510) 782-6078 Fax			
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
23	02900	46,604	SF	PLACE SHEET MULCHING	1.40	65,245.60	2.12	98,800.48	0.75	34,953.00
24	02900	151	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	130.00	19,630.00	62.75	9,475.25	75.00	11,325.00
25	02900	3,084	LF	INSTALL ROOT CONTROL BARRIER	5.00	15,420.00	7.78	23,993.52	12.00	37,008.00
26	02900	46,604	SF	SOIL PREPARATION AND FINE GRADING	1.25	58,255.00	0.61	28,428.44	0.75	34,953.00
27	02900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	3,000.00	3,000.00	2,763.34	2,763.34	10,000.00	10,000.00
28	10-1.21	1	LS	RECYCLING IMPLEMENTATION	2,000.00	2,000.00	1,218.00	1,218.00	1,000.00	1,000.00
29	10-1.24	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
BID LIST TOTAL					858,651.60		* 815,804.33		817,662.00	
ALTERNATIVE BID - Industrial Pkwy Landscaping Improvement Project										
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
30	10-1.07	1	LS	MOBILIZATION	15,000.00	15,000.00	6,684.03	6,684.03	10,000.00	10,000.00
31	10-1.11	1	LS	TRAFFIC CONTROL	15,000.00	15,000.00	19,880.14	19,880.14	10,000.00	10,000.00
32	02050	1,409	SF	DECORATIVE COBBLESTONE DEMOLITION	1.50	2,113.50	2.79	3,931.11	5.00	7,045.00
33	02230	1	LS	CLEARING AND GRUBBING	12,000.00	12,000.00	6,678.85	6,678.85	6,000.00	6,000.00
34	02230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	3,500.00	3,500.00	1,907.41	1,907.41	3,000.00	3,000.00
35	02231	1	LS	TREE REMOVAL AND PROTECTION	10,000.00	10,000.00	15,149.28	15,149.28	15,000.00	15,000.00
36	02810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	41,000.00	41,000.00	70,784.44	70,784.44	103,000.00	103,000.00
37	10-1.05 10-1.19 02810	340	LF	STREET BORING (DIRECTIONAL DRILLING ACROSS STRATFORD ROAD)	50.00	17,000.00	76.56	26,030.40	75.00	25,500.00
38	10-1.05 10-1.19	50	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	75.00	3,750.00	124.36	6,218.00	55.00	2,750.00
39	02810	1	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	5,000.00	578.45	578.45	6,000.00	6,000.00
40	02900	17	EA	INSTALL TREES - 24 INCH BOX	375.00	6,375.00	290.49	4,938.33	289.00	4,913.00
41	02900	46	EA	INSTALL TREES - 15 GALLON	180.00	8,280.00	84.92	3,906.32	124.00	5,704.00
42	02900	227	EA	INSTALL SHRUBS - 5 GALLON	25.00	5,675.00	23.73	5,386.71	20.00	4,540.00
43	02900	1,017	EA	INSTALL SHRUBS, PERENNIALS & GROUND COVERS - 1 GALLON	12.00	12,204.00	11.72	11,919.24	9.00	9,153.00

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Del Conte's Landscaping, Inc.		Suarez & Munoz Construction, Inc.	
							41900 Boscell Rd Fremont, CA 94521 (510) 353-6030 (510) 353-6037 Fax		20975 Cabot Blvd Hayward, CA 94545 (510) 782-6065 (510) 782-6078 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
44	02900	264	EA	INSTALL PERENNIALS & ORNAMENTAL GRASSES - 4 IN. POT	4.50	1,188.00	14.58	3,849.12	5.00	1,320.00
45	02900	2,410	EA	INSTALL ORNAMENTAL GRASSES - 2 IN. POT	2.75	6,627.50	2.46	5,928.60	4.00	9,640.00
46	02900	5,086	SF	INSTALL 4" DECOMPOSED GRANITE MAINTENANCE BAND WITH FILTER FABRIC MEMBRANE	4.00	20,344.00	5.83	29,651.38	6.00	30,516.00
47	02900	2,542	LF	INSTALL 2" X 6" HEADERBOARD AT MAINTENANCE BAND	7.00	17,794.00	8.15	20,717.30	6.00	15,252.00
48	02900	20,261	SF	PLACE SHEET MULCHING	1.40	28,365.40	2.13	43,155.93	0.75	15,195.75
49	02900	71	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	130.00	9,230.00	62.81	4,459.51	75.00	5,325.00
50	02900	900	LF	INSTALL ROOT CONTROL BARRIER	5.00	4,500.00	7.78	7,002.00	12.00	10,800.00
51	02900	20,261	SF	SOIL PREPARATION AND FINE GRADING	1.25	25,326.25	0.61	12,359.21	0.75	15,195.75
52	02900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	1,000.00	1,000.00	1,489.71	1,489.71	3,500.00	3,500.00
53	10-1.21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	457.20	457.20	500.00	500.00
54	10-1.24	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
ALTERNATIVE BID LIST TOTAL						302,272.65		343,062.67		349,849.50
TOTAL BID						1,160,924.25		** 1,158,867.00		1,167,511.50

* Total Correction
 ** Total Bid Correction

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY				ENGINEER'S ESTIMATE		Professional Tree Care Co.		Sansei Gardens, Inc.		
						PO Box 2377 Berkeley, CA 94702 (510) 549-3954 (510) 548-0214 Fax		3250 Darby Commons Fremont, CA 94539 (510) 226-9191 (510) 226-1298 Fax		
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	50,000.00	50,000.00	30,540.00	30,540.00	20,485.00	20,485.00
2	10-1.11	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	29,390.00	29,390.00	59,948.00	59,948.00
3	02050	1,104	SF	CONCRETE DEMOLITION 46 TREE WELLS (4'X6')	10.00	11,040.00	7.62 *	8,412.48	16.21	17,895.84
4	02050	1,574	SF	ASPHALT DEMOLITION	2.00	3,148.00	2.79 *	4,391.46	11.65	18,337.10
5	02230	1	LS	CLEARING AND GRUBBING	30,000.00	30,000.00	19,045.00	19,045.00	82,498.67	82,498.67
6	02230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	10,000.00	10,000.00	3,000.00	3,000.00	14,922.00	14,922.00
7	02231	1	LS	TREE REMOVAL AND PROTECTION	55,000.00	55,000.00	34,450.00	34,450.00	51,325.00	51,325.00
8	10-1.15	1,271	SF	MINOR CONCRETE (SIDEWALK)	7.00	8,897.00	18.12 *	23,030.52	10.00	12,710.00
9	10-1.15	1	EA	MINOR CONCRETE (CURB RAMP)	4,000.00	4,000.00	3,075.00	3,075.00	250.00 *	250.00
10	02810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	165,000.00	165,000.00	178,210.00	178,210.00	166,455.22	166,455.22
11	10-1.05 10-1.19	250	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	75.00	18,750.00	70.00	17,500.00	66.00	16,500.00
12	02810	5	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	25,000.00	19,965.00 *	99,825.00	1,560.00	7,800.00
13	02900	45	EA	INSTALL TREES - 24 INCH BOX	375.00	16,875.00	371.21 *	16,704.45	302.50	13,612.50
14	02900	143	EA	INSTALL TREES - 15 GALLON	180.00	25,740.00	160.66 *	22,974.38	88.00	12,584.00
15	02900	429	EA	INSTALL SHRUBS - 5 GALLON	25.00	10,725.00	27.96 *	11,994.84	19.80	8,494.20
16	02900	1,947	EA	INSTALL SHRUBS, PERENNIALS & GROUND COVERS - 1 GALLON	12.00	23,364.00	11.11 *	21,631.17	12.50	24,337.50
17	02900	1,874	EA	INSTALL PERENNIALS & ORNAMENTAL GRASSES - 4 IN. POT	4.50	8,433.00	7.24 *	13,567.76	12.53	23,481.22
18	02900	3,836	EA	INSTALL ORNAMENTAL GRASSES - 2 IN. POT	2.75	10,549.00	4.44 *	17,031.84	12.53	48,065.08
19	02900	9,098	SF	INSTALL 4" DECOMPOSED GRANITE MAINTENANCE BAND WITH FILTER FABRIC MEMBRANE	4.00	36,392.00	7.15 *	65,050.70	8.40	76,423.20
20	02900	3,978	LF	INSTALL 2" X 6" HEADERBOARD AT MAINTENANCE BAND	7.00	27,846.00	8.79 *	34,966.62	7.14	28,402.92
21	02900	821	LF	INSTALL 2" X 4" HEADERBOARD AT RUUS TRIANGLE	7.00	5,747.00	6.30 *	5,172.30	7.15	5,870.15
22	02900	2,865	SF	PLACE NATIVE SOD	3.00	8,595.00	1.79 *	5,128.35	3.25	9,311.25

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Professional Tree Care Co.		Sansei Gardens, Inc.	
							PO Box 2377 Berkeley, CA 94702 (510) 549-3954 (510) 548-0214 Fax		3250 Darby Commons Fremont, CA 94539 (510) 226-9191 (510) 226-1298 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
23	02900	46,604	SF	PLACE SHEET MULCHING	1.40	65,245.60	1.06 *	49,400.24	1.06	49,400.24
24	02900	151	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	130.00	19,630.00	142.13 *	21,461.63	25.00	3,775.00
25	02900	3,084	LF	INSTALL ROOT CONTROL BARRIER	5.00	15,420.00	10.56 *	32,567.04	14.27	44,008.68
26	02900	46,604	SF	SOIL PREPARATION AND FINE GRADING	1.25	58,255.00	0.45 *	20,971.80	0.50	23,302.00
27	02900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	3,000.00	3,000.00	7,880.00	7,880.00	7,288.67	7,288.67
28	10-1.21	1	LS	RECYCLING IMPLEMENTATION	2,000.00	2,000.00	100.00	100.00	15,593.26	15,593.26
29	10-1.24	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
BID LIST TOTAL					858,651.60		* 897,472.58		963,076.70	
ALTERNATIVE BID - Industrial Pkwy Landscaping Improvement Project										
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
30	10-1.07	1	LS	MOBILIZATION	15,000.00	15,000.00	5,490.00	5,490.00	9,950.00	9,950.00
31	10-1.11	1	LS	TRAFFIC CONTROL	15,000.00	15,000.00	12,550.00	12,550.00	15,112.00	15,112.00
32	02050	1,409	SF	DECORATIVE COBBLESTONE DEMOLITION	1.50	2,113.50	3.16 *	4,452.44	12.90	18,176.10
33	02230	1	LS	CLEARING AND GRUBBING	12,000.00	12,000.00	9,320.00	9,320.00	40,693.11	40,693.11
34	02230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	3,500.00	3,500.00	1,800.00	1,800.00	14,922.00	14,922.00
35	02231	1	LS	TREE REMOVAL AND PROTECTION	10,000.00	10,000.00	15,500.00	15,500.00	55,705.00	55,705.00
36	02810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	41,000.00	41,000.00	60,805.00	60,805.00	58,218.87	58,218.87
37	10-1.05 10-1.19 02810	340	LF	STREET BORING (DIRECTIONAL DRILLING ACROSS STRATFORD ROAD)	50.00	17,000.00	66.86 *	22,732.40	39.25	13,345.00
38	10-1.05 10-1.19	50	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	75.00	3,750.00	65.63 *	3,281.50	39.25	1,962.50
39	02810	1	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	5,000.00	19,965.00	19,965.00	250.00	250.00
40	02900	17	EA	INSTALL TREES - 24 INCH BOX	375.00	6,375.00	372.07 *	6,325.19	302.50	5,142.50
41	02900	46	EA	INSTALL TREES - 15 GALLON	180.00	8,280.00	194.38 *	8,941.48	88.00	4,048.00
42	02900	227	EA	INSTALL SHRUBS - 5 GALLON	25.00	5,675.00	30.44 *	6,909.88	19.80	4,494.60
43	02900	1,017	EA	INSTALL SHRUBS, PERENNIALS & GROUND COVERS - 1 GALLON	12.00	12,204.00	12.73 *	12,946.41	12.50	12,712.50

CITY OF HAYWARD
 CONSTRUCTION OF INDUSTRIAL PARKWAY LANDSCAPING IMPROVEMENT PROJECT
 PROJECT NO. 5184
 BIDS OPENED: 9/11/12
 (NUMBER OF BIDS RECEIVED - 6)

BID SUMMARY					ENGINEER'S ESTIMATE		Professional Tree Care Co.		Sansei Gardens, Inc.	
							PO Box 2377 Berkeley, CA 94702 (510) 549-3954 (510) 548-0214 Fax		3250 Darby Commons Fremont, CA 94539 (510) 226-9191 (510) 226-1298 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
44	02900	264	EA	INSTALL PERENNIALS & ORNAMENTAL GRASSES - 4 IN. POT	4.50	1,188.00	6.29 *	1,660.56	8.58	2,265.12
45	02900	2,410	EA	INSTALL ORNAMENTAL GRASSES - 2 IN. POT	2.75	6,627.50	4.43 *	10,676.30	8.58	20,677.80
46	02900	5,086	SF	INSTALL 4" DECOMPOSED GRANITE MAINTENANCE BAND WITH FILTER FABRIC MEMBRANE	4.00	20,344.00	7.05 *	35,856.30	8.40	42,722.40
47	02900	2,542	LF	INSTALL 2" X 6" HEADERBOARD AT MAINTENANCE BAND	7.00	17,794.00	8.79 *	22,344.18	7.15	18,175.30
48	02900	20,261	SF	PLACE SHEET MULCHING	1.40	28,365.40	1.08 *	21,881.88	1.11	22,489.71
49	02900	71	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	130.00	9,230.00	143.84 *	10,212.64	25.00	1,775.00
50	02900	900	LF	INSTALL ROOT CONTROL BARRIER	5.00	4,500.00	10.56 *	9,504.00	11.00	9,900.00
51	02900	20,261	SF	SOIL PREPARATION AND FINE GRADING	1.25	25,326.25	0.45 *	9,117.45	0.31	6,280.91
52	02900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	1,000.00	1,000.00	2,535.00	2,535.00	2,435.94	2,435.94
53	10-1.21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	100.00	100.00	7,247.15	7,247.15
54	10-1.24	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
ALTERNATIVE BID LIST TOTAL						302,272.65	*	344,907.61		418,701.51
TOTAL BID						1,160,924.25	**	1,242,380.19		1,381,778.21

* Total Correction
 ** Total Bid Correction

* Unit Price Correction



DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Utilities & Environmental Services

SUBJECT: Authorization for the City Manager to Execute a Professional Services Agreement for Evaluation, Design, and Construction Administration Services for the Centex Sewer Lift Station Upgrade Project

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a Professional Services Agreement with A T.E.E.M. Electrical Engineering, Inc. for electrical design and construction administration services for the Centex Sewer Lift Station Upgrade Project in an amount not to exceed \$40,000.

BACKGROUND

The Centex Sewer Lift Station was constructed in 1978 to serve the homes in the Centex Homes Development along Dobbie Avenue. This lift station, which is one of nine such stations in the sewer collection system, collects and stores wastewater from the surrounding area in a wet well. The wastewater is then pumped into a sewer main and transmitted by gravity to the City's Water Pollution Control Facility for treatment.

The mechanical and electrical equipment at the Centex Sewer Lift Station is almost thirty-five years old and is outdated. Maintenance of the equipment has been difficult because some replacement parts are no longer available. The City has a project to upgrade the lift station by replacing mechanical and electrical equipment. The work includes replacing the two existing pumps along with valves and piping, replacing the electrical Motor Control Center (MCC), and installing a new Human Machine Interface (HMI) panel that will permit the City's Supervisory Control and Data Acquisition system (SCADA) to monitor and operate the lift station.

DISCUSSION

Most of the design work will be done by City staff. However, staff needs to supplement its in-house design with an electrical consultant for specialized professional services.

On August 27, 2012, staff sent a Request for Proposals to provide electrical engineering services for the Centex Sewer Lift Station Upgrade Project to three engineering consultants. On September 14, 2012, the City received three proposals from A T.E.E.M. Electrical Engineering, Inc., HDR Engineering Inc., and WHM Inc. The proposed costs from these three firms ranged from \$31,524

to \$40,570. The higher cost was from A. T.E.E.M. Electrical Engineering, Inc. After reviewing the proposals, staff finds A T.E.E.M. Electrical Engineering, Inc. is the best qualified firm to perform the work based on its approach in replacing and upgrading the electrical system, experience with similar projects, qualification of the team, and reasonable overall cost. Following discussions with the firm, staff was able to negotiate a lower cost and make A. T.E.E.M. Electrical Engineering, Inc.'s cost proposal competitive with the other firms. Therefore, staff recommends executing a professional services agreement with A T.E.E.M. Electrical Engineering, Inc. to provide design and construction administration services for the Centex Sewer Lift Station Upgrade Project. A detailed scope of work and a proposal fee of \$40,000 have been negotiated with A T.E.E.M. Electrical Engineering, Inc. This fee is competitive with those received from the other two firms. The not-to-exceed amount of \$40,000 for the professional services agreement will allow \$5,050 for additional services that may be needed during various phases of the project.

FISCAL AND ECONOMIC IMPACT

The estimated project costs are as follows:

Design and Construction Administration Services –	
Consultant	\$40,000
Design Administration – City Staff	20,000
Construction Contract	210,000
Inspection and Testing	<u>30,000</u>
Total	\$300,000

The FY 2013 Capital Improvement Program includes \$300,000 for the Centex Lift Station Upgrade Project in the Sewer Collection System Replacement Fund.

PUBLIC CONTACT

During the design phase, staff will contact nearby residents to inform them of the project and potential impacts. Staff will ensure potential impacts during construction are minimized and mitigated.

SCHEDULE

The estimated schedule for this project is summarized as follows:

Begin Design	November 2012
Complete Design	March 2013
City Council Approval and Call for Bids	April 2013
Receive Bids	May 2013
Award Construction Contract	June 2013
Begin Construction	July 2013
End Construction	January 2014

Prepared by: Thomas Lam, Associate Civil Engineer

Recommended by: Alex Ameri, Director of Public Works –Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I - Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 12- _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH A T.E.E.M. ELECTRICAL ENGINEERING, INC., FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE CENTEX SEWER LIFT STATION UPGRADE PROJECT, PROJECT NO. 7549

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to negotiate and execute an agreement with A T.E.E.M. Electrical Engineering, Inc., for design and construction administration services for the Centex Sewer Lift Station Upgrade Project, Project No. 7549 in an amount not to exceed \$40,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Utilities and Environmental Services

SUBJECT: Construction of Shoring for Future 72-Inch Effluent Pipeline at the Water Pollution Control Facility: Authorization for City Manager to Execute Professional Services Agreement for Engineering Services

RECOMMENDATION

That City Council adopts the attached resolution authorizing the City Manager to negotiate and execute a professional services agreement with Brown and Caldwell for engineering services related to construction of shoring for the second segment of the 72-Inch Effluent Pipeline at the Water Pollution Control Facility (WPCF), at a cost not to exceed \$35,000.

SUMMARY

The City entered into a contract with McGuire and Hester in June 2012 to construct about 500 feet of shoring needed for the future installation of a 72-inch pipeline to transport treated effluent from the WPCF to the East Bay Dischargers Authority (EBDA) pump station. The timing of the shoring installation is related to construction of the Russell City Energy Center (RCEC) on the site adjacent to the WPCF, as described further in the next section. Given the criticality of the timing and the fact that Council was in recess in August, staff authorized Brown and Caldwell to begin work on the project so that the shoring installation could proceed as scheduled. To date, about one-half of the design work is complete. Staff recommends that the City enter into a professional services agreement with Brown and Caldwell to complete engineering assistance in defining the shoring alignment and to provide technical expertise during construction.

BACKGROUND

The City's FY 2013 Capital Improvement Program includes a project at the WPCF to construct a 700-foot-long section of 72-inch pipeline, which is part of a long pipeline/open channel system that conveys treated effluent from the WPCF to EBDA for disposal into the San Francisco Bay. The new 72-inch pipeline will be offset from and parallel to an existing 48-inch effluent pipeline. This project will increase the present conveyance capacity to meet the City's needs in the foreseeable future. Due to construction of Calpine's Russell City Energy Center (RCEC) on formerly WPCF property, the 72-inch line will be located in a very narrow corridor between the existing 48-inch line and the southern property line of the RCEC currently under construction. RCEC will be constructing a sound wall along the southern property line, further complicating future construction of the City's pipeline.

The first segment of the pipeline, 150 feet in length, has already been constructed by Calpine to, in part, convey treated effluent from the WPCF to RCEC’s on-site recycled water facility. The remaining segment of the pipeline, 550 feet in length, will be constructed by the City in two phases; the first phase will install the shoring, required for safety and stability, prior to completion of the RCEC sound wall, and the second phase will install the piping after the RCEC is constructed. The shoring installation needs to be done now to ensure that it is not impacted by construction of the sound wall. On June 19, 2012, the City Council authorized the City Manager to negotiate and execute a contract with McGuire and Hester to design and construct shoring for this segment, utilizing Blue Iron, a company that specializes in “pressed-in” shoring and who installed the shoring for the first 150 feet segment.

DISCUSSION

In order to ensure that the shoring is properly sited, it is necessary to prepare conceptual plans for the second segment of the pipeline now. It is also likely that engineering issues will arise during shoring installation. Given the complexities and construction challenges associated with this work, and the City’s relative inexperience with the highly specialized shoring method used for this construction, staff recommends that Brown and Caldwell be retained to assist with conceptual pipeline design and to address technical issues during construction. The timing is critical on this work so that the shoring work can be completed in such a way that does not impact RCEC progress nor the City’s ability to install the shoring prior to construction of the sound wall. For that reason, staff authorized Brown and Caldwell to begin the design work, with the understanding that execution of a Professional Services Agreement was contingent upon City Council approval.

Brown and Caldwell has extensive familiarity with the WPCF’s layout and operations, having provided design and engineering services for the Phase I WPCF Improvements. This firm also performed the engineering services related to the piping and diversion structure for the first 150-foot segment of the pipeline, under an agreement with City, with costs reimbursed by Calpine. The same specialized shoring construction method was also utilized for this segment. Given Brown and Caldwell’s familiarity with the project, and critical timing, no other source was solicited to submit a professional services proposal.

FISCAL IMPACT

The cost for engineering services as described in this report is not expected to exceed \$35,000. The estimated costs for second-segment shoring installation, including the contractor amount already approved by Council, are summarized in the following table.

Administration and engineering services	\$ 20,000
Shoring Design and Construction	927,000
Administrative Change Orders	100,000
Engineering Services	<u>35,000</u>
Total:	\$1,082,000

While not distinguished as a separate project, this 72-inch pipeline extension is part of a larger project for providing a 72-inch pipeline from the WPCF to EBDA facilities, for which two projects are included in the adopted FY 2012 CIP. One of the two projects is the Enclosed Effluent

Channel with a total appropriation of \$5.1 million in the Water Pollution Control Facility Replacement Fund. Staff proposes to use funds from this project to pay for shoring expenses, including consultant assistance.

PUBLIC CONTACT

No public contact is planned for the project. All work will be done inside the WPCF boundary, which is located in an industrial or commercial area. There will be no impact on the neighbors or the public.

SCHEDULE

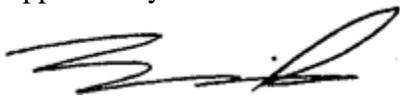
The June 19, 2012 agenda report requesting authorization to enter into a contract with McGuire and Hester indicated that the shoring work would be completed by mid-August. This estimated time frame proved to be optimistic. Construction has been delayed due to slower-than-expected completion of the first 150-foot segment of the pipeline by Calpine, delays in removal of the RCEC southern construction fence from City property, and availability of the specialized equipment needed to press in the shoring. Following is the revised schedule:

Contract executed with McGuire and Hester	June 2012
Execute contract with Brown and Caldwell	October 31, 2012
Notice to Proceed	November 1, 2012
Initiate Construction of Shoring	November 2012
Complete shoring construction	December 2012

Prepared by: Don Clark, Senior Utilities Engineer

Recommended by: Alex Ameri, Director of Public Works –Utilities and Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I - Resolution
Attachment II - Project Location Map
Attachment III - Aerial Map of Effluent Channel

HAYWARD CITY COUNCIL

RESOLUTION NO. __ -

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH BROWN AND CALDWELL, FOR ENGINEERING SERVICES RELATED TO CONSTRUCTION OF SHORING FOR FUTURE 72-INCH EFFLUENT PIPELINE AT THE WATER POLLTION CONTROL FACILITY

WHEREAS, the Water Pollution Control Facility (WPCF) receives wastewater from most of the City of Hayward, treats the wastewater and discharges the treated effluent to East Bay Dischargers Authority for final disposal;

WHEREAS, conveyance of treated effluent from the WPCF needs upgrading to meet City needs into the foreseeable future that includes plans to replace the existing 48-inch effluent line with a 72-inch pipeline;

WHEREAS the first segment of the planned 72-inch pipeline has been constructed to provide treated effluent to the RCEC Recycled Water Facility;

WHEREAS City Council has approved a contract to construct shoring for future construction of the 72-inch pipeline extension beyond the RCEC deliver point;

WHEREAS, City staff desires to engage the professional services of Brown and Caldwell to assist in the shoring layout and provide advice on technical issues that may arise during shoring construction;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to negotiate and execute an agreement with Brown and Caldwell, Incorporated, in an amount not to exceed \$35,000 to provide engineering services to the City for shoring layout and during the shoring construction, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

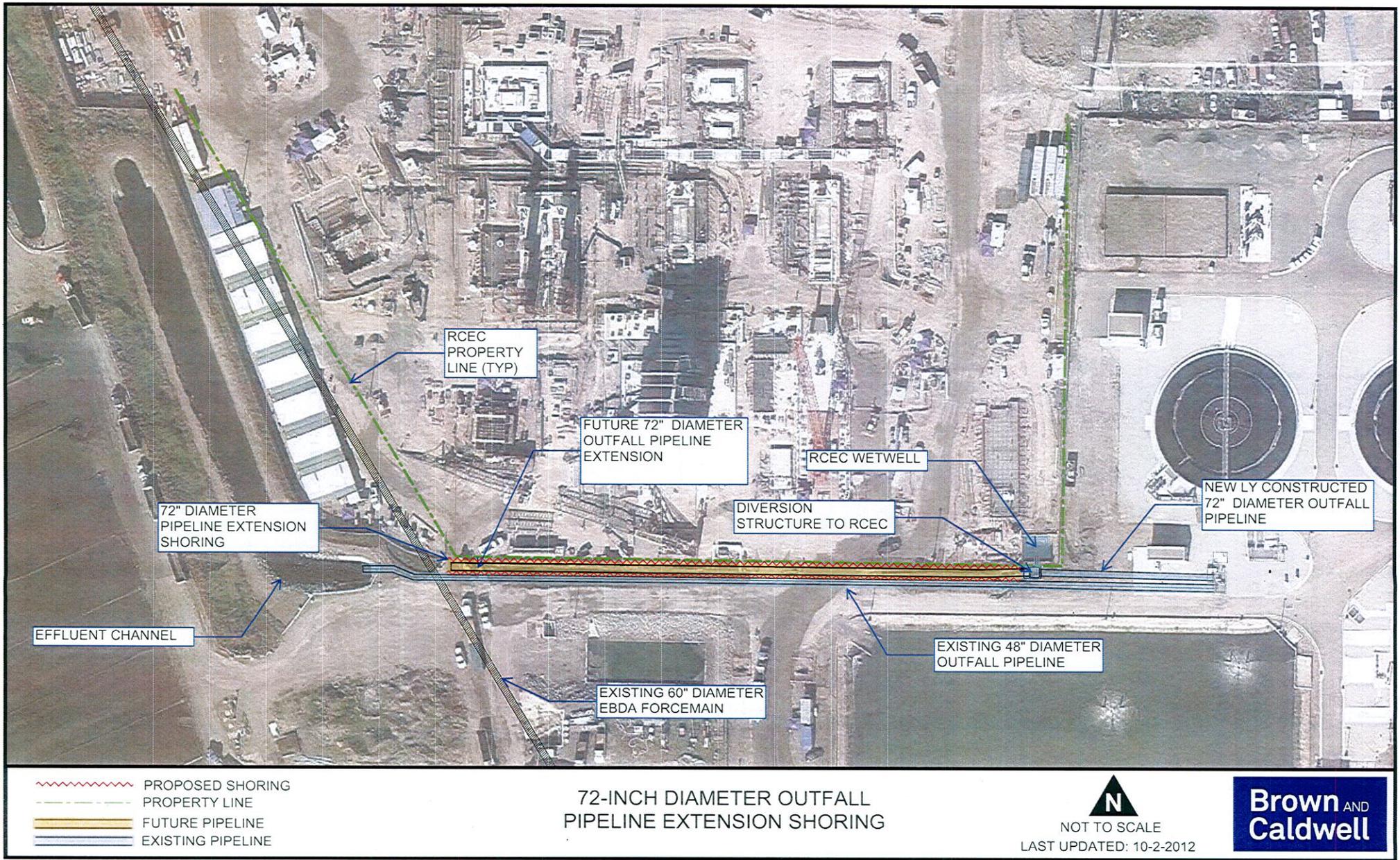
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward





Aerial Map of Effluent Channel

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Maintenance Services
Director of Finance

SUBJECT: Authorization to Negotiate a Professional Services Agreement with Data Ticket for Parking Citation Processing and Collections; Appropriate Funding; and Amend the Master Fee Schedule

RECOMMENDATION

That the City Council adopts the attached resolutions:

1. Authorizing the City Manager to negotiate and execute a professional services agreement with Data Ticket in an amount not to exceed \$100,000¹, in order to provide professional services related to parking citation processing and collections.
2. Appropriate \$100,000 from the General Fund in order to fund this professional services agreement, which will be fully offset by a corresponding increase in citation fines and higher collection rates.
3. Approve an amendment to the Master Fee Schedule, Fine and Bail Schedule Section 8.20.4, to update the “No Parking - Street Sweeping Zone” citation fine.

BACKGROUND

Focusing on the City Council’s top priorities of having a safe, clean, and green City, street sweeping provides an effective method of keeping City streets clean, removing unsafe pollutants that collect on City streets, and improving water quality. The obvious benefit is the collection and removal of leaves and other debris that collect in the gutters. This debris can block storm water facilities, causing localized flooding during heavy rains. An equally important, but less visible benefit is the removal of metal particles and other hazardous waste products left by passing vehicles. Although they are virtually invisible, these particles can be extremely harmful to fish and other wildlife if they reach our creeks, rivers, beaches, and bays. Street sweeping is an effective method of removing both

¹ The actual fee estimate is difficult to calculate since our legacy financial software does not have good reporting capabilities in order to let us track and compare the aging of the uncollected payments, or information regarding delinquency notices issued. We have worked with the vendor to estimate the contract fee based on the information we have. Since there are a lot of variables in the pricing structure regarding various types of transactions, with the majority of the fees being charged for issuing delinquency notices and completing collection procedures, the total annual payment could exceed \$75,000. Therefore, we’ve increased the contract amount not to exceed \$100,000.

the large and microscopic pollutants that collect on City streets, control flow of run-off, and improve water quality.

Moving vehicles off a street scheduled for sweeping allows City crews to thoroughly clean the street from curb-to-curb. One parked car equals nearly three car lengths of space that can't be swept, because the street sweeping equipment must utilize two spaces in order to avoid one parked car. If vehicles are not moved on posted streets to make way for sweeping crews, the vehicles are issued citations. Active enforcement of posted street sweeping areas began in FY 2011, with the number of citations issued growing from 8,737 in FY 2011, to an estimate of 10,000 for FY 2013.

Presently, Maintenance Services Department enforcement staff prepares hand written citations, which require duplicate data entry into two separate City computer systems. A single delinquent notice is mailed to the registered vehicle owner by the Finance Department some 60-90 days following the issuance of the citation. If a notice remains unpaid, Finance staff contacts the Department of Motor Vehicles to place a hold for the amount of the unpaid citations. Additionally, once a year, Finance staff completes a State Franchise Tax Board lien request for unpaid citations; however, no additional collection procedures are implemented. In FY 2012, 25% or 2,370 citations went unpaid. In order to ensure full payment of violations, citations require significant follow-up work to assure payment of fines, mailing of delinquency letters, and the timely processing of appeals.

DISCUSSION

In order to increase the efficiency of citation issuance, processing, noticing, and collections, staff recommends a professional services agreement with Data Ticket, a citation processing and collection service. Data Ticket's services include citation processing, payment processing, conducting of appeals, and collections. This proven, streamlined service will be valuable in assisting the City with a higher and faster collection rate due to efficiency of noticing and collections, and online accessibility.

Over the past few years, there have been many improvements in the technology that serves the parking industry. For example, most parking citation processing systems are now available on web-based platforms, providing quick and easy access for both the service provider, as well as for the public. Through this technology, staff can utilize more sophisticated reports, statistics, notices, and correspondence.

By implementing this new citation processing solution, the City will make efficient use of resources, increase customer service levels, and provide convenience for the public, who will be able to go online to make payments or file appeals. These services will also be available over the phone or through an automated phone service. Reliance on hard copy citations, mailing, storage, and retrieval systems will be greatly reduced, with faster, more reliable, and more direct and comprehensive results. Furthermore, the City will transition from writing paper citations to issuing citations using handheld electronic citation writers. These devices continue to advance in terms of newly available features and greater power, thus making the citation process more efficient and easier for staff to use. For example, modern handheld citation writers can take

photographs of the cited vehicle and environment, and these are available for online viewing by the citation holder, appeal officer, as well as parking enforcement staff.

City staff evaluated possible vendor solutions by attending several vendor presentations, and requesting information from other local agencies that contract with parking citation processing vendors. A City stakeholder review team, consisting of the Finance, Police, and Maintenance Services departments, provided feedback on the level of services offered by each vendor, and compared the services to those required by the City. In addition, three local agency requests for proposals (RFP) were reviewed and evaluated by staff. After careful consideration, staff piggybacked off of the recent Santa Clara County RFP and selected Data Ticket as the vendor best suited to serve the City's needs.

Data Ticket stood out as a leader in services, reports, and collections. Data Ticket is an experienced industry leader whose specialty is in the citation processing and collections area. The utilization of this full-service vendor is a cost-beneficial way for the City to do business and is in keeping with revenue collections best practices. Many local agencies contract with Data Ticket, including the City of Fremont, City of Richmond, City of Concord, and City of Union City, along with the Bay Area Rapid Transit District and County of Santa Clara.

This new and improved system will allow City staff to issue citations via a handheld electronic citation writer, which will improve accuracy, increase productivity, streamline communications, and eliminate data entry and paperwork. Staff will have real time access to information, reports, and statistics not currently available. In addition, the public will have the opportunity to make online or over the phone inquiries, payments, and appeal requests. The data will be processed in real time, allowing for tracking, reporting, and prompt issuance of delinquency notices.

Utilizing this new and improved system, delinquency notices will be sent out promptly 21 days following the date of issuance. After 63 days, a hold will be placed on the vehicle's registration through the Department of Motor Vehicles (DMV). Once a registration hold is placed, when a citizen receives their registration renewal documents from CA DMV, the parking citation amount due is displayed on the payment form. This amount must be paid in full prior to CA DMV releasing new tags for the vehicle. If the citizen does not pay the full amount, CA DMV will not release new tags to the individual and the vehicle will not have a complete registration.

For California residents, after nine months and a total of four written notices, the violator will be sent an additional notice advising of the impending Franchise Tax Board (FTB) lien. If the fine is not paid, then a lien will be placed on the vehicle owner's state tax return. This program is an annual program that begins in November of each year. In the case of a parking citation issued to a vehicle with a registered owner who is a California Resident, if payment has not been received after the notice of delinquency has been mailed, a hold at FTB may be placed. Holds at FTB are ranked by the Board and filed at the Social Security number (SSN) level. When an individual files a tax return or attempts to collect lottery winnings, or is owed any other monies from the State, FTB performs a search on the SSN for any outstanding debts owed to public agencies. In the event a debt is located, the tax return, winnings, or other monies due to the citizen are liened for the amount owed to public agencies. The citizen then receives the money owed to them, minus the monies withheld to pay for debts.

For non-residents, and where FTB liens are not available, after the fourth notice and 152 days, the debt will be sent to a Credit Reporting Collections Service, which can include credit bureau holds, correspondence, and telephone calls.

ECONOMIC IMPACT

The “No Parking - Street Sweeping Zone” citation fine is incurred by those vehicle drivers who park in a posted “No Parking” area. Staff recommends that the fine be increased by \$7.50 (from \$67.50 to \$75.00) to recover the cost of citation processing, noticing, and collections. Staff derived this increase by taking the basic services contract amount (\$75,000) and dividing by the estimated number of annual citations (10,000) to ensure that the processing costs are equally distributed among all individuals receiving citations. Staff is requesting the increase based on an estimated contract expense of \$75,000 - this amount differs from the requested contract amount of \$100,000 in order to provide staff with a contingency amount in case the contract estimate is low and the contract exceeds the \$75,000 anticipated. Following Council approval, the amended fine of \$75.00 will be effective on December 1, 2012, and will be formally included in the mid-year update of the Master Fee Schedule. A sampling of local agency parking citation fines is provided below.

	City	Parking Citation Fine
1	Fremont	\$ 63.00
2	Berkeley	\$ 64.00
3	Oakland	\$ 66.00
4	Union City	\$ 76.00
5	Hayward (Proposed)	\$ 75.00

FISCAL IMPACT

It is cost effective and an efficient use of resources to contract with an outside vendor that employs a streamlined, efficient system to process parking citations and perform collections. The cost of the contract will be fully offset by 1) an increase in the citation fine, and 2) a higher collection rate from efficient use of delinquency notices and collections efforts.

Data Ticket’s charge for service is dependent on the volume and type of transactions completed, which includes the number of citations issued, delinquent payment notifications made, and collection processes completed. The annual contract is estimated at \$100,000, which would be absorbed in the Maintenance Services General Fund operating budget. The actual cost of the contract will be dependent on variables such as the number of citations issued and number of unpaid citations requiring noticing and collections.

Active enforcement of posted “No Parking” street sweeping areas began in FY 2011. Unpaid fines in the first year represented 45% of issued citations, which decreased to 25% in FY 2012. Staff is estimating that collection will be improved from 25% to 10% uncollected with implementation of this contract. The vendor has provided staff with data from other cities that showed a 90-97% collection rate. Using this information, staff has estimated a 90% collection rate.

A revenue comparison follows comparing actual revenue to future revenue, based on using Data Ticket services. The \$7.50 increase in the citation fee is recommended to offset the cost of the contract based on 10,000 citations issued. The increased revenue is solely based on the improved percentage of collections.

Street Sweeping Zone Citation Overview	FY 2011	FY 2012	FY 2013 (estimate)
<u>Citations Issued</u>			
Total Citations Issued	8,737	9,617	10,000 (estimate)
Citations Paid	4,790 (55%)	7,247 (75%)	9,000 (90%)(estimate)
Citations Unpaid	3,947 (45%)	2,370 (25%)	1,000 (10%) (estimate)
<u>Revenue</u>			
Paid Citations (90%, net county fee)	\$257,286	\$387,158	\$562,500
Less Data Ticket Contract Estimate	\$0	\$0	\$75,000
Net Collection	\$257,286	\$387,158	\$487,500
Net Increase to Revenue			\$100,342

Additional contract benefits include reduced staff time needed to issue tickets and elimination of staff time related to data entry, collections, and processing of administrative hearing requests.

PUBLIC CONTACT

On October 13, 2012, a public notice regarding the October 23, 2012 City Council meeting and update to the master fee schedule was widely distributed to the public via the newspaper, City website, and public bulletin boards.

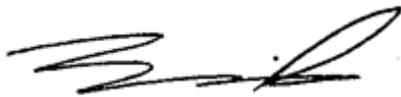
NEXT STEPS

Following Council approval at this meeting, staff will finalize an agreement for execution with Data Ticket, appropriate the funding, and update the master fee schedule.

Prepared by: Denise Blohm, Administrative Analyst II

Recommended by: Matt McGrath, Director of Maintenance Services
Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachments:

- I: Resolution: Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement
- II: Resolution: Appropriating Funding for a Professional Services Agreement
- III: Resolution: Amending the Master Fee Schedule, Fine and Bail Schedule section 8.20.4

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH DATA TICKET FOR PARKING CITATION PROCESSING AND COLLECTION

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a professional services agreement with Data Ticket to perform services to include citation processing and collections in an amount not to exceed \$100,000, which is the total amount of contract funds from the General Fund, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 12-119, AS AMENDED, THE OPERATING BUDGET RESOLUTION FOR FISCAL YEAR 2013 RELATING TO AN APPROPRIATION OF FUNDS FROM THE GENERAL FUND, FUND 100.

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 12-119, as amended, the Operating Budget Resolution for fiscal year 2013, hereby be further amended by approving an appropriation of \$100,000 (100-2411-7210) to contract with Data Ticket for professional services.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Councilmember _____

RESOLUTION AMENDING RESOLUTION 12-062, AMENDING THE MASTER FEE SCHEDULE, INCLUDING A REVISION TO THE FINE AND BAIL SCHEDULE, RELATING TO HAYWARD TRAFFIC CODE SECTION 8.20.4 NO PARKING - STREET SWEEPING ZONE

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other chargers by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing of leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by city Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions; and

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The proposed amendment to the Fine and Bail Schedule is compliant.

NOW, THEREFORE, BE IT RESOLVED that Section 8.20.4 of the Hayward Traffic Code, No Parking – Street Sweeping Zone, is hereby amended:

- A. Section 8.20.4 of the Hayward Traffic Code, No Parking – Street Sweeping Zone, Bail Amount amended to \$75.00.

BE IT FURTHER RESOLVED that Resolution No. 12-062 and all amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that this resolution shall become effective December 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT: Acceptance of the COPS Hiring Grant Award

RECOMMENDATION

That Council authorizes the City Manager to accept the Community Oriented Policing Services (COPS) Hiring Program grant award from the U.S. Department of Justice to help support the funding of nine police officer positions over a four year period.

BACKGROUND

On August 10, 2009, the City accepted an award of \$4,032,027 from the U.S. Department of Justice to hire and maintain nine new police officers for four years. This grant was part of the 2009 ARRA program (American Recovery and Reinvestment Act of 2009). This 2009 grant funded nine officer positions at \$149,334 per position per year for three years, with the requirement that the City fund the difference between the grant ceiling and the actual officer salary (about \$8,500 per position). The grant also requires that the City fully fund all nine positions in the fourth year at 100%. These matching requirements equate to a 2009 grant match of 31% or \$1.8 million.

The grant does not require the City to retain the officers after the conclusion of the fourth year match period. Given the expiration of the grant funding and a continued General Fund gap, ongoing funding for these positions represents a budget challenge. These nine new positions were hired over a four-month period in calendar year 2009, and the obligation to retain and fund the positions will incrementally expire between August 16, 2013 and January 24, 2014.

DISCUSSION

As the result of an effective application and follow-up process, in July 2012, Hayward was honored to receive a new COPS Hiring grant in the amount of \$3,602,644. This represents the third highest total award (behind only Los Angeles and Tacoma, WA) and the highest per officer funding of all agencies selected under this program. While this grant amount is less than the 2009 award (and results in a higher matching requirement), it is significant in that fewer federal grant funds are available and fewer agencies received awards. Hayward's 2009 grant represented about 0.4% of a \$1 billion grant program and the new 2012 grant represents about 3.25% of a smaller \$111 million program.

This new 2012 grant provides annual funding for nine officer positions at \$133,431 per position for three years. Like the previous 2009 grant, the new grant award requires the City to fund the difference between the grant ceiling and the actual officer salary (about \$41,703 per position) and fully fund all nine positions the fourth year. Given the annual City contribution to fund the nine positions and the year four full funding requirements – this 2012 grant match equals about 43%, or \$2.7 million.

In consideration of the City's ongoing structural General Fund gap, the grant can be used to retain the existing 2009 grant funded officers if those positions are subject to elimination due to lack of funding. The retention periods for the 2009 grant positions will start incrementally expiring in August 2013. With the expiration of the 2009 grant funding for the nine officer positions – and in the absence of new grant funding – the City would be faced with eliminating these positions. Budget projections had assumed a continued grant funding level. Infusion of the new 2012 grant funds provides the required funding to retain these nine officer positions for another four-year period starting in FY 2014.

ECONOMIC IMPACT

Approval of this recommendation will provide needed funding to retain the current grant funded police officer positions and related community oriented services levels. Maintaining our officer strength in the Police Department helps demonstrate that Hayward is economically sound and provides a positive community image for those that may be considering investing in our city.

FISCAL IMPACT

Over a four year period, while allowing retention of nine existing police officer positions, the City will be obligated to match approximately 43% of the cost of these officers. This is estimated to be \$2.7 million, with 58% of that amount applicable to the fourth year.

The \$2.7 million in City match will come from the General Fund – within existing Police Department budget appropriations. While the department is actively recruiting and filling police officer positions (seven positions were just filled), the Police Department will experience salary savings from funded, vacant positions. These one-time savings will be used toward funding the one-time match requirement. The grant funding is for a period of three years, with the fourth year requiring full funding of the nine positions. A decision regarding continued funding after the fourth year of the grant (FY 2019) will be considered as part of that year's budget process.

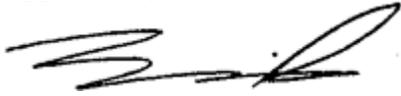
NEXT STEPS

If this recommendation is approved, the City Manager will sign and return the award documents not later than October 31, 2012. If not approved, the City will forfeit the funding being offered.

Prepared by: Bob Davis, Administrative Analyst III

Recommended by: Diane E. Urban, Chief of Police

Approved by:



Fran David, City Manager

Attachments:

Attachment I Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE TO IMPLEMENT THE 2012 COPS HIRING PROGRAM GRANT AWARD

WHEREAS, the Hayward Police Department has been awarded \$3,602,644 from the U.S. Department of Justice, Office of Community Oriented Policing Services to hire nine police officers.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to execute an agreement with U.S.D.O.J. to accept the funding for the 2012 COPS Hiring Program in a form approved by the City Attorney

IN COUNCIL, HAYWARD, CALIFORNIA October 23, 2012

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

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Human Resources Director

SUBJECT: Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2013

RECOMMENDATION

That the City Council adopts the attached Resolution approving an amendment to the City of Hayward Salary Plan for Fiscal Year 2013 (“FY 2013”), which designates all classifications and the corresponding salary range for employment in the City government of the City of Hayward as of October 23, 2012, superseding Resolution No. 12-109 and all amendments thereto.

BACKGROUND

On June 26, 2012, the City Council adopted the FY 2013 budget, which sets forth the number of positions allocated city-wide. At that time, the Council also adopted the Salary Plan for FY 2013, as recommended by the Personnel Commission at its June 7, 2012 meeting.

As part of the budget process, Council approved a request to add one (1) Traffic Signal Technician and one (1) Senior Transportation Engineer in the Public Works Department. Based on these approvals, the salary of the Transportation Manager had to be adjusted to ensure continued compliance with Section 7.16 of the Memorandum of Understanding (MOU) between the City of Hayward and the Hayward Association of Management Employees (HAME), which provides for a ten percent (10%) salary differential between the top step base rate paid to HAME-represented supervisory classifications and the top base rate of their highest paid subordinate. These changes occurred after the June 7, 2012 Personnel Commission meeting and were not reflected in the Salary Plan adopted by Council on June 26, 2012.

At the July 19, 2012 Personnel Commission meeting, the Commission recommended approval of a revised Classification and Salary Plan for the classified service that incorporated the addition of the positions approved during the budget process, adjusted the salary of the Transportation Manager as provided for in the HAME Memorandum of Understanding and changed the title of the Information Technology Director. In addition to the changes reviewed and approved or recommended for approval by Commission on July 19, 2012, additional staffing needs have been identified including

creation of Technology Solutions Analyst I/II and Police Personnel and Training Administrator classifications.

The Salary Plan has been amended to reflect the changes Council approved as part of the budget process, to maintain compliance with the HAME MOU and to add the newly created Technology Solutions Analyst I/II and Police Personnel and Training Administrator positions. The amended Salary Plan was presented to the Personnel Commission on October 10, 2012. After a public hearing, the Personnel Commission recommended that the City Council adopts an amended FY 2013 Salary Plan.

DISCUSSION

As required by the Municipal Code, the Salary Plan for FY 2013 (Attachment II) has been amended to reflect all of the classifications in the City's classified service, including all changes approved by the City Council during the FY 2013 budget process and the newly created Technology Solutions Analyst I/II and Police Personnel and Training Administrator classifications. The Salary Plan reflects the following changes:

Public Works

1) Traffic Signal Technician - The City has a demonstrated need to improve lighting and traffic synchronization throughout the City, especially in the downtown and major arterials. In order to address these issues, it was proposed that a new position of Traffic Signal Technician be created. The City is currently utilizing an employee from Republic Electric to address some of these issues (traffic signal maintenance only). On average, the City has spent approximately \$275,000 per year in each of the last two years for the services provided by Republic Electric. The cost to add a Traffic Signal Technician position to City staff (salary & benefits) for a higher level of service (for both street lighting and traffic signal maintenance) is approximately \$108,000, which is substantially less than the amount currently being paid to Republic Electric.

The salary for this position was set internally and is comparable to the existing Engineering Technician classification, which has a top step of \$36.24 per hour. With benefits, it is expected that this position would cost approximately \$108,000 per year. This position is funded in the approved FY 2013 Operating Budget for the Public Works Department.

2) Senior Transportation Engineer - Council expressed a desire to see improvements to traffic circulation throughout the City. While the Traffic Signal Technician position will address the day-to-day concerns, a long-term plan needs to be developed to prevent future traffic issues. To that end, staff requested and Council approved the addition of a Senior Transportation Engineer position for this express purpose.

The salary for this position would be comparable to the Senior Civil Engineer classification, which has a top step of \$59.79 per hour. With benefits, it is expected that this position would cost approximately \$164,000 per year. This position is currently funded as part of the

approved Capital Improvement Programs Budget, Citywide Intersection Improvement Study Project.

3) Transportation Manager - Section 7.16 of the HAME MOU provides “the City shall maintain a minimum pay differential of ten percent (10%) between the top step base rate paid to the HAME – represented supervisory classifications and the top step base rate of their highest-paid subordinate classification.” The Senior Transportation Engineer is subordinate to the Transportation Manager. To maintain compliance with Section 7.16 of the HAME MOU, the salary range for the classification of Transportation Manager needs to be adjusted to provide a top step of \$65.77 per hour.

Technology Services Department

1) The Director’s title has been changed from Director of Technology Services to Director of Information and Technology/Chief Information Officer. This change is more consistent with the title of similar positions in comparable jurisdictions. There is no change in salary associated with the title change.

2) Technology Solutions Analyst I/II- There is an ongoing need for specialized IT staffing at the departmental level in those departments where there are dedicated computer systems unique to the operation of the department. Currently, the Police Department has a new CAD/RMS system (New World) and lacks a position to oversee the continued implementation issues and to fill ongoing system operational needs. The broad knowledge, skills and abilities necessary include: a comprehensive understanding of public safety organizational structure and operations; ability to support and have credibility with sworn staff; ability to support technical aspects of police work including body cameras, crime reporting, 911 calls, etc.; and coordination with other professionals and management to create and implement IT system policies and procedures. The function needs strong IT leadership and project management. Because this is a broad classification that could serve any department depending on the technical needs, general supervision may come from the Information Technology Director/CIO or the Department Director of the assigned department. If the incumbent directly reports to the Information Technology Director/CIO, it is expected he/she will receive technical and functional supervision from the assigned operation department director.

The salary of the Technology Solutions Analyst II is the same as the Information Technology Analyst class based on the assigned duties and responsibilities, which is \$38.56 - \$46.87 per hour. The Technology Analyst I would be set internally 10% below the Technology Solutions Analyst II, which is \$35.06 - \$42.61 per hour and is consistent with internal salary relationships within a classification series.

Police Department

Personnel and Training Administrator- The Police Department has an ongoing need for a specialized administrative level function to support its internal human resources and training operations. This position will plan, organize, coordinate, and implement the

recruiting, testing and training activities of the Police Department by working closely with the Human Resources Department: to coordinate the recruitments and exam administration of sworn and non-sworn police personnel; to plan, organize and schedule department trainings and ensure that police personnel have completed mandated trainings; to review and organize worker's compensation claims for the Department; and to provide highly responsible professional and technical support to the Chief of Police. The incumbent will receive general direction from the Police Chief and will exercise supervision over assigned staff, which includes sworn and non-sworn employees within the unit.

The salary range for the position is \$54.90 to \$66.74 per hour. Based on the duties assigned to the position and the reporting relationship within the Department, the salary is set 10% above a Police Sergeant as required by the HAME Memorandum of Understanding.

The terms and conditions of employment for classifications in represented bargaining units are detailed in approved MOUs and/or Side Letters of Agreement (Side Letters).

FISCAL IMPACT

The above-described changes will positively impact the Hayward community because they enhance the current level of service with greater efficiency and utilization of resources.

The changes in salaries and full time positions result in an increase to the General Fund of 4 FTE. The Traffic Signal Technician position (\$108,000) has been approved in the FY 2013 Operating Budget. The Senior Engineer position (\$164,000) will be funded by the approved Capital Improvement Programs Budget, as part of the Citywide Intersection Improvement Study Project. The adjustment to the Transportation Manager salary range results in an increase of approximately \$16,000 in salary and benefits, which will be absorbed in non-General Fund projects that have been approved in the FY 2013 Operating Budget.

The Technology Solutions Analyst I/II has an approximate annual cost of \$98,000 - \$128,000 in salary and benefits. The Personnel and Training Administrator has an approximate annual cost of \$166,000 - \$197,000 in salary and benefits. Staff is currently working with Human Resources and Finance to identify funding for these positions through the budget process.

Prepared by: Nina Collins, Human Resources Analyst II

Recommended by: Frances M. Robustelli, Human Resources Director

Approved by:



Fran David, City Manager

Attachment I: Resolution Approving Amendment to the FY 2013 Salary Plan

Attachment II: Revised FY 2013 Salary Plan

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION APPROVING THE AMENDED FISCAL YEAR 2013 SALARY PLAN DESIGNATING POSITIONS OF EMPLOYMENT IN THE CITY GOVERNMENT OF THE CITY OF HAYWARD AND SALARY RANGE; AND SUPERSEDING RESOLUTION NO. 12-109 AND ALL AMENDMENTS THERETO

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

Section 1. That a revised Positions and Salaries Schedule relating to the positions of employment in the City of Hayward, and the hourly rates of pay for those positions, is hereby set forth in Attachment "I," attached hereto and made a part hereof. The positions enumerated under the columns headed "Class Title" are hereby designated as the positions of employment in the City of Hayward, and the hourly rates of pay shown in the columns under the heading "Hourly Salary Range" are the salary rates or the maximum rates of pay for such positions.

Section 2. Salaries paid to occupants of said positions shall be administered in accordance with the Personnel Rules and Memoranda of Understanding and Side Letter Agreements approved by the City Council and currently in effect.

Section 3. All class titles used herein refer to the specifications of the position classification plan as reviewed by the Personnel Commission of the City of Hayward, or as set forth in the City Charter.

Section 4. The City Manager may approve in advance of an established effective date, payment to certain classifications in the Management Unit of all or a portion of a general salary increase previously approved by the City Council. Such advance payments shall be made only for those management classifications where the salary range is less than 10 percent above an immediately subordinate classification. The amount of advance payment approved by the City Manager shall not exceed the amount required to establish a 10 percent salary differential between the affected classifications. The City Manager shall advise the City Council and each bargaining unit in advance of any payments made pursuant to the provisions of this section.

Section 5. The salary ranges set forth in Attachment "I" shall be revised to reflect salary changes provided in any Memorandum of Understanding, Side Letters of Agreement, or resolution setting forth the wages, hours, and other terms and conditions of employment for a bargaining unit or group of unrepresented employees of the City. Any revisions made pursuant to the provisions of this section shall be incorporated into a document prepared by the Human Resources Director and distributed to affected employees or their representatives that reflects the date of the revision and cites both the authority provided by this section and the provision of the memorandum or resolution being effectuated by the revision.

Section 6. This resolution supersedes Resolution No. 12-109 and all amendments thereto.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

**SALARY PLAN FOR ALL CLASSIFICATIONS
(PER MUNI CODE SEC.2-4.30)
FY 2012**

ATTACHMENT II
Recommended by
Personnel Commission
on October 11, 2012
Approved by Council
on _____, 2012

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
CITY WIDE ADMINISTRATIVE/ANALYTICAL SUPPORT							
ADMINISTRATIVE ANALYST III	42.64	44.77	47.01	49.36	51.83	723	Classified
ADMINISTRATIVE ANALYST II	38.38	40.30	42.31	44.43	46.65	724	Classified
ADMINISTRATIVE ANALYST I	34.90	36.65	38.48	40.40	42.42	744	Classified
EXECUTIVE ASSISTANT	34.79	36.39	38.03	39.66	41.41	418	Unclassified
ADMINISTRATIVE SECRETARY (CONFIDENTIAL)	32.17	33.49	34.80	36.09	37.53	420	Classified
ADMINISTRATIVE SECRETARY	30.62	31.89	33.14	34.38	35.76	108	Classified
SENIOR SECRETARY (CONFIDENTIAL)	29.40	30.51	31.77	32.93	34.22	414	Classified
SENIOR SECRETARY	27.99	29.09	30.27	31.38	32.59	107	Classified
ADMINISTRATIVE ASSISTANT	27.30	28.67	30.10	31.60	33.18	743	Classified
SECRETARY (CONFIDENTIAL)	25.91	27.07	28.45	29.79	31.13	413	Classified
SECRETARY	24.63	25.76	27.05	28.31	29.66	106	Classified
ADMINISTRATIVE CLERK II (CONFIDENTIAL)	23.85	24.82	25.80	26.93	28.28	401	Classified
ADMINISTRATIVE CLERK II	22.71	23.63	24.59	25.69	26.95	102	Classified
ADMINISTRATIVE CLERK I (CONFIDENTIAL)	21.01	22.07	23.20	24.46	25.71	400	Classified
ADMINISTRATIVE CLERK I	19.99	21.04	22.11	23.28	24.50	101	Classified
ADMINISTRATIVE INTERN				15.00	20.00	907	Classified
MAIL CLERK			12.47	13.12	13.76	134	Classified
CITY WIDE MAINTENANCE							
ELECTRICIAN II	39.14	40.70	42.30	44.09	45.92	329	Classified
ELECTRICIAN I	35.59	37.06	38.53	40.15	41.77	328	Classified
CITY WIDE CLASSIFICATIONS							
SENIOR PERMIT TECHNICIAN	31.66	32.96	34.24	35.74	37.56	179	Classified
PERMIT TECHNICIAN	28.55	29.69	30.88	32.21	33.85	180	Classified
CITY ATTORNEY DEPARTMENT							
CITY ATTORNEY					88.99	1216	Unclassified
ASSISTANT CITY ATTORNEY	59.90	62.90	66.05	69.35	72.82	1134	Classified
DEPUTY CITY ATTORNEY II	41.91	44.01	46.21	48.52	50.95	1179	Classified
DEPUTY CITY ATTORNEY I	34.56	36.29	38.10	40.00	42.00	1178	Classified
LEGAL SECRETARY II	28.89	30.57	32.87	33.56	35.29	416	Classified
LEGAL SECRETARY I	26.02	27.39	28.83	30.38	32.00	415	Classified
CITY CLERK DEPARTMENT							
CITY CLERK					54.84	1225	Unclassified
DEPUTY CITY CLERK	32.63	34.26	35.97	37.77	39.66	747	Classified
CITY MANAGER DEPARTMENT							
OFFICE OF THE CITY MANAGER							
CITY MANAGER					107.04	1297	Unclassified
ASSISTANT CITY MANAGER	73.72	77.41	81.28	85.34	89.61	1122	Unclassified
DEPUTY CITY MANAGER	64.02	67.22	70.58	74.11	77.82	1121	Unclassified
ASSISTANT TO CITY MANAGER	46.10	48.41	50.83	53.37	56.04	1126	Classified
COMMUNITY AND MEDIA RELATIONS OFFICER	40.34	42.36	44.48	46.70	49.04	1103	Classified
MANAGEMENT FELLOW					16.82	1128	Classified
CODE ENFORCEMENT SUPERVISOR	39.78	41.77	43.86	46.05	48.35	786	Classified
ECONOMIC DEVELOPMENT							
ECONOMIC DEVELOPMENT MANAGER	56.50	59.32	62.29	65.40	68.67	709	Classified
ECONOMIC DEVELOPMENT COORDINATOR	50.82	53.36	56.03	58.83	61.77	711	Classified
ECONOMIC DEVELOPMENT SPECIALIST	40.53	42.57	44.65	46.92	49.21	669	Classified
NEIGHBORHOOD PARTNERSHIP SERVICES							
NEIGHBORHOOD DEVELOPMENT MANAGER	56.50	59.32	62.29	65.40	68.67	799	Classified
NEIGHBORHOOD PARTNERSHIP MANAGER	50.82	53.36	56.03	58.83	61.77	703	Classified

**SALARY PLAN FOR ALL CLASSIFICATIONS
(PER MUNI CODE SEC.2-4.30)
FY 2012**

ATTACHMENT II
Recommended by
Personnel Commission
on October 11, 2012
Approved by Council
on _____, 2012

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
COMMUNITY PRESERVATION INSPECTION SUPERVISOR	39.78	41.77	43.86	46.05	48.35	715	Classified
SENIOR COMMUNITY PRESERVATION INSPECTOR	36.15	37.96	39.86	41.84	43.95	620	Classified
COMMUNITY PRESERVATION INSPECTOR	32.22	33.83	35.55	37.35	39.24	617	Classified
REDEVELOPMENT AGENCY							
REDEVELOPMENT DIRECTOR	56.50	59.32	62.29	65.40	68.67	795	Classified
REDEVELOPMENT PROJECT MANAGER	50.82	53.36	56.03	58.83	61.77	794	Classified
HOUSING MANAGER	50.82	53.36	56.03	58.83	61.77	726	Classified
HOUSING DEVELOPMENT SPECIALIST	40.53	42.57	44.65	46.92	49.21	674	Classified
REDEVELOPMENT SPECIALIST	40.53	42.57	44.65	46.92	49.21	649	Classified
HOMEOWNERSHIP COORDINATOR	35.60	37.39	39.19	41.18	43.20	605	Classified
DEVELOPMENT SERVICES DEPARTMENT							
DEVELOPMENT SERVICE ADMINISTRATION							
DIRECTOR OF DEVELOPMENT SERVICES	66.64	69.97	73.47	77.14	81.00	1116	Unclassified
BUILDING DIVISION							
CITY BUILDING OFFICIAL	56.50	59.32	62.29	65.40	68.67	740	Classified
HOUSING REHABILITATION COORDINATOR	37.35	39.29	41.29	43.32	45.44	662	Classified
SUPERVISING BUILDING INSPECTOR	47.97	50.37	52.89	55.53	58.31	741	Classified
SENIOR BUILDING INSPECTOR/STRUCTURAL	40.04	42.17	44.30	46.40	48.71	663	Classified
SENIOR BUILDING INSPECTOR/PLUMBING-MECHANICAL	40.04	42.17	44.30	46.40	48.71	659	Classified
SENIOR BUILDING INSPECTOR/ELECTRICAL	40.04	42.17	44.3	46.4	48.71	658	Classified
BUILDING INSPECTOR	34.57	36.19	38.04	39.97	42.59	656	Classified
SUPERVISING HOUSING INSPECTOR	47.97	50.37	52.89	55.53	58.31	748	Classified
SENIOR HOUSING INSPECTOR	36.15	37.96	39.86	41.84	43.95	657	Classified
HOUSING INSPECTOR	31.64	33.20	34.83	36.60	38.42	660	Classified
SUPERVISING PLAN CHECKER AND EXPEDITOR	40.93	42.98	45.13	47.39	49.76	798	Classified
PLAN CHECKING ENGINEER	46.81	49.08	51.55	54.23	57.00	610	Classified
SENIOR PLAN CHECKER	40.04	42.17	44.30	46.40	48.71	611	Classified
PLAN CHECKER	36.41	38.33	40.27	42.19	44.29	609	Classified
PLANNING DIVISION							
PLANNING MANAGER	56.50	59.32	62.29	65.40	68.67	797	Classified
PRINCIPAL PLANNER	50.82	53.36	56.03	58.83	61.77	720	Classified
SENIOR PLANNER	45.52	47.80	50.19	52.70	55.34	796	Classified
ASSOCIATE PLANNER	40.65	42.64	44.77	47.07	49.32	650	Classified
ASSISTANT PLANNER	33.36	34.99	36.87	38.67	40.65	624	Classified
JUNIOR PLANNER	29.57	31.14	32.60	34.23	35.90	622	Classified
GRAPHICS/PLANNING ILLUSTRATOR	28.12	29.48	31.04	32.59	34.17	627	Classified
DEVELOPMENT REVIEW ENGINEER	49.19	51.65	54.23	56.94	59.79	781	Classified
DEVELOPMENT REVIEW SPECIALIST	35.54	37.27	39.29	41.22	43.32	604	Classified
LANDSCAPE ARCHITECT	45.52	47.80	50.19	52.70	55.34	753	Classified
FINANCE DEPARTMENT							
ADMINISTRATION DIVISION							
DIRECTOR OF FINANCE	70.42	73.94	77.64	81.52	85.60	1118	Unclassified
BUDGET OFFICER	45.34	47.61	49.99	52.49	55.11	700	Classified
FINANCIAL ANALYST	41.22	43.28	45.44	47.71	50.10	712	Classified
AUDITOR	45.34	47.61	49.99	52.49	55.11	745	Classified
COLLECTIONS OFFICER	33.40	35.11	36.90	38.75	40.67	653	Classified
ACCOUNTING MANAGER	45.34	47.61	49.99	52.49	55.11	730	Classified
REVENUE MANAGER	45.34	47.61	49.99	52.49	55.11	729	Classified
FINANCE SUPERVISOR	41.2	43.26	45.42	47.69	50.07	734	Classified

**SALARY PLAN FOR ALL CLASSIFICATIONS
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FY 2012**

ATTACHMENT II
Recommended by
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on October 11, 2012
Approved by Council
on _____, 2012

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
SENIOR ACCOUNTANT	41.2	43.26	45.42	47.69	50.07	749	Classified
SENIOR ACCOUNTING TECHNICIAN	31.24	32.78	34.38	36.11	37.94	100	Classified
ACCOUNTING TECHNICIAN	28.39	29.82	31.28	32.83	34.49	140	Classified
FINANCE TECHNICIAN	31.21	32.77	34.41	36.13	37.94	115	Classified
SENIOR ACCOUNT CLERK	26.11	27.38	28.56	29.95	31.34	156	Classified
ACCOUNT CLERK	23.80	24.84	26.02	27.22	28.58	155	Classified
SENIOR CUSTOMER ACCOUNT CLERK	26.11	27.38	28.56	29.95	31.34	130	Classified
CUSTOMER ACCOUNT CLERK	23.80	24.84	26.02	27.22	28.58	125	Classified
PURCHASING DIVISION							
PURCHASING AND SERVICES MANAGER	47.23	49.59	52.07	54.67	57.40	739	Classified
PURCHASING TECHNICIAN	28.39	29.82	31.28	32.83	34.49	110	Classified
PURCHASING ASSISTANT	28.03	29.18	30.33	31.46	32.68	111	Classified
MAIL AND PURCHASING CLERK	21.55	22.63	23.69	24.92	26.15	112	Classified
FIRE DEPARTMENT							
SWORN							
FIRE CHIEF	73.92	77.62	81.50	85.58	89.86	1101	Unclassified
DEPUTY FIRE CHIEF (40 HR)	66.16	69.37	72.78	76.37	80.19	1006	Classified
FIRE MARSHAL (40 HR)	60.14	63.17	66.23	69.50	72.90	1003	Classified
FIRE TRAINING OFFICER (40 HR)	59.98	62.98	66.13	69.44	72.91	1007	Classified
BATTALION CHIEF (56 HR)	39.05	41.01	42.99	45.10	47.34	1004	Classified
BATTALION CHIEF (40 HR)	54.67	57.43	60.22	63.18	66.28	1005	Classified
STAFF FIRE CAPTAIN (40 HR)			54.76	57.40	60.26	244	Classified
FIRE CAPTAIN (56 HR)			35.57	37.26	39.13	245	Classified
FIRE CAPTAIN (40 HR)			49.79	52.16	54.77	246	Classified
FIRE PREVENTION INSPECTOR (40 HR)	42.24	44.26	46.48	48.70	51.14	230	Classified
FIRE PREVENTION INSPECTOR (56 HR)	30.15	31.61	33.20	34.78	36.53	231	Classified
APPARATUS OPERATOR (56 HR)	28.52	29.93	31.41	32.92	34.60	220	Classified
APPARATUS OPERATOR (40 HR)	39.93	41.90	44.35	46.10	48.40	221	Classified
FIREFIGHTER (56 HR)	26.91	28.22	29.65	31.08	32.62	215	Classified
FIREFIGHTER (40 HR)	37.69	39.50	41.51	43.46	45.66	216	Classified
FIREFIGHTER TRAINEE (40 HR)	34.26	35.91				973	Classified
PROFESSIONAL STAFF							
HAZARDOUS MATERIALS PROGRAM COORDINATOR	47.97	50.37	52.89	55.53	58.31	705	Classified
FIRE PROTECTION ENGINEER	46.81	49.08	51.55	54.23	57.00	640	Classified
EMERGENCY MEDICAL SERVICES COORDINATOR	43.05	45.20	47.46	49.83	52.32	710	Classified
HAZARDOUS MATERIALS INVESTIGATOR	39.45	41.42	43.49	45.67	47.93	676	Classified
ENVIRONMENTAL SPECIALIST	39.45	41.42	43.49	45.67	47.93	677	Classified
FIRE SERVICES SUPERVISOR	43.05	45.20	47.46	49.83	52.32	701	Classified
FIRE TECHNICIAN II	27.85	29.24	30.70	32.24	33.85	113	Classified
FIRE TECHNICIAN I	25.30	26.57	27.90	29.30	30.77	109	Classified
HUMAN RESOURCES DEPARTMENT							
DIRECTOR OF HUMAN RESOURCES	67.45	70.82	74.36	78.08	81.98	1119	Unclassified
HUMAN RESOURCES MANAGER	42.98	45.13	47.39	49.76	52.25	1156	Classified
EMPLOYEE BENEFITS ADMINISTRATOR	39.09	41.04	43.09	45.24	47.50	1142	Classified
SENIOR HUMAN RESOURCES ANALYST	39.09	41.04	43.09	45.24	47.50	1155	Classified
HUMAN RESOURCES ANALYST II	35.70	37.48	39.33	41.30	43.36	1177	Classified
HUMAN RESOURCES ANALYST I	29.60	31.08	32.63	34.26	35.97	1176	Classified
HUMAN RESOURCES ADMINISTRATIVE SECRETARY	30.88	32.42	34.04	35.74	37.53	1175	Classified
HUMAN RESOURCES TECHNICIAN	27.49	28.86	30.30	31.81	33.40	1174	Classified

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FY 2012**

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Recommended by
Personnel Commission
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Approved by Council
on _____, 2012

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
LIBRARY AND COMMUNITY SERVICES DEPARTMENT							
ADMINISTRATION DIVISION							
DIRECTOR OF LIBRARY AND COMMUNITY SERVICES	67.52	70.90	74.45	78.17	82.08	1120	Unclassified
COMMUNITY SERVICES							
SOCIAL SERVICES PLANNING MANAGER	50.82	53.36	56.03	58.83	61.77	785	Classified
COMMUNITY DEVELOPMENT SPECIALIST	40.53	42.57	44.65	46.92	49.21	647	Classified
COMMUNITY PROGRAMS SPECIALIST	37.35	39.29	41.29	43.32	45.44	670	Classified
COMMUNITY PROGRAMS AIDE	24.24	25.37	26.60	27.83	29.15	648	Classified
SENIOR PROPERTY REHABILITATION SPECIALIST	41.08	43.21	45.41	47.64	49.97	673	Classified
PROPERTY REHABILITATION SPECIALIST	37.35	39.29	41.29	43.32	45.44	665	Classified
PARATRANSIT COORDINATOR	35.60	37.39	39.19	41.18	43.20	664	Classified
EDUCATIONAL SERVICES COORDINATOR	27.76	29.15	30.61	32.14	33.75	644	Classified
LIBRARY SERVICES DIVISION							
LIBRARY OPERATIONS MANAGER	36.01	37.81	39.70	41.68	43.76	768	Classified
SUPERVISING LIBRARIAN I	36.01	37.81	39.70	41.68	43.76	736	Classified
LIBRARIAN II	30.65	32.18	33.75	35.46	37.13	626	Classified
LIBRARIAN I	27.79	29.19	30.64	32.10	33.75	625	Classified
LEAD LIBRARY ASSISTANT	25.17	26.45	27.71	29.07	30.59	191	Classified
SENIOR LIBRARY ASSISTANT	23.24	24.27	25.39	26.51	27.79	189	Classified
LIBRARY ASSISTANT	21.06	22.04	23.03	24.09	25.22	187	Classified
SENIOR LIBRARY PAGE					16.47	199	Classified
LIBRARY PAGE					15.03	198	Classified
LITERACY PROGRAM COORDINATOR	27.79	29.19	30.64	32.10	33.75	623	Classified
MAINTENANCE SERVICES DEPARTMENT							
ADMINISTRATION DIVISION							
DIRECTOR OF MAINTENANCE SERVICES	67.62	71.00	74.55	78.28	82.19	1113	Unclassified
FACILITIES MANAGEMENT							
FACILITIES AND BUILDING MANAGER	48.18	50.59	53.12	55.78	58.57	760	Classified
FACILITIES LEADWORKER	43.30	45.02	46.78	48.71	50.79	300	Classified
FACILITIES MAINTENANCE SUPERVISOR	35.68	37.46	39.33	41.30	43.37	792	Classified
FACILITIES PAINTER II	31.95	33.25	34.55	35.98	37.48	330	Classified
FACILITIES PAINTER I	29.07	30.24	31.47	32.79	34.08	324	Classified
FACILITIES CARPENTER II	31.82	33.08	34.47	35.89	37.39	327	Classified
FACILITIES CARPENTER I	28.94	30.14	31.38	32.65	34.01	326	Classified
AUDITORIUM LEADWORKER	26.24	27.22	28.30	29.44	30.64	304	Classified
STOREKEEPER - EXPEDITER	25.86	26.93	27.94	29.01	30.13	371	Classified
FACILITIES SERVICEWORKER II	23.51	24.45	25.45	26.34	27.39	320	Classified
FACILITIES SERVICEWORKER I	21.42	22.20	23.08	24.03	24.88	318	Classified
FLEET MANAGEMENT DIVISION							
EQUIPMENT MANAGER	48.18	50.59	53.12	55.78	58.57	738	Classified
FLEET MANAGEMENT SUPERVISOR	43.70	45.89	48.18	50.59	53.12	771	Classified
SENIOR EQUIPMENT MECHANIC	32.42	34.04	35.74	37.53	39.40	305	Classified
EQUIPMENT MECHANIC II	29.49	30.87	32.43	34.13	35.82	312	Classified
EQUIPMENT MECHANIC I	26.85	28.20	29.63	31.10	32.62	310	Classified
EQUIPMENT SERVICE ATTENDANT	22.86	23.76	24.75	25.58	26.57	308	Classified
EQUIPMENT PARTS STOREKEEPER	24.78	26.09	27.35	28.72	30.17	307	Classified
LANDSCAPE MAINTENANCE DIVISION							
LANDSCAPE MAINTENANCE MANAGER	48.18	50.59	53.12	55.78	58.57	752	Classified
LANDSCAPE MAINTENANCE SUPERVISOR	43.70	45.89	48.18	50.59	53.12	761	Classified
GROUNDSKEEPER III	32.41	33.72	35.08	36.56	37.99	343	Classified
TREE TRIMMER	29.16	30.32	31.55	32.67	33.95	340	Classified
GROUNDSKEEPER II	28.42	29.55	30.76	31.84	33.07	342	Classified

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	A	B	C	D	E		
GROUNDSKEEPER I	25.81	26.84	27.97	28.93	30.08	338	Classified
STREET MAINTENANCE DIVISION							
STREETS MAINTENANCE MANAGER	48.18	50.59	53.12	55.78	58.57	756	Classified
STREETS MAINTENANCE SUPERVISOR	43.70	45.89	48.18	50.59	53.12	764	Classified
SENIOR MAINTENANCE LEADER	33.03	34.35	35.73	37.25	38.71	367	Classified
MAINTENANCE LEADER	29.00	30.13	31.38	32.48	33.73	360	Classified
SENIOR SWEEPER EQUIPMENT OPERATOR	28.57	30.00	31.50	33.07	34.72	306	Classified
SWEEPER EQUIPMENT OPERATOR	27.09	28.00	29.12	30.36	31.56	362	Classified
MAYOR AND COUNCIL DEPARTMENT							
MAYOR				Annual Salary:	39,960.00	1300	Unclassified
CITY COUNCIL				Annual Salary:	24,975.00	1301	Unclassified
POLICE DEPARTMENT							
SWORN							
CHIEF OF POLICE	76.21	80.02	84.02	88.22	92.63	1102	Unclassified
POLICE CAPTAIN	65.79	69.08	73.23	76.89	80.73	802	Classified
POLICE LIEUTENANT				66.67	69.91	555	Classified
POLICE SERGEANT			55.06	57.72	60.67	545	Classified
INSPECTOR	47.29	49.65	52.08	54.55	57.22	520	Classified
POLICE OFFICER	41.95	43.96	46.10	48.33	50.62	515	Classified
POLICE OFFICER TRAINEE	29.95	31.44				174	Classified
PROFESSIONAL STAFF							
PERSONNEL AND TRAINING ADMINISTRATOR	54.90	57.65	60.53	63.56	66.74	751	Classified
CRIME ANALYST	42.64	44.77	47.01	49.36	51.83	731	Classified
POLICE PROGRAMS ANALYST	38.38	40.30	42.31	44.43	46.65	704	Classified
COMMUNITY SERVICE OFFICER	26.23	27.37	28.69	30.00	31.43	169	Classified
POLICE RECORDS CLERK II	24.92	25.91	26.95	28.14	29.52	120	Classified
POLICE RECORDS CLERK I	21.90	23.04	24.26	25.48	26.84	119	Classified
FIELD OPERATIONS DIVISION							
CRIME PREVENTION SUPERVISOR	30.19	31.49	32.98	34.50	36.14	190	Classified
SENIOR CRIME PREVENTION SPECIALIST	28.77	29.97	31.42	32.86	34.42	186	Classified
CRIME PREVENTION SPECIALIST	26.16	27.27	28.55	29.89	31.29	188	Classified
TRAFFIC SAFETY ASSISTANT					12.43	901	Classified
SPECIAL OPERATIONS DIVISION							
YOUTH AND FAMILY SERVICES ADMINISTRATOR	54.90	57.65	60.53	63.56	66.74	790	Classified
COUNSELING SUPERVISOR	43.05	45.20	47.46	49.83	52.32	737	Classified
FAMILY COUNSELOR I	34.80	36.52	38.36	40.12	42.21	632	Classified
PROPERTY/EVIDENCE ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	725	Classified
PROPERTY AND EVIDENCE SUPERVISOR	38.71	40.65	42.68	44.81	47.05	776	Classified
POLICE ID SPECIALIST	30.68	32.21	33.83	35.53	37.21	652	Classified
CRIME SCENE TECHNICIAN	27.37	28.59	29.91	31.26	32.76	175	Classified
PROPERTY TECHNICIAN	26.23	27.37	28.69	30.00	31.43	170	Classified
SUPPORT SERVICES DIVISION							
OPERATIONS SUPPORT SERVICES MANAGER	65.79	69.08	73.23	76.89	80.73	1104	Classified
PUBLIC SAFETY INFORMATION SYSTEMS ADMINISTRATOR	40.08	42.08	44.18	46.39	48.71	708	Classified
ANIMAL SERVICES ADMINISTRATOR	41.44	43.51	45.69	47.97	50.37	714	Classified
ANIMAL SERVICES SUPERVISOR	28.85	30.14	31.54	32.99	34.56	144	Classified
VETERINARY TECHNICIAN	29.79	31.27	32.83	34.49	36.20	103	Classified

**SALARY PLAN FOR ALL CLASSIFICATIONS
(PER MUNI CODE SEC.2-4.30)
FY 2012**

ATTACHMENT II
Recommended by
Personnel Commission
on October 11, 2012
Approved by Council
on _____, 2012

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
ANIMAL SHELTER SUPERVISOR	23.83	24.88	25.84	26.95	28.31	145	Classified
SENIOR ANIMAL CONTROL OFFICER	27.48	28.69	30.05	31.42	32.91	184	Classified
ANIMAL CONTROL OFFICER	24.81	26.09	27.28	28.56	29.90	185	Classified
SENIOR ANIMAL CARE ATTENDANT	22.67	23.69	24.61	25.68	26.96	183	Classified
ANIMAL CARE ATTENDANT	20.65	21.52	22.38	23.36	24.51	181	Classified
COMMUNICATIONS ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	775	Classified
COMMUNICATIONS SUPERVISOR	35.33	37.11	38.96	40.89	42.96	141	Classified
SENIOR COMMUNICATIONS OPERATOR	33.64	35.34	37.12	38.95	40.91	164	Classified
COMMUNICATIONS OPERATOR	30.65	32.21	33.80	35.51	37.30	165	Classified
RECORDS ADMINISTRATOR	40.46	42.48	44.60	46.83	49.17	707	Classified
RECORDS SUPERVISOR	28.36	29.64	31.15	32.54	34.08	143	Classified
SENIOR POLICE RECORDS CLERK	26.99	28.23	29.66	30.97	32.48	121	Classified
JAIL ADMINISTRATOR	40.46	42.48	44.60	46.83	49.17	706	Classified
JAIL SUPERVISOR	31.53	32.85	34.44	36.05	37.78	142	Classified
SENIOR JAILER	30.01	31.29	32.81	34.32	35.97	168	Classified
PUBLIC WORKS DEPARTMENT							
ADMINISTRATION DIVISION							
DIRECTOR OF PUBLIC WORKS	74.50	78.23	82.14	86.25	90.56	1111	Unclassified
DEPUTY DIRECTOR OF PUBLIC WORKS	64.13	67.34	70.71	74.25	77.96	1112	Classified
SENIOR UTILITY SERVICE REPRESENTATIVE	32.19	33.79	35.40	37.21	39.03	373	Classified
STOREKEEPER - EXPEDITER	25.86	26.93	27.94	29.01	30.13	371	Classified
AIRPORT DIVISION SUMMARY							
AIRPORT MANAGER	56.50	59.32	62.29	65.40	68.67	713	Classified
AIRPORT OPERATIONS MANAGER	45.23	47.49	49.86	52.35	54.97	732	Classified
SENIOR AIRPORT MAINTENANCE WORKER	30.35	31.47	32.72	34.06	35.43	302	Classified
NOISE ABATEMENT ANALYST	27.79	29.19	30.64	32.10	33.75	643	Classified
AIRPORT MAINTENANCEWORKER	27.57	28.58	29.70	30.94	32.21	303	Classified
AIRPORT ATTENDANT	20.64	21.55	22.34	23.32	24.48	301	Classified
ENGINEERING/TRANSPORTATION DIVISION							
ASSISTANT CITY ENGINEER	56.56	59.39	62.36	65.48	68.75	721	Classified
DESIGN AND CONSTRUCTION SERVICES MANAGER	53.97	56.67	59.50	62.48	65.50	787	Classified
SENIOR CIVIL ENGINEER	49.19	51.65	54.23	56.94	59.79	788	Classified
ASSOCIATE CIVIL ENGINEER	43.75	45.95	48.18	50.63	53.10	606	Classified
ASSISTANT CIVIL ENGINEER	37.69	39.63	41.66	43.68	45.85	602	Classified
JUNIOR CIVIL ENGINEER	32.78	34.39	36.05	37.82	39.75	601	Classified
REAL PROPERTY MANAGER	41.46	43.53	45.71	48.00	50.40	763	Classified
REAL PROPERTY ASSOCIATE	36.80	38.72	40.67	42.64	44.75	667	Classified
REAL PROPERTY ASSISTANT	31.36	32.92	34.50	36.22	38.05	666	Classified
ENGINEERING TECHNICIAN	29.91	31.35	32.94	34.59	36.24	668	Classified
SENIOR UTILITIES ENGINEER	49.19	51.65	54.23	56.94	59.79	765	Classified
SURVEY ENGINEER	45.52	47.80	50.19	52.70	55.34	778	Classified
SURVEYOR	35.58	37.34	39.20	41.14	43.21	612	Classified
TRANSPORTATION MANAGER	54.11	56.82	59.66	62.64	65.77	757	Classified
SENIOR TRANSPORTATION ENGINEER	49.19	51.65	54.23	56.94	59.79	733	Classified
ASSOCIATE TRANSPORTATION ENGINEER	43.75	45.95	48.18	50.63	53.10	608	Classified
ASSISTANT TRANSPORTATION ENGINEER	37.69	39.63	41.66	43.68	45.85	615	Classified
JUNIOR TRANSPORTATION ENGINEER	32.78	34.39	36.05	37.82	39.75	616	Classified
TRAFFIC SIGNAL TECHNICIAN	29.91	31.35	32.94	34.59	36.24	675	Classified
SENIOR TRANSPORTATION PLANNER	45.52	47.80	50.19	52.70	55.34	770	Classified

**SALARY PLAN FOR ALL CLASSIFICATIONS
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FY 2012**

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on _____, 2012

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	A	B	C	D	E		
ASSOCIATE TRANSPORTATION PLANNER	40.65	42.64	44.77	47.07	49.32	671	Classified
SUPERVISING CONSTRUCTION INSPECTOR	47.97	50.37	52.89	55.53	58.31	780	Classified
SENIOR CONSTRUCTION INSPECTOR	40.04	42.17	44.30	46.40	48.71	642	Classified
CONSTRUCTION INSPECTOR	33.55	35.27	36.92	38.79	40.76	661	Classified
RECYCLING-SOLID WASTE							
SOLID WASTE MANAGER	42.64	44.77	47.01	49.36	51.83	727	Classified
RECYCLING SPECIALIST	31.64	33.20	34.83	36.60	38.42	636	Classified
WATER POLLUTION CONTROL FACILITY (WPCF)							
WATER POLLUTION CONTROL FACILITY MANAGER	54.76	57.50	60.37	63.39	66.56	759	Classified
WPCF OPERATIONS AND MAINTENANCE MANAGER	49.44	51.91	54.51	57.24	60.10	717	Classified
WPCF MAINTENANCE SUPERVISOR	44.59	46.82	49.16	51.62	54.20	719	Classified
WPCF OPERATIONS SUPERVISOR	44.59	46.82	49.16	51.62	54.20	718	Classified
WPCF LEAD OPERATOR	34.66	36.04	37.46	38.94	40.51	351	Classified
WPCF OPERATOR	31.51	32.77	34.08	35.41	36.84	350	Classified
OPERATOR-IN-TRAINING	28.84	29.99	31.24	32.30	33.56	347	Classified
LAB SUPERVISOR	44.59	46.82	49.16	51.62	54.20	702	Classified
LABORATORY TECHNICIAN	32.49	33.71	35.01	36.45	37.81	637	Classified
WATER POLLUTION SOURCE CONTROL							
ENVIRONMENTAL SERVICES MANAGER	51.28	53.84	56.53	59.36	62.33	738	Classified
WATER POLLUTION CONTROL ADMINISTRATOR	44.59	46.82	49.16	51.62	54.20	769	Classified
SENIOR WATER POLLUTION SOURCE CONTROL INSPECTOR	37.15	39.08	41.04	42.98	45.17	680	Classified
WATER POLLUTION SOURCE CONTROL INSPECTOR	33.76	35.52	37.14	39.05	40.99	679	Classified
TECHNICAL INTERN					15.00	908	Classified
WATER DISTRIBUTION							
UTILITIES SUPERINTENDENT	60.24	63.25	66.41	69.73	73.22	735	Classified
UTILITIES OPERATIONS AND MAINTENANCE MANAGER	49.44	51.91	54.51	57.24	60.10	716	Classified
UTILITIES OPERATIONS AND MAINTENANCE SUPERVISOR	46.82	49.16	51.62	54.20	56.91	773	Classified
UTILITIES FIELD SERVICES SUPERVISOR	46.82	49.16	51.62	54.20	56.91	784	Classified
WATER INSTALLATION AND MAINTENANCE SUPERVISOR	38.78	40.72	42.76	44.90	47.14	793	Classified
SENIOR UTILITY CUSTOMER SERVICE LEADER	33.63	34.98	36.37	37.91	39.42	378	Classified
CROSS CONNECTION CONTROL SPECIALIST	29.47	30.49	31.69	33.00	34.31	376	Classified
WATER METER MECHANIC	28.64	29.74	30.97	32.24	33.53	375	Classified
WATER METER READER	25.60	26.61	27.70	28.71	29.85	369	Classified
BACKFLOW/CROSS CONNECTION TESTER	24.77	25.95	27.16	28.48	29.85	370	Classified
UTILITIES MAINTENANCE SUPERVISOR	44.59	46.82	49.16	51.62	54.20	766	Classified
UTILITIES SERVICE WORKER	28.24	29.36	30.57	31.64	32.87	368	Classified
GENERAL MAINTENANCE							
EQUIPMENT OPERATOR	28.39	29.43	30.60	31.84	33.13	361	Classified
MAINTENANCE WORKER	26.33	27.39	28.53	29.50	30.68	357	Classified
LABORER	22.72	23.56	24.50	25.50	26.42	336	Classified
SENIOR UTILITY LEADER	35.35	36.77	38.23	39.88	41.46	377	Classified
UTILITY LEADER	31.06	32.30	33.64	34.82	36.16	374	Classified
UTILITY WORKER	28.24	29.36	30.57	31.64	32.87	372	Classified
UTILITIES MAINTENANCE MECHANIC	32.39	33.64	34.96	36.37	37.84	325	Classified
TECHNOLOGY SERVICES DEPARTMENT							
DIRECTOR OF INFORMATION TECHNOLOGY/CHIEF INFORMATION OFFICER (CIO)	67.71	71.10	74.65	78.38	82.30	1105	Unclassified
INFORMATION SYSTEMS MANAGER	50.57	53.10	55.76	58.55	61.48	772	Classified
DATA AND SYSTEMS COORDINATOR	45.50	47.78	50.17	52.68	55.31	728	Classified

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FY 2012**

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Recommended by
Personnel Commission
on October 11, 2012
Approved by Council
on _____, 2012

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
NETWORK SYSTEMS SPECIALIST	40.90	42.95	45.10	47.35	49.72	755	Classified
GEOGRAPHIC INFO SYSTEMS COORDINATOR	39.30	41.26	43.22	45.40	48.41	635	Classified
PROGRAMMER ANALYST	38.58	40.47	42.57	44.67	46.87	628	Classified
WEB SPECIALIST	38.02	39.94	41.92	44.01	46.21	634	Classified
INFORMATION TECHNOLOGY ANALYST II	38.56	40.49	42.51	44.64	46.87	655	Classified
INFORMATION TECHNOLOGY ANALYST I	35.06	36.81	38.65	40.58	42.61	646	Classified
TECHNOLOGY SOLUTIONS ANALYST II	38.56	40.49	42.51	44.64	46.87	684	Classified
TECHNOLOGY SOLUTIONS ANALYST I	35.06	36.81	38.65	40.58	42.61	683	Classified
NETWORK/MICROCOMPUTER SPECIALIST	35.02	36.77	38.60	40.52	42.58	630	Classified
INFORMATION SYSTEMS SUPPORT TECHNICIAN	28.68	30.11	31.65	33.22	34.83	633	Classified
COMPUTER OPERATOR ANALYST	32.42	34.03	35.69	37.50	39.37	629	Classified
COMPUTER OPERATOR	27.33	28.66	30.13	31.63	33.14	631	Classified
DATA SYSTEMS OPERATOR	24.65	25.78	27.05	28.33	29.67	160	Classified
AUDIO VIDEO SPECIALIST	27.33	28.66	30.13	31.63	33.14	641	Classified
VIDEO ASSISTANT					15.00	645	Classified

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Authorization to Negotiate and Execute the Documents Necessary to Accept Prepayment of Principal and to Forgive Interest on CDBG Loan for Park Manor Apartments

RECOMMENDATION

That the City Council adopts the attached resolution authorizing the City Manager to negotiate and execute the documents necessary to accept prepayment of principal and to forgive accrued interest in connection with a CDBG loan provided to Park Manor Associates.

BACKGROUND

Park Manor Apartments (the “Property”) is an 81-unit affordable apartment complex for low-income families located at 24200 Silva Avenue. In 2004, the owner, Park Manor Associates, LP (“PMA”), received a \$105,000 Community Development Block Grant (CDBG) loan from the City to install new energy-efficient windows at the Property (the “City Loan”). Under the terms of the City Loan, interest accrues at the rate of 5%. The loan agreement also requires PMA to make loan payments out of the project’s residual receipts¹ from previous years, if available. The loan repayment (principal and interest) is due on December 31, 2020.

In 2001, when the Property was converted into an affordable housing development, PMA utilized 4% low-income housing tax credits and tax-exempt bonds (not issued by the City) to finance the acquisition and rehabilitation of the Property.

Earlier this year, PMA refinanced the first-mortgage loan in order to benefit from lower interest rates and paid off the tax-exempt bonds with the proceeds from the refinance. In association with the refinancing, PMA requested that the City re-subordinate the deed of trust that secures the City Loan. Since the loan agreement allowed the administrative approval of the City under certain conditions, staff evaluated PMA’s request with the assistance of the City’s outside legal counsel on affordable housing and determined that the subordination was acceptable under the conditions set

¹ Residual Receipts is the cash remaining after the payment of all obligations of the project including annual operating expenses, amortization or payment of approved loans, payment of fees or loans to partners, and scheduled deposits to reserves.

forth in the City Loan agreement. Therefore, the subordination was processed and approved administratively.

The first mortgage loan refinance was expected to allow the Property to realize some savings, which will increase its cash flow and the funding available for improvements and repairs. Most of the Property and its major systems are reaching the end of their useful life and/or have started to show deterioration. Since the property has been experiencing negative cash flows (operating expenses have exceeded revenues) during the last few years, PMA has not been able to address those repairs or to amortize the City Loan.

It is important to note that neither the refinance of the first mortgage loan nor the redemption of the bonds affected the Property's affordability covenants as the tax credit regulatory agreement requires the Property to be affordable until 2031.

DISCUSSION

Along with the re-subordination request, PMA also asked the City to consider accepting prepayment of the City Loan on the condition that the City forgive the interest accrued to date. The combined savings from the refinance and the City Loan-interest forgiveness will, according to PMA, be invested in the Property to perform repairs and upgrades identified in the Physical Needs Assessment (the "Needs Assessment") prepared per Fannie Mae's request.² The loan principal repayment will come from the proceeds of the refinance.

The Needs Assessment recommends that PMA perform certain repairs in order to address deficiencies that represent existing or potentially unsafe (health and safety) conditions and/or other serious conditions that require immediate action because, if left "as is," these items would result in or contribute to critical element or system failure within 24 months. The following are the deferred maintenance items and physical deficiencies that require immediate repairs, according to the Needs Assessment:

1. Deteriorated and cracking areas of concrete pavement throughout the parking lots
2. Rotten wood trim at the back patio doorway of an apartment
3. A broken window in one of the units
4. Damage near the base of several downspouts
5. Cracked and heaved areas of concrete of patios in some units

The owner has had the smaller items (2-5) addressed by the Property's maintenance technicians as part of a routine maintenance schedule and has obtained bids for the repair of the concrete pavement (item 1). In addition to repairing the parking lot pavement, the developer will install a new drip irrigation system and landscaping in the Property's planter areas. The owner will also refurbish and

² Fannie Mae is the new first mortgage lender.

update the community room. This will include replacing eight (8) computers and computer stations and adding a network printer for the residents' use. The cost of these repairs and improvements are estimated to cost approximately \$75,000. These costs are more than the amount of interest accrued to this date that the City would forgive.³

As mentioned above, the Property's most recent financial statements indicated that the Property has been operating at a deficit, which also indicates that the Project revenues may not support future repairs. In consideration of this and staff and legal counsel's evaluation of the proposal, staff is recommending that Council authorize acceptance of the City Loan repayment and to have the accrued interest forgiven (approximately \$47,500). This will allow PMA to fund replacement reserves to the level recommended in the Needs Assessment and to utilize the savings to address the repairs identified in the Needs Assessment. This will also advance one of the City's Housing Element goals: to conserve and improve the existing housing stock. Housing Element policy No. 1.4 establishes that the City will work with property owners and nonprofit housing providers to acquire and/or preserve existing housing for low and moderate-income households. Additionally, this will allow the City to use the repayment funds for other CDBG-eligible activities immediately.

If approved by Council, staff will implement its recommendation conditioned on PMA meeting the following conditions prior to the execution of any documents:

- a) That PMA and the City execute a Memorandum of Understanding reciting the terms of the prepayment, including detailing the conditions precedent to the forgiveness of the accrued interest;
- b) That PMA provides appropriate evidence of completion of all of the repairs and improvements identified in the Needs Assessment and installation of a new drip irrigation system and landscaping in the Property's planter areas;
- c) That PMA comply with local, State, and federal requirements the forgiveness of interest may trigger, including but not limited to the payment of federal Davis-Bacon wages, and provide the City with evidence, reasonably satisfactory to the City, that PMA has complied with all applicable requirements;
- d) That PMA enter into a new regulatory agreement with the City (the Regulatory Agreement). This Regulatory Agreement will be recorded against the Property to maintain the CDBG affordability restrictions until the expiration of the original City Loan term (December 31, 2020) as consideration for the City's reconveyance of the deed of trust securing the City Loan and the cancellation of the promissory note for the City Loan; and,

³ The current loan agreement does not specify whether the interest rate is simple or compound. However, the City and all public lenders usually provide these loans at a simple interest rate. At a 5% simple interest rate, the accrued interest forgiven would be approximately \$47,500.

- e) That PMA provide the City annual audited financial statements showing funding replacement reserves⁴ at least at the \$440 per unit per year level recommended by the Needs Assessment for the term of the Regulatory Agreement.

ECONOMIC IMPACT

The acceptance of the City Loan repayment and the forgiveness of accrued interest will allow PMA to address current physical deficiencies and will free up operating revenues to fund the replacement reserves at a level appropriate to address replacement of systems as they reach the end of their useful life. This will benefit current and future residents of the Property and of surrounding properties.

By processing the City Loan re-subordination, accepting the Loan repayment, and forgiving accrued interest, the City is helping the developer preserve existing housing for low-income households, which is one of the City's Housing Element policies. An additional benefit of these actions is that the City could immediately use the Loan funds for other CDBG activity or activities to benefit low-income residents.

FISCAL IMPACT

The City Loan prepayment and the forgiveness of interest will not have any impact to the City's General Fund. Although the City will forgo approximately \$47,000 in interest, the Loan principal (\$105,000) will be immediately available for other CDBG activities and repayment is guaranteed. Earlier this year, when the City re-subordinated the City Loan, PMA reimbursed the City for some of the staff time and all the legal costs associated with processing the subordination. PMA will also pay for the staff and legal costs associated with processing staff's recommendation in this report.

NEXT STEPS

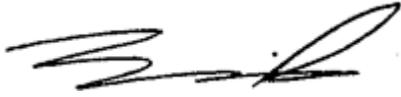
If Council approves staff's recommendation, staff will require PMA to provide evidence of completion of all the repairs and improvements mentioned earlier in this report. Upon fulfillment of this requirement, staff will negotiate and prepare the Regulatory Agreement and the documentation necessary for acceptance of the City Loan prepayment and associated interest forgiveness for execution by the City Manager.

⁴ Funding from cash flow set aside to fund the replacement of long-lived capital items such as heating or roofing systems

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachment I Resolution Authorizing Prepayment and Forgiveness of Interest in
Connection with CDBG Loan

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

INTRODUCED BY COUNCIL MEMBER _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD APPROVING THE PREPAYMENT OF SPECIFIED CITY FINANCING AND FORGIVENESS OF ACCRUED INTEREST ASSOCIATED THEREWITH AND AUTHORIZING THE NEGOTIATION AND EXECUTION OF IMPLEMENTING DOCUMENTS

WHEREAS, Park Manor Associates, LP (the “Owner”) owns and operates Park Manor Apartments, a 81-unit multifamily affordable housing development located at 24200 Silva Avenue, Hayward, California (the “Property”); and

WHEREAS, the City of Hayward (the “City”) made a loan to the Owner of One Hundred Five Thousand Dollars (\$105,000) (the “City Loan”), consisting of Community Development Block Grant (“CDBG”) funds, to install new energy-efficient windows at the Property (the “City Loan”); and

WHEREAS, earlier this year, the Owner refinanced the first-mortgage loan on the Property in an effort to make funding available for improvements and repairs to the Property; and

WHEREAS, the Owner has requested that the City accept prepayment of the City Loan on the condition that the City forgive the interest accrued to date, estimated to be approximately Forty-Seven Thousand Five Hundred Dollars (\$47,500); and

WHEREAS, the Owner has pledged to utilize the cost savings from the refinancing and the savings on interest payments to capitalize a replacement reserve at the levels recommended in a Physical Needs Assessment. The Physical Needs Assessment was prepared in connection with the refinancing and identifies deficiencies that represent existing or potentially unsafe (health and safety) conditions and/or other serious conditions that require immediate action, which if left “as is” would result in or contribute to critical element or system failure within 24 months or a significant escalation in the repair costs; and

WHEREAS, the acceptance of the City Loan repayment and the forgiveness of accrued interest will allow the Owner to address current physical deficiencies at the Property and will free up operating revenues to fund the replacement reserves at a level appropriate to address replacement of systems as they reach the end of their useful life. The repairs funded with the replacement reserve will benefit current and future residents of the Property; and

WHEREAS, allowing the prepayment and forgiving the accrued interest would: (1) satisfy the City's Housing Element goals to conserve and improve the existing housing stock; and (2) meet Housing Element policy No. 1.4 which establishes the City's desire to work with property owners and nonprofit housing providers to acquire and/or preserve existing housing for low and moderate-income households; and

WHEREAS, allowing the prepayment and forgiving the accrued interest would enable the City to reinvest the funds of the City Loan to expand, maintain or preserve the supply of affordable housing in the City; and

WHEREAS, in connection with the City Council's consideration of this resolution, staff has provided to the Council a detailed staff report and attached materials, evidencing the requirements that the Owner will need to satisfy as conditions precedent to the City's acceptance of the early prepayment of the City Loan and the forgiveness of the accrued interest;

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

Section 1. The City finds and determines that the foregoing recitals are true and correct, and, together with information provided by staff and the public, form the basis for the approvals, findings, and determinations set forth below.

Section 2. The City hereby finds and determines that allowing the prepayment and forgiving the accrued interest is beneficial to the current and future residents of the Property and would allow the City to reinvest the funds of the City Loan to expand, maintain or preserve the supply of affordable housing in the City.

Section 3. The City hereby authorizes the prepayment of the City Loan and the forgiveness of the accrued interest, conditioned on the Owner's ability to meet the requirements set forth in the staff report.

Section 4. The City hereby authorizes the City Manager, or the City Manager's designee, to negotiate and execute any and all necessary agreements, certificates, or documents necessary to perform or complete any of the activities contemplated in this resolution and approved by the City Attorney.

Section 5. This Resolution shall take effect from and after its adoption.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

DATE: October 23, 2012
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Revisions to the Council Member Handbook

RECOMMENDATION

That Council adopts the attached resolution accepting the additions and revisions to the Council Member Handbook

BACKGROUND

The Council Member Handbook provides general information and Council procedures for the facilitation of its proceedings. The proposed revisions pertain to four sections of the Handbook: Mayor Pro Tempore; Meetings; Agenda; and Boards, Commissions, Committees, and Task Forces. As proposed, the Mayor Pro Tempore section clarifies existing language. The Meetings and Agenda sections contain updates to reflect current practice. Finally, staff recommends replacing the Boards, Commissions, Committees, and Task Forces section with a web link to the Council's Appointed Officials Handbook, which was approved by Council at its September 11, 2012, Council meeting.

The Handbook has been attached as Attachment II. Additional language to the Handbook is shown in *bold* and *italics*, and language proposed to be eliminated is shown by ~~strikethrough~~.

NEXT STEPS

A final copy of the Handbook will be provided upon adoption of the proposed resolution.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Accepting Revisions to the Handbook
Attachment II	Draft Copy of Handbook

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE ADDITIONS AND REVISIONS TO THE COUNCIL MEMBER HANDBOOK

BE IT RESOLVED, that the City Council of the City of Hayward hereby accepts the additions and revisions to the Council Member Handbook.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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



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CITY COUNCIL

THE COUNCIL

The elective officers of the City of Hayward shall consist of a Council of seven members, to be composed of six Council Members and a Mayor, all to be elected by the qualified voters of the City at large. ([Sec. 500, City Charter](#))

VACANCY

An elective office becomes vacant when the incumbent dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of her/his official duties, or ceases to be a resident of the City, or neglects to qualify within ten days following election or appointment, or shall have been absent from the State without leave for more than sixty consecutive days, or fails to attend the meetings of the body of which she/he is a member for a like period without being excused by said body.

A vacancy in an elective office shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next General Municipal Election and until their successor is elected and qualified. At the next General Municipal Election following any such appointment, the person so elected shall serve for the remainder of any unexpired term.

No appointment to fill a vacancy in an elective office shall be made during such time prior to a General Municipal Election that nomination papers may be filed for candidates seeking office at said election.

In the event that Council shall fail to fill a vacancy by appointment within thirty days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy. ([Sec. 501, City Charter](#))

ELECTIVE OFFICERS

Except as otherwise provided in Section 501 of the Charter, Elective Officers shall hold office for a term of four years from and after the first Tuesday following their election, and shall continue in office until their respective successors qualify.

When the General Municipal Election for the election of officers is consolidated with a California Primary Election held earlier in the calendar year than the last election for the seat occupied by an incumbent, the incumbent's term of office shall be shortened to the first Tuesday following the Consolidated Election or until his or her successor qualifies. When the General Municipal Election for the election of officers is consolidated with a California State Primary held later in the calendar year than the last election for the seat occupied by an incumbent, the incumbent's term in office shall be lengthened to the first Tuesday following the Consolidated Election or until his or successor qualifies. ([Sec. 2-1.15, Hayward Municipal Code](#))

Ties among candidates for any office shall be settled by the drawing of lots. ([Sec. 600, City Charter](#))

ELIGIBILITY

No person shall be eligible to be nominated for or hold office as a member of the Council unless she/he is a resident and qualified elector of the City or of territory annexed thereto. ([Sec. 601, City Charter](#))

COUNCIL MEMBER TO HOLD NO OTHER OFFICE

No member of the Council shall hold any other city office or city employment, the compensation of which is paid out of municipal funds, nor be elected or appointed to any office created or the compensation of which is increased by the Council, while she/he is a member thereof, until one year after the expiration of the term for which he/she was elected. ([Sec. 602, City Charter](#))

TRAINING REQUIREMENTS

AB 1234, now [California Government Code Section 53234](#), was signed into law on October 7, 2005. This law requires, among other things, that all local agencies that provide compensation, salary, or a stipend to, or reimburses the expenses, of members of a legislative body must provide Ethics Training to local agency officials by January 1, 2007, and every two years thereafter.

AB 1825, now [California Government Code Section 12950.1](#), requires immediate and continual Sexual Harassment Training for supervisors. This law increases the training obligations of all employers, that have employees within the State of California, and extends their obligations beyond the training requirements discussed by the U.S. Supreme Court, the Equal Employment Opportunity Commission ("EEOC"), and other federal and state courts and legislative bodies. While AB 1825 does not specifically define "supervisor," the definition contained in the California Fair Employment and Housing Act ("FEHA") will presumably apply. Under the FEHA, a supervisor is any individual having the authority "to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action...if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Training is mandatory for all employees who become supervisors after January 1, 2006 within six months of assumption of a supervisory position and a once every two years thereafter.

Members of boards, commissions, task forces and committees established by Council are also required to obtain the above described training.

On October 12, 2010, the City Council adopted [Resolution 10-159](#), which updated the City's Harassment Policy by extending the policy against harassment and retaliation to City Council and all appointees.

COMPENSATION FOR MEMBERS OF THE CITY COUNCIL

Any compensation to be paid members of the Council shall be established by ordinance, and shall apply to all incumbent members of the Council. The Council may likewise change such compensation, however such change shall not be effective until one or more members of Council becomes eligible for such change in compensation by virtue of beginning a new term of office. ([Sec. 603, City Charter, Ordinance 01-12](#))

Hayward Municipal Code, Section 2-1.10 – Compensation for Members of the City Council- reads as follows:

- (a) Each Council Member shall receive compensation for services rendered in an official capacity, an annual salary in the sum of Twenty Five Thousand Dollars (\$25,000).
- (b) The Council of the City of Hayward does ordain as follows: The Mayor shall receive as compensation for services rendered in an official capacity, an annual salary in the sum of Forty Thousand Dollars (\$40,000).
- (c) From and after the fiscal year beginning July 1, 2003 and for each fiscal year thereafter, the compensation for the Mayor and each Council Member shall be increased by an amount equivalent to the percent increase in the “Consumer Price Index San Francisco-Oakland Metropolitan Area – All Items,” published by the Bureau of Labor Statistics, United States Department of Labor, for the twelve month period ending June of each fiscal year. However, in no event shall any such increase be greater than 5%.
- (d) In addition, the Mayor and members of Council shall receive reimbursement for Council authorized travel and expenses while on official City duty.
- (e) Each Council Member and the Mayor shall also receive deferred compensation benefits under the City of Hayward’s Deferred Compensation Plan for employees. The rate of compensation received under this plan by the Mayor and each Council Member shall be the same as that received by Unrepresented Management employees, as amended from time to time.”

([Section 2-1.10, Hayward Municipal Code](#))

BENEFITS

In accordance with the Public Employees’ Medical and Hospital Care Act, medical coverage and a dental plan are provided to members of the City Council. ([Resolution 86-310](#) and [97-107](#))

HARASSMENT AND RETALIATION POLICY

On October 12, 2010, the City Council adopted [Resolution 10-159](#), which updated the City’s Harassment Policy, by extending the policy against harassment and retaliation to City Council and all Appointees.

MAYOR

POWERS AND DUTIES

The Mayor shall be the Mayor at all meetings of the Council. In the absence of the Mayor, the Mayor Pro Tempore shall preside. In the absence of the Mayor and the Mayor Pro Tempore, the Council shall elect a temporary presiding officer to serve until the arrival of the Mayor or Mayor Pro Tempore or until adjournment.

The elected Mayor shall be recognized as the official head of the City for all ceremonial purposes, and by the Courts for the purpose of serving civil processes. The Mayor shall be the presiding officer of the Council, and shall preside at the meetings of the Council for the purpose of determining the presence of a quorum. He/she shall be entitled to a vote on all matters coming before the Council, but shall possess no veto power. He/she may use the title of Mayor in all cases, but the same shall not be construed as conferring upon him/her administrative or judicial functions or other powers or functions of a Mayor under the general laws of the State. ([Sec. 604, City Charter](#))

SIGNING OF DOCUMENTS

The Mayor, or Mayor Pro Tempore in the absence of the Mayor, shall sign ordinances adopted by the City Council.

MAYOR PRO TEMPORE

In even number years, the Council shall elect the Mayor Pro Tempore following the installation of those newly elected Council Members. *In odd years, the Council shall elect the Mayor Pro Tempore at the end of June.*

The Mayor Pro Tempore shall serve at the pleasure of the Council for the term of one year, and shall be elected and removed by the affirmative votes of at least five (5) members of Council.

~~In odd years, the~~ *The Council shall elect a* Council Member with the most seniority as a Council Member *and* who has not previously served as Mayor Pro Tempore ~~shall be elected~~. In the event two Council Members begin service in the same year, the Council Member with the highest number of votes will serve as Mayor Pro Tempore. (See [City Council Minutes, 4/28/92](#))

Prior to being elected as Mayor Pro Tempore, a Council Member shall have served at least two years on the Council. The term of the Mayor Pro Tempore shall be based on the fiscal year of July 1 to June 30. ([Resolution 98-120](#) and [Council Minutes, 6/26/2001](#))

The Mayor Pro Tempore shall perform the duties of the Mayor during her/his absence or disability. ([Sec. 605, City Charter](#))

PARTICIPATION OF PRESIDING OFFICER

The Presiding Officer may move, second, and debate from the Chair, subject only to such limitations of debate as are imposed on all Council Members, and he/she shall not be deprived of any of the rights and privileges of a Council Member by reason of his/her acting as Presiding Officer. However, the Presiding Officer is primarily responsible for the conduct of the meeting. If he/she desires to personally engage in extended debate on questions before the Council, he/she should consider turning the Chair over to another member.

QUESTION TO BE STATED

The Presiding Officer shall orally restate each question immediately prior to calling for the vote. Following the vote, the Mayor or City Clerk shall announce whether the question carried or was defeated for the benefit of the cable television audience.

MAINTENANCE OF ORDER

The Mayor or Presiding Officer is responsible for the maintenance of order and decorum at all times. No Council person, staff or member of the audience is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

POWERS OF COUNCIL

All powers of the City shall be vested in the Council, subject to the provisions of this Charter and to the Constitution of the State of California. The Council may establish the method by which any of such powers may be exercised. ([Sec. 606, City Charter](#))

MEETINGS OF COUNCIL

The Council shall, by ordinance or resolution, provide for the time and place of holding its meetings and the manner in which its special meetings may be called. All meetings of the Council, whether regular or special, shall be open to the public. ([Sec. 607, City Charter](#))

CITIZEN PARTICIPATION

No citizen shall be denied the right personally, or through counsel, to present grievances or offer suggestions for the betterment of municipal affairs at any regular meeting of the Council, nor to speak on the subject of any special meetings. ([Sec. 609, City Charter](#))

ADMINISTERING OATHS - SUBPOENAS

Each member of the Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Council. The Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the

production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State. ([Sec. 610, City Charter](#))

RULES OF PROCEEDING

The Council shall determine its own rules of procedure, and may punish its members for disorderly conduct and compel their attendance at Council meetings. ([Sec. 611, City Charter](#))

NON-INTERFERENCE WITH ADMINISTRATIVE SERVICE

Neither the Council nor any of its members shall interfere with the execution by the City Manager of his/her powers and duties, or order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in the administrative service of the City, of any person to any office or employment, or his/her removal there from. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The City Manager shall take his/her orders and instructions from the City Council only when it is sitting in a lawfully held meeting. ([Sec. 705, City Charter](#))

Inquiry is defined as a request for information readily available, without need for extensive research or study by subordinates of the City Manager.

All other requests are to go directly to or through the City Manager.

POLICY REGARDING CITY COUNCIL EXPRESSION ON STATE, FEDERAL AND INTERNATIONAL ISSUES

Whereas, from time to time the City Council is requested to make an official statement with regard to State, Federal and International issues, some of which have no effect upon the administration of local affairs of the City of Hayward, or which the City Council, as a legislative body, cannot exercise jurisdiction over same; and

Whereas, it would appear that statements to be made with regard to such State, Federal and International issues should be made only as an expression of individual opinion and not as an official statement of this City Council.

Now, Therefore, Be it Resolved by the City Council of the City of Hayward that said Council does hereby adopt as a policy that official City Council expression should not be given on State, Federal, and International issues which have no direct effect upon the administration of the local affairs of the City of Hayward or which the City of Hayward, as a municipal corporation, cannot exercise any jurisdiction over such matters.

Be it further resolved that the aforesaid statement of policy is not intended to foreclose the rights of any person to make a public presentation to the City Council on such issues nor to impinge upon the right of any individual Council Member to give his/her personal views on such matters.

[\(Res. 77-209, May 24, 1977\)](#)

MEETINGS

MEETINGS - OFFICIAL ACTIONS

Except as hereinafter provided, all meetings of the Council shall be held in the Council Chamber, City Hall, 777 B Street, Hayward, California. In the event any meeting is held elsewhere, a notice setting forth the time and place thereof shall be conspicuously posted on the entrance door to the Council Chamber during the time such meeting is in progress. ([Sec. 2-1.00, Municipal Code](#))

TIME OF REGULAR MEETINGS

The time of regular meetings of the Council shall be as specified from time to time by resolution of the City Council. ([Sec. 2-1.00, Municipal Code](#))

On December 15, 2009, the City Council adopted [Resolution 09-189](#), which changed the hour of Council meetings to seven (7) o'clock p.m. Council also incorporated Work Session meetings within the regular meetings. Normally, meetings of the City Council are held the first, third, and fourth Tuesdays of each month at the hour of seven (7) o'clock p.m. Meetings may be cancelled on these days or added on the second and fifth Tuesdays by the Mayor or City Manager as determined by workload.

It shall be the policy of the Council that, if at all possible, agenda items shall not be considered past the hour of midnight.

SPECIAL MEETINGS/ CALLING/ NOTICE

A special meeting may be called at any time by the Presiding Officer of the Council, or by a majority of the members, by delivering written notice to each member of the Council at his/her residence or place of business and mailing written notice to the press, at least twenty four hours prior to said meeting, in accordance with the Ralph M. Brown Act ([G.C. Section 54956](#)).

As the Council, as a whole, also serves as the ~~Redevelopment Agency~~ **Redevelopment Successor Agency, the** Hayward Public Finance Authority and the Housing Authority for the City of Hayward. Special joint meetings may be conducted in order to conduct business relative to each agency.

The Hayward Redevelopment Agency was dissolved on February 1, 2012. The City of Hayward chose to become the Successor Agency to the Redevelopment Agency.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at said meeting.

RULES OF ORDER

The proceedings of the Council shall be governed under "[Robert's Rules of Order](#)" on all matters pertaining to parliamentary law; however, no action of the Council shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow said rules. ([Sec. 2-1.03, Municipal Code](#))

QUORUM

A majority of the City Council (4) shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of pending business. ([Sec. 608, City Charter](#))

No ordinance of resolution shall be passed or become effective without receiving the affirmative votes of at least four members of the Council. ([Sec. 614, City Charter](#))

CALL TO ORDER

The meeting of the Council shall be called to order by the Mayor or in her/his absence by the Mayor Pro Tempore. In the absence of both the Mayor and the Mayor Pro Tempore, the meeting shall be called to order by the City Clerk, whereupon the City Clerk shall immediately call for the selection of a temporary Presiding Officer.

AGENDA

When scheduling items for City Council meetings, staff should consider the number of items being placed on each agenda and the estimated time that each item requires. Staff should strive to provide well-balanced agendas for all City Council meetings throughout the year. Although there might be rare occasions where a long meeting is necessary, a series of long meetings should be avoided by balancing the content of each agenda.

ORDER OF BUSINESS

The following shall constitute the order of business to be followed in conducting regular meetings of the Council:

- Call to Order
- Salute to Flag
- Roll Call
- Closed Session Announcement
- Presentation/Proclamation
- Public Comments * (for matters not otherwise listed on the agenda or work session or informational staff presentation items)
- Work Session/Informational Presentation
- Consent
- Hearing
- Legislative Business
- Council Reports, Referrals, and Future Agenda Items
- Adjournment

**The printed agenda for each regular meeting shall include the following statement:*

Public Comments for Council Meeting Agendas shall read:

The Public Comments section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Informational Staff Presentation items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff. ([Res. 02-058, May 7, 2002](#))

(Agenda Revisions: [City Manager's Weekly Report - November 25, 2009](#))

AMENDED AGENDA

The Brown Act generally prohibits the City Council from discussing or taking action on an item not appearing on its posted agenda. The Act provides certain exceptions to this rule. For instance, the City Council may, on a two-thirds vote, determine that the need to take action on an item arose after the agenda was posted. If fewer than five members of the Council are present, the vote must be unanimous. If the Council makes this determination it may proceed to consider the underlying issue presented. Other exceptions are provided for emergencies, as defined, and certain continued hearings. Upon amending a work session agenda, no action would be taken on the underlying issue.

POSTING OF AGENDA

The City Clerk is directed to post a copy of the agenda in the lobby of City Hall, and at the Main Library not less than 72 hours prior to each regular meeting, and not less than 24 hours prior to each special meeting to be held by the City Council. The City Clerk is further directed to maintain a log of the date and time each agenda is posted.

DELIVERY OF AGENDA

If practicable, the agenda and agenda item report packet ~~shall~~ **will be available electronically via the iAnnotate application for iPads** delivered for Council Members each Thursday afternoon, or Friday if the preceding Monday was a holiday, preceding Tuesday meeting to which it pertains. Council Members are asked to advise the City Clerk's Office where they desire agenda packets to be delivered.

The agenda shall also be available to the general public at the time it is delivered to the City Council.

SUSPENDING ORDER OF BUSINESS

The regular order of business may be suspended by a majority vote of the members present for the accommodation of persons present, or for any other purpose. ([Sec. 2-1.06, Municipal Code](#))

CLOSED SESSIONS

Council meets from time to time in closed sessions which are duly held meetings or a portion thereof, at which certain actions may be taken and are not open to the public and news media. Matters discussed in closed sessions are considered confidential. If an action is taken, a public announcement will be made. These are:

(1) Labor Relations

Closed sessions held at such times where the Council meets with its designated representatives prior to and during consultation and discussions with representatives of

employee organizations.

As a matter of policy, Council acknowledges that the City and its taxpayers are best served if positions authorized during such sessions are represented as those of the Council as a whole. Members of the City Council agree that positions and agreements shall not be divulged.

(2) Security or Emergencies

Arrangements made to address threats to the City or its property must be kept confidential;

(3) Personnel Sessions

Matters discussed and reviewed in personnel sessions shall remain confidential in order to protect employees' rights to privacy.

(4) Litigation

Closed sessions to consider potential or pending litigation in which the city or an officer or employee is or could be a party;

Discussion of probable or pending litigation could waive attorney-client privilege to the detriment of the City's position;

(5) Real Property Negotiations

Closed sessions to meet with negotiators over specific real state sites;

Prior to the closed session, the negotiator, the site, and the properties' representatives must be identified.

Confidential Communications in Closed Session

To address a long-standing problem associated with confidential communications in closed session and how to maintain the confidentiality of such discussions, in 2003, the Legislature passed Assembly Bill 1945 ("AB 1945"), which states that no person may disclose confidential information that has been acquired by being present in a closed session, unless authorized by the body holding the closed session. Disclosure of closed session discussions need only occur when required by law or when there is a majority vote of the City Council, or upon advice of the legal counsel or negotiator handling the matter. In the event someone violates this provision, the statute gives the legislative body three options to address the violation: (1) The body may ask a court to issue an injunction preventing the further disclosure of confidential information; (2) If the person disclosing the information is an employee, the public entity may take disciplinary action against that employee; or (3) If the person disclosing the information is a member of the legislative body, the public entity may refer that person to the grand jury.

CLOSED SESSION ANNOUNCEMENT

Following a closed session, the Mayor, or the City Attorney or the City Manager at the request of the Mayor, will announce whether there is or is not reportable action. If there is reportable action, the Mayor, or the City Attorney or the City Manager at the request of the Mayor, will announce such action, including a report of how each member of the Council voted on the item.

PRESENTATION

Special presentations shall be scheduled as necessary in recognition of persons or groups, or for the promotion of an event or service. Requests for special presentations must be submitted to the City Clerk in writing in advance of the agenda deadline. The City Clerk shall coordinate the scheduling of presentations with the Mayor.

WORK SESSION

OPEN TO THE PUBLIC

When a work session is required, Council Members will meet at City Hall unless otherwise noticed according to State law. Members of the public are encouraged to attend work sessions. Comments on an item appearing in the work session section of the agenda must be made during the public comment period.

PURPOSE

~~Work sessions are not intended to constitute a regular meeting of the City Council as defined in the City Charter and they shall be carried on regardless of the number of Council Members in attendance. Normally work sessions will start when at least three (3) members of the Council are present.~~

Except for the procedural motions required by the Brown Act which may be made at a work session (and which are discussed more fully in the section "Amended Agenda") no formal action shall be taken, no motions shall be offered, no arguments entered into; the sole purpose of said meetings being to provide background information to members of the Council and to allow Council Members to ask questions and to express personal opinions.

A Work Session presentation and discussion shall be limited to one hour.

~~The City Manager shall be responsible for preparing an agenda of items for discussion at each work session. The City Clerk is directed to post the agenda in accordance with directions pertaining to the posting of agenda for regular meetings of the City Council.~~

Public Comments for Work Session Agendas shall read:

~~The Public Comments section provides an opportunity to address the City Council on items listed on the agenda, as well as other items of interest. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff. (Res. 02-058, May 7, 2002)~~

CONSENT AGENDA

Items of a routine nature, and non-controversial, including Approval of Minutes, shall be placed under the Consent agenda at the City Manager's discretion. All items may be approved by one blanket motion upon unanimous consent. Any Council Member or any member of the public may request that any item be withdrawn from the consent agenda for separate consideration. (Council Action, [March 18, 1997](#))

PUBLIC HEARINGS AND LEGISLATIVE BUSINESS

Public Hearings:

A public hearing is a legally mandated process that occurs during the public meeting of a local decision making body, such as a city council meeting. Public hearings serve two functions: First, to obtain public testimony or comment on specific legislative decisions or policy matters such as a proposed annual budget or ordinance. The second function is to provide due process to an individual or party making an appeal to or request of the legislative body, such as a hearing regarding the denial of a permit or license. A public hearing is required only when a specific federal, state, or local law requires one to be held on a particular issue.

Notice for Public Hearings:

A law that requires a public hearing to be held will also generally include the requirements for providing notice of the public hearing.

Legislative Business:

Legislative business is any policy-related item that is not legally required to have a public hearing, but which is deserving of or benefits from public discussion. In many respects, a legislative business item looks the same as a public hearing - the only difference is the type of legal notice given prior to the meeting. In fact, some legislative business items may warrant the type of noticing typically associated with public hearings, but doing so is discretionary and should only be done on a case-by-case basis. Applying the public hearing approach to legislative business is appropriate when there is a high degree of public interest in a topic, when the Council has not had sufficient exposure to the facts, circumstances or opinions informing the decision they are being asked to make, when there is a controversial topic that divides the community or the Council, or when the actions being considered have the potential to impact a large number of residents.

Notice for Legislative Business:

Publication of the agenda prior to the scheduled legislative item is generally sufficient notice for legislative business items. However, in the interest of inclusion and transparency, staff may choose to send notices to interested parties, deliver flyers to the affected neighborhood, or otherwise alert those known or thought to be likely interested in the matter. Similarly, staff may provide advance notice to parties identifying the likely date something may come before Council. Administrative Rule 1.25

Generally, public hearing as well as legislative business items, other than those of a quasi-judicial nature (quasi-judicial matters are those matters where the City Council is interpreting and applying regulations, such as consideration on use permits or zoning issues), shall be conducted in the following order:

- staff reviews the recommendation
- questions of staff by Council
- hearing opened by Mayor
- , hearing closed by Mayor
- discussion and questions by Council
- action by Council

Questions and comments from the public shall be limited to the subject under consideration. Depending upon the extent of the agenda, and the number of persons desiring to speak on an issue, the Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. The Mayor or Presiding Officer will call forward individuals who wish to address the City Council. At the discretion of the Mayor, two or more speakers may be called at a time to help facilitate the public testimony.

Council Members should not speak to an issue until the public hearing has been closed. If a Council Member has met with a proponent/developer or opponent of subject hearing, she/he should acknowledge such meeting prior to opening of the hearing at the Council meeting.

Once a hearing is closed, it is inappropriate for the public to speak except to answer an inquiry of Council Members addressed through the Chair.

QUASI-JUDICIAL HEARINGS

The procedures for quasi-judicial hearings shall be determined on a case-by-case basis and the City Attorney shall advise the City Council in this regard.

COUNCIL REPORTS, REFERRALS AND FUTURE AGENDA ITEMS

During the Council Reports, Referrals, and Future Agenda Items section of the agenda, a Council Member may request an item be considered on a future agenda, and upon agreement of a majority of Council, staff will prepare a report if formal Council action is required. Council Members may make this request verbally during a meeting or may submit it in writing.

ADJOURNMENT

When any member requests that a meeting be adjourned and a tree planted in memory of an individual recently deceased, the Mayor shall so adjourn the meeting and staff shall arrange for a tree to be planted.

RULES, DECORUM, AND ORDER

POINTS OF ORDER

The Presiding Officer shall determine all Points of Order subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the Presiding Officer be sustained?" in which event a majority vote shall sustain or reverse the Presiding Officer's determination.

DECORUM AND ORDER – COUNCIL MEMBERS

(a) Any Council Member desiring to speak shall address the Chair and, upon recognition by the Mayor, shall confine himself/herself to the question under debate.

(b) A Council Member desiring to question a staff member shall address his/her question to the City Manager, City Attorney, or the City Clerk in appropriate cases, who shall be entitled to answer the inquiry himself/herself or to designate some member of the staff for that purpose.

(c) A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the Mayor; unless a Point of Order is raised by another Council Member; or unless the speaker chooses to yield to questions from another Council Member.

(d) Any Council Member challenged while speaking, shall cease speaking immediately until the question of order is determined. If ruled to be in order, he/she shall be permitted to proceed. If ruled to be not in order, he/she shall remain silent or shall alter his/her remarks so as to comply with rules of the Council.

(e) Council Members shall accord the utmost courtesy to each other, to City employees and to the public appearing before the Council, and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities.

(f) Any Council Member may move to require the Mayor to enforce the rules and the affirmative vote of a majority of the Council shall require him/her to so act.

(g) [Section 611 of the City Charter](#) provides that the City Council may determine its own rules of procedure, may punish its members for disorderly conduct, and compel their attendance at Council meetings. In addition to the sanctions identified herein, the failure of the Mayor or a Council Member to observe these rules of decorum may warrant his or her removal from the Council Chambers in accordance with the procedures described in the section entitled "Enforcement of Decorum."

Sanctions and Procedures for Violations of Rules of Decorum and Order

(h) Council Members who fail to observe these rules of Decorum and Order, or violate any state or federal law, the City Charter, or any City ordinance or policy, may be reprimanded or formally censured, lose seniority or committee assignments (both within the City of Hayward or with inter-government agencies), have official travel restricted or be ordered to attend Council meetings, if the Council Member is absent without justification. Serious infractions of these rules of Decorum and Order could lead to other sanctions as deemed appropriate by the Council, including, but not limited to, referral to the Alameda District Attorney and/or Civil Grand Jury if the conduct is egregious or allegedly criminal in nature. Council Members should point out to the offending Council Member any perceived infraction of these rules of Decorum and Order as it occurs. No Council Member shall be reprimanded, sanctioned or censured for the exercise of his or her First Amendment rights. However, nothing herein shall be construed to prohibit the City Council from individually or collectively condemning or expressing disapproval of behavior in violation of these rules.

(i) It is the responsibility of the Mayor to initiate formal action if a Council Member's behavior may warrant reprimand, sanction or censure. If no action is taken by the Mayor, action on the alleged violation may be placed on a future agenda for consideration by a majority of the full Council.

(j) Reprimand is the least severe form of action for a violation of these rules and may be issued by majority vote of the City Council without findings of fact or investigation. Reprimand is not considered a sanction or censure.

(k) Formal censure, loss of seniority or committee assignments and travel restrictions may be requested by any Council Member in writing submitted to the Mayor. The written request must set forth specific allegations of violations of state or federal law, the City Charter, or City ordinances or policies, including these rules of Decorum and Order, upon which the proposed sanction is based. If the Mayor determines that the request for censure or sanction warrants Council consideration, the request shall be scheduled for consideration by the Council at the next regularly scheduled Council meeting. If a majority of the Council wishes to take action on the request for sanction or censure, the request shall be scheduled for public hearing far enough in advance to give the affected Council Member adequate time to prepare a response to the request. The Council Member shall be given the opportunity to make opening and closing statements; to present or question witnesses; and is entitled to be represented by an advisor or counsel of his or her choosing. The Mayor, or the Mayor Pro Tempore if the Mayor is the subject of the sanction request, shall preside over the proceedings. The rules of evidence shall not apply. The City Attorney or his or her designee shall provide legal advice to the Council, as needed. A decision to censure or impose other sanction requires the adoption of a resolution containing findings with respect to the specific charges, based on substantial evidence, by a two-thirds vote of the Council.

DECORUM AND ORDER - EMPLOYEES

Members of the Administrative Staff and employees of the City shall observe the same rules of procedure and decorum applicable to members of the Council. The City Manager shall insure that all City employees observe such decorum. Any staff member, including the City Manager, City Attorney and City Clerk, desiring to address the Council or members of the public shall first be recognized by the Presiding Officer. All remarks shall be addressed to the Presiding Officer and not to any one individual Council Member or member of the public.

DECORUM AND ORDER - PUBLIC

Members of the Public attending Council meetings shall observe the same rules of order and decorum applicable to the Council

Each person who addresses the Council from the podium shall do so in an orderly manner and shall not make personal, slanderous, or profane remarks to any member of the Council, staff, or general public. Any person who makes such remarks, or who utters loud, threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any Council meeting, whether from the podium or in the audience, may, at the discretion of the Mayor after observance of the procedure for enforcement of decorum described below, be escorted from Council Chambers and barred from further audience before the Council during that meeting. These rules shall be enforced as set forth in the section entitled "Enforcement of Decorum."

ENFORCEMENT OF DECORUM

The Chief of Police or his/her representative shall be ex-officio Sergeant-at-Arms of the Council. He/she shall carry out all orders and instructions given him/her by the Mayor for the purpose of maintaining order and decorum in the Council Chambers. Upon instructions from the Mayor, it shall be the duty of the Chief of Police or his/her representative to eject any person from the Council Chambers or place him/her under arrest or both.

As set forth in the Brown Act ([Government Code Section 54957.9](#)), in the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the Council may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in the section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

Decorum and order shall be enforced in the following manner:

(a) Warnings. The Mayor shall ask that any person violating the rules of decorum be orderly and silent. The warning shall be in substantially the form described below. If, after receiving a clear warning from the Mayor, the person persists in disturbing the meeting, the Mayor may order a brief recess of the Council to regain order. If the person persists in disturbing the meeting, despite having been previously warned, the Mayor may order him or her to leave the Council meeting. If the person does not depart the Council chambers of his or her own volition, the Mayor may order any law enforcement officer who is on duty at the meeting as Sergeant-at-Arms of the Council to escort that person from the Council chambers.

(b) Text for Warning. The Mayor shall deliver the requisite warning in substantially the following form:

You are hereby advised that your conduct is in violation of the Rules of Order and Decorum of the City Council and California Penal Code Section 403, and you are directed to be orderly and silent. Penal Code Section 403 states that any person who, without authority of law, willfully disturbs or breaks up a lawfully convened meeting of the City Council is guilty of a misdemeanor. Continued disruption of this City Council meeting will result in your removal from the meeting by the Sergeant-at-Arms and you will not be permitted to return to Council Chambers for the duration of the meeting. In addition, any continued disruption of this meeting is grounds for your being arrested and charged with a misdemeanor. Do you understand this admonition?

(c) Removal. Any law enforcement officer who is serving as Sergeant-at-Arms of the Council shall carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the Mayor, it shall be the duty of the Sergeant-at-Arms to remove from the Council meeting any person who is disturbing the proceedings of the Council. Removal of a disruptive member of the public from Council Chambers shall be accomplished by the Sergeant-at-Arms or other sworn law enforcement officers only.

(d) Misdemeanor. Any person who willfully disturbs or breaks up a Council meeting may be arrested and charged with a misdemeanor, pursuant to [California Penal Code Section 403](#).

(e) Motion to Enforce. If the Mayor fails to enforce the rules set forth above, any member of the Council may move to require the Mayor to do so and, by an affirmative vote of a majority of the Council, shall require the Mayor to do so. If the Mayor of the Council fails to carry out the will of a majority of the Council, the majority may designate the Mayor Pro Tempore to act as Presiding Officer for the limited purpose of enforcing these rules of decorum.

Attendance at Council Meetings does not provide individuals or groups immunity of protection when their conduct is in violation of any other laws (California Penal Code, City of Hayward Municipal Code, etc.). The Sergeant-at-Arms should and will be called upon by the Mayor to enforce these laws at Council Meetings.

POLICY REGARDING CABLE TELEVISION BROADCAST OF CITY MEETINGS

It shall be the policy of the City Council of the City of Hayward to broadcast public meetings held in the Council Chamber over cable television from the beginning of that meeting through adjournment without interruption. Meetings may be videotaped or audio recorded as long as the activity does not constitute a disruption of the meeting. ([Res. 94-049, March 8, 1994](#))

PERSONAL PRIVILEGE

The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his/her integrity, character, or motives, are assailed, questioned or impugned.

COUNCIL MEMBER'S PREROGATIVE

Regardless of the number of Council Members present, or request of a member of the public, any Council Member may exercise a personal privilege to have an item continued once unless State law or local regulations require that action be taken at that time.

CONFLICT OF INTEREST (Disqualifications)

All Council Members are subject to the provisions of California Law, such as [Chapter 7, Title 9, of the California Government Code](#), relative to conflicts of interest, and to the conflict of interest code adopted by resolution of the Hayward City Council.

If a Council Member, after receiving the agenda packet, believes or is aware that he/she has a potential conflict, he/she should confer with the City Attorney prior to the meeting.

Any Council Member who has a conflict of interest shall absent him/herself from the Council Chamber during the debate and voting on the issue. The Council is prohibited by law to enter into contracts with its members. ([Government Code 1090 et seq](#))

LIMITATION OF DEBATE AND COUNCIL MEMBER DELIBERATIONS

No Council Member should speak more than once on any one subject until every other member choosing to speak thereon has spoken. No member shall speak for more than five minutes each time he/she has the floor, without the approval of a majority vote to the Council. (Also, see Section VII under "Time Limitations")

DISSENT AND PROTESTS

Any member shall have the right to express dissent from or protest to any action of the Council and have the reason entered in the minutes. If such dissent or protest is desired to be entered in the minutes, this should be made clear by language such as “I would like the minutes to show that I am opposed to this action for the following reasons...”

PROCEDURES IN ABSENCE OF RULES

Except as modified by the provisions of this handbook, the proceedings of the City Council shall be governed by Robert’s Rules of Order Newly Revised.

RULINGS OF CHAIR FINAL UNLESS OVERRULED

In presiding over Council meetings, the Mayor, Mayor Pro Tempore or temporary Presiding Officer shall decide all questions of interpretations of these rules, points of order or other questions of procedure, requiring rulings.

Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Council Member present and voting.

ADDRESSING THE COUNCIL

MANNER OF ADDRESSING THE COUNCIL

Any citizen may arise and address the Council on any business especially concerning him/her, or affecting his/her interests; however, preference will be given to those who have first presented matters in the form of a written communication, or who have notified the Presiding Officer of their desire to speak. ([Sec. 2-1.04, Municipal Code](#); [Sec. 609, City Charter](#))

Any member of the public desiring to address the Council shall complete a "speaker card" and hand it to the City Clerk. The City Clerk will advise the Mayor. The Mayor will announce the names from the speaker cards. Once the citizen's name is called, the citizen should proceed to the podium and wait to be recognized by the Presiding Officer. After being recognized, he/she shall speak directly into the microphone and for the record, shall state his/her name and address and business address in Hayward if applicable.

Comments from the public which are not the subject of an agenda item shall be heard at the beginning of the posted agenda under the heading "Public Comments." Otherwise the public may speak when their agenda item is being considered.

Under the provisions of the Brown Act, the City Council is prohibited from discussing or taking action on an item not appearing on its posted agenda. Therefore, any issue raised under the "Public Comments" section of the agenda will be referred to staff for a decision about placing it on a future agenda for discussion, action, or report.

TIME LIMITATION

Individual Speakers

Any member of the public desiring to address the Council shall limit her/his address to three (3) minutes unless further time has been granted by the Presiding Officer in the individual case or in accordance with the section under Public Hearings. Individuals representing a group or agency shall limit their address to five (5) minutes.

Applicants and/or Appellants

Any applicant and/or appellant desiring to address the City Council shall limit their address to ten (10) minutes. This time limit will not be applied to speakers to whom constitutional due process applies. The City Attorney shall advise the City Council on this regard.

ADDRESSING THE COUNCIL AFTER MOTION IS MADE

After a motion has been made, or after a public hearing has been closed, no person shall address the Council except to answer an inquiry of Council Members addressed through the Chair.

LIMITATIONS REGARDING PUBLIC COMMENTS AND REPORTS

The making of oral communications to the Council by any member of the public shall be subject to the following limitations:

- (1) No speaker shall be permitted to address the Council on a topic which is currently before or about to be submitted for consideration by a city commission, board or other agency before which the speaker should make his/her presentation, until that latter body has completed its deliberations and taken its final action.
- (2) In case the speaker should have followed an otherwise available appeal procedure, the Presiding Officer shall not allow oral communication to the Council outside that procedure.

The Presiding Officer may limit the number of speakers heard on non-agenda topics at any single meeting. (See Section VII for "Time Limitations for Individual Speakers").

If it appears that several speakers desire to speak regarding a single topic, the Presiding Officer may reasonably limit the number speaking as to each side of an issue and request that they not be redundant. In this regard, preference may be given to speakers who represent groups of persons who have designated a spokesperson.

No statement shall be allowed to include charges or complaints against any employee of the City, regardless of whether such employee is identified in the presentation by name or by any other reference which tends to identify him/her. All charges or complaints against employees shall be referred without comment to the City Manager for appropriate action, and may also be submitted to members of the Council for information by written communication only.

WRITTEN CORRESPONDENCE

The City Clerk is authorized to receive and open all mail addressed to the Council as a whole and refer to the City Manager, for immediate attention, those communications related to administrative business, not necessarily requiring Council action, so that they may be disposed of between Council Meetings. A copy of such communication and response shall be sent to each Council Member marked "For Purposes of Information." Copies of all other communications sent to Council as a whole will be transmitted to them.

Any communication relating to a matter pending, or to be brought, before the City Council, shall be included in the agenda packet for the meeting at which such item is to be considered. Letters of appeal from administrative or Commission decisions shall be processed under applicable provisions of the Municipal Code or other ordinances. Communications specifically addressed to individual council members will be transmitted to them unopened.

Any non-confidential writings or documents related to an agenda item submitted to a majority of the Council less than 72 hours prior to a public meeting will be made available for public inspection ~~on the public counter~~ in the Office of the City Clerk. Any documents related to an item on the agenda provided by City staff to the Mayor and City Council at the meeting must be available to the public at that meeting. ([SB 343, Brown Act amendment, July 1, 2008](#))

PERSONS AUTHORIZED TO BE WITHIN PLATFORM

No person except City officials shall be permitted within the platform area in front of the Council dais without the invitation or consent of the Presiding Officer.

MOTIONS

PROCESSING OF MOTIONS

When a motion is made and seconded, it shall be stated by the Mayor before debate. A motion so stated shall not be withdrawn by the mover without the consent of the person seconding it.

BUSINESS ITEMS OUT OF ORDER

The Mayor may at any time, by majority consent of the Council, permit a member to introduce an ordinance, resolution, or motion out of the regular agenda order.

DIVISION OF QUESTION

If the question contains two or more divisible propositions, the Mayor may, upon request of a member, (unless appealed) divide same.

MOTION TO FIX HOUR OF ADJOURNMENT

Any regular meeting can be adjourned to a stated date, time and place.

MOTION TO TABLE

A motion to table shall be used to temporarily bypass the subject. A motion to table is not debatable and shall preclude all amendments or debate of the subject under consideration.

MOTION TO LIMIT OR TERMINATE DISCUSSION

Such a motion shall be used to limit or close debate on, or further amendment to, the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

MOTION TO AMEND

A friendly amendment shall be in order if it is consented to by both the maker of the motion and the second. A motion to amend shall be debatable only as to amendment. A motion to amend an amendment shall be in order, but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order. A substitute motion on the same subject shall be acceptable, and voted on before a vote on the amendment. Amendments shall be voted upon first. The main motion shall then be voted on either as amended or as originally stated, if the amendment failed to pass.

CONTINUANCE OF MATTERS

- (1) The City Council ordinarily will grant one continuance of a matter in the event it creates an inconvenience or hardship to a member of the public. Request for such a continuance should, if at all possible, be made at least five (5) days before the scheduled agenda date, and the continuance shall be to a date mutually agreeable to all parties.
- (2) When five (5) or fewer members of the Council are present at the scheduled meeting, a request for a continuance may be made once in order that the matter may be scheduled for a time when more than five (5) members are expected to be present.

Requests for continuance when there are five (5) or fewer members present shall be granted unless State law or local regulations require that action be taken at that time.

- (3) If a matter is continued, the Mayor will ask if those present who wish to speak to the matter can return at a later date. Those individuals who cannot, will be given the opportunity to speak on the matter and said comments shall be made part of the record to be considered at the continued date. Such persons shall not repeat statements so made at the continued date; however, further comment shall be allowed where new material is presented.

COUNCIL MEMBER OBLIGATION WHEN ABSENT

When a member of Council is absent from an earlier meeting at which a matter is discussed, it shall be the duty of such member to become acquainted with the issues discussed by reading the minutes, the documents presented, and, if possible, the electronic recording of such discussion.

VOTING PROCEDURE

VOTING PROCEDURE

The Council shall pass ordinances and resolutions only by taking the ayes and noes by an open vote, which shall be entered in the minutes of the meeting. The ayes and noes shall be taken and recorded on all motions. Abstentions shall also be recorded. ([Sec. 613, City Charter](#))

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four members of the Council. ([Sec. 614, City Charter](#))

RECONSIDERATION

When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council, and held not less than one week after the meeting at which such motion is made. ([Sec. 618, City Charter](#))

TIE VOTES

Tie votes shall be lost motions. When all Council Members are present, a tie vote whether to grant an appeal from official action shall be considered a denial of such appeal, unless the Council takes another action to further consider the matter. If a tie vote results at a time when fewer than all members of the Council are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Council, unless otherwise ordered by Council. Official actions are those quasi judicial actions such as made by Planning Commission wherein fewer than four votes sustain their action.

RESOLUTIONS

DEFINITIONS

As a rule, it can be said that legislative acts of the City Council (usually a rule of public conduct for long-term application) are taken by ordinance, whereas more routine business and administrative matters (usually more temporary and transitory in nature) are accomplished by "resolutions." The term "resolution" in its general sense will denote any action taken affirmatively via a vote of the Council, other than one taken by ordinance, which is memorialized in a separate document. In this City, however, two methods of action are in general use to accomplish such non-ordinance actions: "resolution" and "motion" (the latter recorded by minute entry). The two are equally as legally effective and binding; they vary in the formality of respective memorialization. The more formal is referred to as a "resolution." This, in addition to being referenced in the minutes, will be recorded by a separate document, numbered in sequence and preserved in a separate set of books. Such "resolutions" are used in this City for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, or where the frequency of future reference back to its contents warrants a separate document (with the additional "whereas" explanatory material it often recites) to facilitate such future reference and research.

The "motion" (assuming it was one which passed) is a Council action which is recorded simply by an item entry in the minutes of the meeting at which it was accomplished, and no separate document is made to memorialize it. In this City, procedural actions (such as a motion to continue a hearing) are always done by motion, and, in addition, many administrative matters (such as directing the City Manager to furnish a report) are done by motion.

METHOD OF ACTION

Legislative action shall be taken by the Council only by means of an ordinance or resolution. ([Sec. 612, City Charter](#))

An ordinance or resolution may be adopted by a motion, duly seconded, and passed by four (4) votes of the City Council.

AYES AND NOES

The Council shall pass ordinances and resolutions only by taking the ayes and noes by an open vote, which shall be entered in the Minutes of the meeting. The ayes and noes shall be taken and recorded on all motions. ([Sec. 613, City Charter](#))

MAJORITY VOTE OF COUNCIL

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least four members of the Council. ([Sec. 614, City Charter](#))

SUBJECT OF TITLE

Every ordinance or resolution shall be preceded by a brief title which shall indicate the subject and purport thereof. ([Sec. 615, City Charter](#))

RESOLUTIONS PREPARED IN ADVANCE

Where a resolution has been prepared in advance, the procedure shall be: motion, second, discussion, vote pursuant to methods prescribed earlier and result declared. It shall not be necessary to read a resolution in full or by title except to identify it. Any member may require that the resolution be read in full.

ORDINANCES

REQUIREMENTS OF ORDINANCES

Except as hereafter provided, no ordinance shall be adopted by the Council on the day of its introduction, nor within one week thereafter, nor at any time other than at a duly assembled meeting. If an ordinance is altered after its introduction (except for the correction of typographical or clerical errors), it shall be adopted at a meeting held at least one week after the date of such alteration.

At the time of introduction or adoption of an ordinance the title need only be read, unless reading of the ordinance in full is requested by any member of Council.

EMERGENCY ORDINANCES

Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety and containing a statement of the reasons for its urgency, may be introduced and adopted at the same meeting if passed by at least five affirmative votes.

PUBLICATION REQUIREMENTS

Before final adoption of an ordinance, a notice indicating its title, a subject matter index, the date of its introduction, and the date, time, and place it will be considered for final adoption, and that copies of the full text thereof are available for examination by the public in the office of the City Clerk, shall be published once in a newspaper of general circulation within the City at least three days before the final adoption meeting date.

A similar notice indicating the adoption of an emergency ordinance and the vote thereon shall be published once within one week after its adoption. ([Sec. 617, City Charter](#))

The enacting clause of all ordinances adopted by the Council shall be substantially as follows: "The Council of the City of Hayward does ordain as follows." ([Sec. 616, City Charter](#))

When any ordinance is put upon its final passage and fails to pass, and a motion is made to reconsider, the vote upon such motion shall not be taken except at a meeting of the Council, held not less than one week after the meeting at which such motion was made. ([Sec. 618, City Charter](#))

All ordinances shall be signed by the Mayor and attested by the City Clerk. ([Sec. 619, City Charter](#))

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under State law or a procedural ordinance.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in the Charter.
- (e) An ordinance annexing areas to the City.
- (f) An ordinance relating to the zoning or rezoning of the City or portions thereof. ([Sec. 620, City Charter](#))

A true and correct copy of all ordinances shall be kept and certified by the City Clerk, such record copy, with such certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the City Clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of an ordinance in the usual way. ([Sec. 621, City Charter](#))

Any or all ordinances of the city which have been enacted in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Subsequent amendments to the code shall be enacted in the same manner as herein required for the amendment of ordinances generally. ([Sec. 622, City Charter](#))

ORDINANCE VIOLATION - PENALTY

A violation of any ordinance of the City shall constitute a misdemeanor unless by the terms of such ordinance its violation shall constitute an infraction. A violation of any ordinance of the City may be prosecuted in the name of the People of the State of California or may be redressed by civil action. ([Sec. 623, City Charter](#))

COUNCIL COMMITTEES

The Council may organize among its members such standing committees as it may determine, each of which shall act as a fact finding committee for the purpose of considering all available information on proposed legislation or matters of policy referred to such committee by Council and making recommendations thereon to the Council as a whole. ([Sec. 600a, City Charter](#))

Each Council Member shall be assigned by the Mayor to various standing committees. Participation and attendance at those committee meetings is important. Continued absences from meetings without good cause may result in removal from a committee at the discretion of the Mayor, taking into consideration advice from other committee members.

From time to time Ad Hoc committees may be organized by the Mayor to address special concerns which may be of short duration. Additionally, each Council Member shall be assigned by the Mayor as Liaison to various boards, committees and commissions, and other public agencies or quasi-public agencies.

It shall be the prerogative of the Mayor, taking into consideration relative length of Council service, individual Council Member preference and equivalency, to assign individual Council Members to these various committees. Normally appointments are for a two year period, but may be renewed at the Mayor's discretion where Council Members have particular experience or expertise with respect to the business of a particular committee.

STANDING COMMITTEES

The list of standing and Ad Hoc committees and liaison assignments shall be revised from time to time as necessary.

COUNCIL COMMITTEE MEETINGS

- (1) All Council Committees must comply with the Brown Act.
- (2) A Council Member other than Council Committee Members may attend a regular committee meeting. However, he/she shall not participate in the decision-making process of the Committee.
- (3) It is the policy not to hold joint Council-Committee meetings. An item that might be considered for such meeting should be scheduled for a work session of the whole Council.

COUNCIL LIAISON

The Mayor shall designate a member of Council to be a liaison to each city board and commission. The method and length of appointment shall be as provided above in the section on Council Committees.

RESPONSIBILITY OF COUNCIL LIAISON

It shall be the responsibility of a Council liaison to attend as many board or commission meetings as possible in order to be currently aware of issues being dealt with, to listen and observe, and to bring back to the Council any needs, requests, or information from a board or commission. A Council Liaison shall not take part in the deliberations of the commission.

LIAISON AND COMMISSION MEMBER DECORUM

Council liaison and members of boards and commissions have a mutual obligation to accord the utmost courtesy to one another and shall refrain from rude and derogatory remarks, abusive comments or other chastising, particularly in public.

If a Council liaison has a specific concern about the behavior and/or statements of an individual board or commission member, he/she should bring it first to the attention of the board or commission Chairperson in private. If no resolution is affected then the matter should be brought to the attention of the Mayor for his/her action.

Conversely, board and commission members should discuss a concern about a Council liaison with their respective Chairperson and not go directly to the Mayor or to other Council Members.

Decorum among board and commission members shall be the same as applicable to the Council.

BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCES

[Council's Appointed Officials Handbook](#)

GENERAL

~~City boards and commissions are established by the City Charter, the Municipal Code, and the City Council. The Planning Commission and Personnel Board are established by the City Charter. All other boards and commissions are established by ordinances. The City Council may also establish committees and task forces by resolution.~~

~~Special purpose Advisory Committees are formed at the discretion of the City Council to provide greater citizen participation in the development of plans and recommendations in relation to a committee's specific assignment.~~

POWERS AND DUTIES

~~Descriptions and/or profiles of the various boards, commissions or committees, as well as the current public list, are included in this Handbook.~~

ELIGIBILITY AND QUALIFICATIONS

~~No member of any board or commission shall be a member of any other board or commission or hold any paid office or employment, in the City government. In order to be eligible for an appointment to any board or commission, a person shall be a qualified elector of the City.~~

CONFLICT OF INTEREST

~~There are additional eligibility requirements for certain members of boards and commissions who are subject to the provisions of [California Law, Chapter 7, Title 9](#), of the California Government Code, relative to conflicts of interest, and to the Conflict of Interest Code adopted by resolution of the City Council.~~

APPOINTMENTS, TERMS, METHOD

~~The members of each of such boards or commissions shall be appointed by the Council. They shall be subject to removal by motion of the Council adopted by at least four affirmative votes. Unless otherwise provided by this Charter the members thereof shall serve for a term of four years and until their respective successors are appointed and qualified. No member thereof shall serve more than two consecutive full terms on any one board or commission. ([Sec. 902, City Charter](#))~~

VACANCIES

~~Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the Council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself/herself from three consecutive regular meetings of each board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the City, his/her office shall become vacant and shall be so declared by the Council. ([Sec. 905, Paragraph 2, City Charter](#))~~

~~[Government Code Section 54974](#) provides that whenever an unscheduled vacancy occurs, a special vacancy notice shall be posted in the office of the City Clerk, and as may otherwise be directed by the City Council, within 20 days after the vacancy occurs; and that final appointment to fill such vacancy shall not be made for at least 10 working days after such posting.~~

~~It shall normally be the policy to take applications on a regular ongoing basis; applications shall be considered current for one year from the date received.~~

~~The City Clerk shall, pursuant to [Government Code Section 54972](#), prepare an appointments list of all regular and ongoing boards and commissions which are appointed by the City Council, which shall contain the information required in said section. All efforts will be made to provide public information relative to vacancies prior to such appointments.~~

PROCEDURES FOR MAKING APPOINTMENTS AND REAPPOINTMENTS

~~Any person desiring to be considered for an appointment to any City board or commission, except incumbent board or commission members, shall complete an application indicating on which board or commission they desire to serve.~~

~~The term of office for the City's Appointed Officials, with the exception of the Hayward Youth Commission, should terminate on September 30th of the final year of said term.~~

~~Moreover, the City will conduct recruitment for the City's Appointed Bodies, with the exception of the Hayward Youth Commission, during July and August annually, with interviews and appointment each September. Recruitment for the Hayward Youth Commission will be conducted each April and May, with interviews and appointments annually in June.~~

~~Any appointees shall comply with appropriate provisions of law relative to disclosure of financial interests, if applicable.~~

~~Current board or commission members who have served a minimum of two consecutive years on the same body will be eligible to request consideration of appointment to a different body. Their request will be considered by City Council during *their annual interviews*.~~

ATTENDANCE POLICY

The City Council has adopted the following policies concerning the attendance of board and commission members at meetings of the board or commission upon which they serve:

— (1) — Members of boards or commissions shall be required to attend not less than 75% of all regular meetings held. In the event attendance at 75% of regular meetings is not maintained, the City Council shall consider such fact as grounds for declaring such office vacant.

— (2) — In compliance with the City Charter, failure by a member to attend three consecutive regular meetings of a board or commission will be cause for Council declaring the member's position vacant;

— (3) — Boards and commissions shall not excuse or otherwise grant permission to their members to be absent from any regular meeting of the board or commission;

— (4) — Attendance records will be reviewed by the City Council in September of each year based on the previous twelve month period. ([Resolution No. 87-323](#))

APPROPRIATIONS

The Council shall include in the annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of the boards and commissions. ([Sec. 901, City Charter](#))

APPLICABILITY OF BROWN ACT PROVISIONS

All permanent boards, commissions and most committees formally created by the City Council are subject to the provisions of the Brown Act. In order to implement certain requirements of the Brown Act the City Council has adopted model "Rules and Regulations" which are applicable to such boards, commissions and committees. (Sample follows)

SAMPLE:

RULES AND REGULATIONS OF THE

**Adopted to Implement Certain Requirements of the
Brown Act**

1. ~~Agendas of the _____ shall be posted at least 72 hours before each regular meeting at _____~~
2. ~~A log indicating the time each agenda was posted shall be kept by the _____~~
3. ~~All persons wishing to address the _____ during the public input portion of its meetings shall limit their comments to _____ minutes.~~
4. ~~The total time devoted to the public input portion of the meetings of the _____ shall not exceed _____ hours/minutes. Any person wishing to speak at a meeting but unable to do so because of the limit set forth above shall be accorded first right to address the _____ at its next meeting~~
5. ~~Consistent with the Brown Act, the _____ shall take no action on any matter not appearing on its posted agenda unless it makes one of the findings authorizing it to do so. Thus, unless an emergency exists or the need to take action arose after posting the agenda the _____ will not discuss or vote upon any item raised by any member of the public or any of its own members unless the item appears on its posted agenda. An item raised during a meeting of the _____ that does not appear on its posted agenda will automatically be placed on its next agenda for action, provided that any request that a meeting be adjourned in memory of someone recently deceased shall be granted and the chair shall so adjourn the meeting.~~
6. ~~Any person, including any member of the public or of the _____, may request that an item be placed on the agenda for the _____ by writing/phoning _____ at _____ no later than _____ am/pm on the _____ day preceding the next regularly scheduled meeting.~~
7. ~~The regular meetings of the _____ shall ordinarily be held on the _____ (and) of each month at _____ and shall be held in the _____, but the precise dates for regular meetings shall be those shown in the notice provided by the _____ in _____ of every year or as the _____ may later revise from time to time during the year.~~

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Utilities & Environmental Services

SUBJECT: New Cogeneration Power System at the Water Pollution Control Facility:
Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement for Design

RECOMMENDATION

That Council adopts the attached resolution that authorizes the City Manager to negotiate and execute a contract with Carollo Engineers for design of a new cogeneration power system at the Water Pollution Control Facility (WPCF), in an amount not to exceed \$880,000.

SUMMARY

The WPCF cogeneration system, which utilizes bio-gas to provide power to the WPCF, has been in operation since 1982 and has reached the end of its useful life. The existing system is unable to meet current emission standards without severe reductions in energy output. In addition, the system has much lower power generation efficiency. These factors result in power output from the engines to be well below one-half of what a modern replacement system can produce. This has both a financial impact on the City in lost energy generation and an environmental impact by producing more air pollution.

Staff evaluated replacement alternative technologies and recommended that the City consider both conventional internal combustion engines (ICE) and fuel cells, a new clean and green method of converting methane to electric power. After completing a design-build request-for-proposal process, and based on the fuel cells' promise of cleaner energy production, the City entered into negotiations with the sole provider of these systems to design, build, and maintain a fuel cell cogeneration system. After three months of discussions and negotiations, staff was not able to reach agreement on mutually acceptable terms and thus, negotiations were terminated.

Staff is now recommending consideration of the alternative technology, the conventional internal combustion engines, using ultra clean, efficient, modern ICE technology. Furthermore, staff believes that the project development approach with three distinct phases of design, bid, and build would best serve the City's interests for this technology. Staff recommends that Carollo Engineers be retained to prepare the design and construction documents at a cost not-to-exceed \$880,000.

Staff expects the total initial cost for project development to be about \$8.8million. The needed capital funding is appropriated in the Sewer Capital Improvement Fund.

BACKGROUND

The WPCF is the largest City-owned consumer of electric energy purchased from Pacific Gas and Electric (PG&E). The WPCF used a total of 8,271,097 kilowatt hours (kWh) of energy in CY 2011, which is equivalent to the electrical demand for 1,170 average residential units in California. In CY 2011, three sources supplied electric energy to the WPCF: PG&E, local cogeneration using bio-gas, and solar power in the amounts shown below:

	<u>Annual Energy (kWh)</u>	<u>Energy Contribution</u>
Cogeneration	3,356,837	41%
Solar ⁽¹⁾	1,593,838	19%
PG&E	<u>3,320,422</u>	<u>40%</u>
Total WPCF Demand:	8,271,097	100%

(1) Total solar energy production was about 50% higher; however, some energy was sold to PG&E.

Co-generated power, named for simultaneous generation of electric power and heat, is a process whereby biogas, generated at the digesters and captured as part of the treatment process at the WPCF, is utilized as fuel. Methane is a major component of biogas, and biogas is considered a renewable energy resource. Like most wastewater treatment plants in the Bay Area, the WPCF has utilized biogas for many years to fuel internal combustion engines to provide electric energy and reduce the need to purchase energy from PG&E. In addition to the cost saving benefit, there are significant environmental advantages to cogeneration in that the alternatives for disposing of biogas are to discharge it to the atmosphere or to flare (burn) it off as a large open-air flame. Methane is a greenhouse gas; releasing it into the air is contrary to the City's policies, including the Climate Action Plan. Flaring the gas would also produce harmful gases and waste a good energy resource.

The WPCF purchased and installed the existing co-generation engines in 1982. The engines have undergone numerous rebuilds over the years and are practically at the end of their useful life. Additionally, emission control technology used at that time is now considered outdated, inefficient, more polluting, and thus, unacceptable. Installation of emission control systems that meet the requirements of the Bay Area Air Quality Management District (BAAQMD) has caused the efficiency rating (conversion of biogas to electrical energies) to be degraded to around 20%, a very low value. In addition, BAAQMD regulations regarding air emissions have become exceedingly stringent, and the existing co-generation emission technology will not meet regulatory permit limits in 2012 and beyond, unless their power output is severely curtailed or major investments are made for devices to capture exhaust pollutants.

Two technologies emerged for consideration in replacing the existing cogeneration system: internal combustion engine generators (ICE) and fuel cells. While both technologies emit the same amount of greenhouse gases, fuel cells offer a higher-efficiency (more electric power for each unit volume of biogas consumed) and do not emit nitrous oxides (NOx). However, the emission of NOx from ICE generators would be below the requirement of the Bay Area Air Quality Board limits, and design of the cogeneration building will include space for future installation of equipment to convert NOx to inert gas if such requirement is mandated.

The City issued requests for proposal (RFP) in October 2011 to design-build entities (teams of contractors, engineers and suppliers) to design and construct a replacement for the existing cogeneration system utilizing either fuel cells or ICE. Specific criteria were identified for air emissions and operating efficiencies. The City received four proposals, one for fuel cells and three for ICEs. Based on a cost-benefit analysis, staff recommended and Council approved entering into negotiations with the team of Lyles Construction and Fuel Cell Energy to design and build a fuel cell system. After three months of negotiations, it was apparent that this sole-source technology was not in the City's best interest in terms of risk and cost, and negotiations were terminated.

Upon consideration of the options, staff recommends that the City pursue the conventional design-bid-build path to construct an ICE cogeneration system, utilizing the services of a professional engineering firm to design the facility and prepare construction bid documents, and then requesting construction bids from qualified contractors.

DISCUSSION

Design Services - The first step is to retain an engineering firm to design the cogeneration system and prepare construction bid documents. However, due to schedule constraints related to the City's Self-Generation Incentive Program (SGIP) grant, the timing in this project does not allow a full cycle preparation of request for proposals, receipt and review of the proposals, interviews with the firms and recommendation to Council for selection. When the City initially pursued the fuel cell project, staff applied for and received preliminary approval for an SGIP grant. After negotiations for fuel cells proved unsuccessful, staff contacted PG&E, which administers SGIP grants, and inquired whether the new ICE technology project could be substituted for the fuel cell project. After some discussions, PG&E advised that the substitution would be approved; however, all the initial project completion milestones associated with the initial grant would remain in place and would require strict adherence, including Proof of Project Milestone by March 3, 2012 and project's commissioning no later than July 6, 2014. SGIP rules define Proof of Project Milestone as award of construction contract. The rules also state that, for public agencies, execution of a contract to purchase (i.e., pre-purchase) the cogeneration equipment would meet the Proof of Project Milestone and satisfy this aspect of SGIP grant requirement.

In order to assess the feasibility of meeting this schedule, staff contacted several other agencies and engineering firms to obtain and review their design and construction timelines for similar projects. It became quite evident that the only way to meet this aggressive schedule was to engage a firm to do the work without any delay (i.e., begin the design process in early October). Carollo Engineers was the only firm in that unique position as they are currently under contract with the City to assist with the selection of a co-gen technology. Staff requested Carollo to submit a proposal for design services for the ICE engine and gave them three days to prepare a cost and schedule proposal (typically this period is about three to four weeks). In the meantime, staff contacted another firm, Brown & Caldwell, that also has a strong professional working relationship with the City and is currently under contract to prepare a master plan for the Water Pollution Control Facility. Staff asked for sample proposals for similar projects and inquired if they would be interested in submitting a competing proposal. Both firms have recently or are currently designing ICE cogeneration projects nearly identical to that planned for the WPCF. Brown & Caldwell expressed strong interest and submitted a proposal within two days. While staff considered requesting a third

proposal, it determined that the two from Carollo and Brown &Caldwell, along with other recent proposals for similar projects for other Bay Area agencies, would be sufficient to allow staff to make an informed recommendation to Council.

The proposals received from Carollo and Brown &Caldwell were similar in scope and deliverables. Staff also reviewed the scope of services provided for other similar projects to ensure that the proposals from Carollo and Brown and Caldwell included all the necessary components for a complete and accurate bid package.

Following is a summary of the proposals:

<u>Firm</u>	<u>Cost</u>
Brown and Caldwell	\$990,000
Carollo Engineers	\$799,000

In further discussions with Brown &Caldwell, it appeared that they would have some flexibility for lowering their proposed fee, but the fee would still be higher than that proposed by Carollo.

Carollo is currently designing a similar project for Union Sanitary District (USD), which serves Fremont, Newark, and Union City. USD's system has two engines, instead of a single larger engine envisioned for the City, but is otherwise similar to the City's project. Carollo's fee for design services for USD's project is \$1,137,000.

Given the following: 1) Carollo's fee is lower than Brown &Caldwell's and is also lower than design fees for comparable recent projects; 2) Carollo is familiar with the City's project because they have previously prepared a preliminary design for the City's co-generation project; and 3) Carollo is currently still under contract with the City for a preliminary design project, with some funds remaining, and could be directed to start work on this project immediately, Carollo is in a better position to undertake this project and meet the City's milestones.

Staff therefore recommends that the City enter into a professional services agreement with Carollo Engineers for design of the cogeneration system for a not-to-exceed price of \$880,000, which includes \$80,000 for potential additional services.

Generator Pre-Purchase - The Fiscal Impact section of this report includes a discussion of grant funding available for this project, for which the City has been conditionally approved. As noted, there are certain timelines associated with the grant funding to ensure that projects come on-line within a reasonable period. In other words, the City must show progress towards construction in accordance with a pre-determined schedule. In order to comply with the requirements for the funding, staff must, at least, negotiate a purchase contract with an ICE vendor and later assign that contract to the City's selected contractor.

There are three well-known companies that can supply generators equal to the City's targeted cogeneration capacity and performance. Staff intends to request proposals from each manufacturer and choose the company that offers the best price performance and can meet the City's timeline. The cogeneration system design will incorporate required engineering interface needs with the pre-purchased ICE generator. The cost of the generator is expected to be in the range of \$1,200,000.

This selection and purchase process will occur on a parallel track with the design services. Because sufficient funds for this project are available in the Council approved Capital Improvement Program, no additional explicit Council approval is necessary to enable staff to enter into this purchase contract for ICE.

ECONOMIC IMPACT

Construction of the new cogeneration system would not result in an initial additional sewer rate increase because existing sewer funds are already budgeted. As an integral part of the WPCF system, however, the new cogeneration system would eventually contribute to sewer service rate increases, particularly, as the new system would require maintenance. The impact of the new cogeneration system on rates would be offset, in part, by reductions in purchased power in the range of \$250,000 to \$300,000 annually. Staff currently expects that future rate increases in the fund, including installation, operation and maintenance of the new cogeneration system, and considering reductions in PG&E costs, would be in the 3 to 5% per year range over the next ten years.

FISCAL IMPACT

The estimated project costs to design and construct a cogeneration system for ICE technology are as follows:

Prior Project Costs (Pre-Design Services)	\$ 250,000
Design	880,000
Design Services During Construction	370,000
Co-Generator Pre-purchase	1,200,000
Construction	5,500,000
City Administration	100,000
Construction Management	<u>300,000</u>
Total:	\$8,600,000

The adopted FY 2013 Capital Improvement Program (CIP) includes a total of \$12.5 million in the Sewer Capital Improvement Fund for design and construction of the cogeneration system. The allocation included in the CIP assumed the more costly fuel cell alternative would be implemented; this amount exceeds the estimated costs for ICE. The unused portion will be returned to the fund balance when the project is completed.

Self-Generating Incentive Program - Staff has investigated available financial resources to improve the economic feasibility of cogeneration, including the potential for funding assistance from the Self-Generating Incentive Program (SGIP), provided by the California Public Utilities Commission and administered by PG&E. Staff re-applied for a grant on August 27, 2012, based on the use of ICE technology. This technology qualifies for an incentive of \$0.50 per installed kW of power. In addition, another \$2.00 per kW is available because biogas would be used to fuel the co-generator. Thus, the amount of the grant could be as high as \$2,670,000, depending upon the rating of the chosen co-generator. Grant monies are paid in two phases. Upon initial performance demonstration, 50 percent of the grant would be due to the City. The remaining 50 percent would be paid over a five-year period, based upon co-generator performance.

SGIP grants require that timelines be met in order to be fully qualified. For Hayward, the timeline began upon issuance of a “conditional reservation notice letter” issued on September 18, 2012. This document sets the effective Project Advancement Milestone Due Date as March 3, 2013. One of the milestones requires that a contract for installation must be signed. Since it will not be feasible for the City to execute a construction contract by March 3, pre-purchase of the generator by that date would serve as a good faith effort to demonstrate the City’s commitment to completing the project. In addition, the notice letter sets January 6, 2014 as the Reservation Expiration Due Date, or the date by which the contract must be completed. An extension of up to six months may be requested, and is normally granted, effectively making July 6, 2014 the date when project development must be substantially completed. According to the design, procurement, and construction schedule Carollo has provided, the City should be able to meet the timeline to receive the SGIP grant.

PUBLIC CONTACT

No public contact is planned for the project. All work will be done inside the WPCF boundary, which is located in an industrial or commercial area. There will be no impact on the neighbors or the public.

SCHEDULE

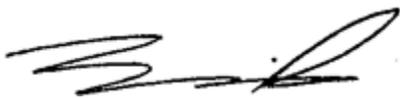
Assuming the City Council concurs with staff’s recommendation, and once a contract with Carollo Engineers is executed, staff anticipates that design would be completed in 12 months, whereupon a call for construction bids would ensue. The estimated schedule for the design phase of this project is summarized as follows:

Approval for City Manager to negotiate contract with Carollo Engineers	October 23, 2012
Notice to Proceed	November 2, 2012
Execute Purchase Agreement for Generator Equipment	March 3, 2013
Complete Design	October 30, 2013
Construction Completion	July 6, 2014

Prepared by: Don Clark, Senior Utilities Engineer

Recommended by: Alex Ameri, Director of Public Works –Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachments:

- Attachment I - Resolution
- Attachment II - Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 12 - ____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH CAROLLO ENGINEERS, FOR PROFESSIONAL SERVICES RELATED TO DESIGN OF WATER POLLUTION CONTROL FACILITY COGENERATION SYSTEM

WHEREAS, the Water Pollution Control Facility (WPCF) generates electric energy on site (cogeneration) that provides 40 percent of the total WPCF electric energy needs using renewable biogas as engine fuel; and

WHEREAS, the existing cogeneration equipment is obsolete and operates at low efficiency; and

WHEREAS, City staff has determined that it is in the City’s best interest to install an internal combustion engine cogeneration system through a design-bid-build process; and

WHEREAS, proposals were received from two qualified engineering firms to design the cogeneration system and prepare construction bid documents; and

WHEREAS, Carollo Engineers have proposed the lowest cost for comparable services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to negotiate and execute an agreement with Carollo Engineers in an amount to not exceed \$880,000, to provide professional engineering services to the City for design of the WPCF cogeneration system and preparation of related construction bid documents, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

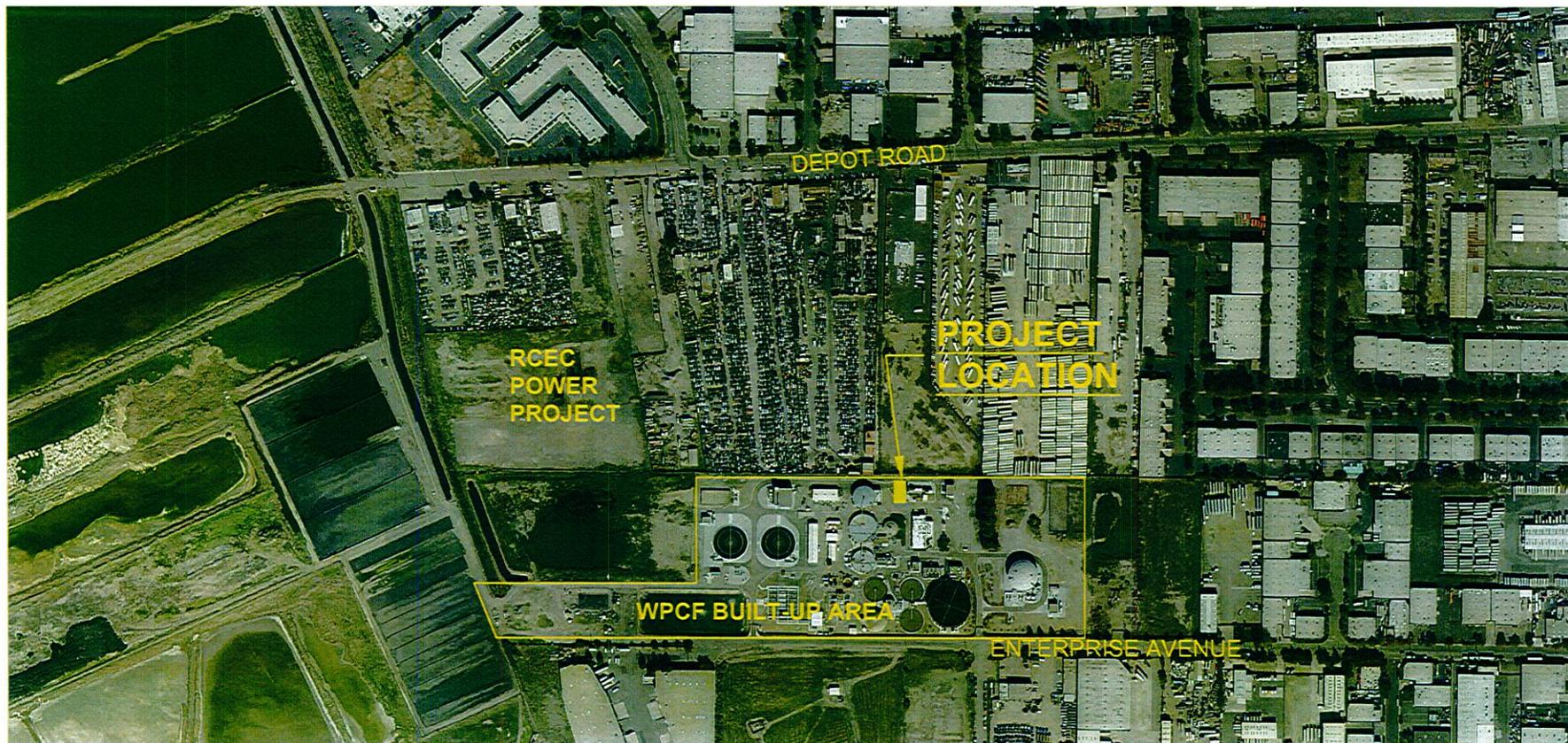
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



PROJECT LOCATION MAP

DATE: October 23, 2012

TO: Chair and Members of the Housing Authority Board

FROM: Assistant Executive Director

SUBJECT: Approval of Use of the Agency-Controlled Operating Reserve to Fund Additional Improvements at Tennyson Gardens

RECOMMENDATION

That the Board adopts the attached resolution approving the use of the Agency-Controlled Operating Reserve to fund additional improvements at Tennyson Gardens.

BACKGROUND

In 2009, the City authorized the issuance of Tax Exempt Multi-Family Housing Revenue Refunding bonds and the former Redevelopment Agency (the “Agency”) approved a \$1,500,000 loan (the Loan) both for the acquisition and rehabilitation of the Tennyson Gardens Apartments (the “Property”), a 96-unit apartment complex affordable to low-income families. The Property is owned by Tennyson Preservation Limited Partnership (“Tennyson Preservation”), an affiliate entity created by Eden Housing Inc. for tax credit purposes. The property is located at 981 W. Tennyson Road.

Prior to its acquisition by Tennyson Preservation, the Property was falling into disrepair which the previous owner was not able to address due to cost overruns. The improvements that Tennyson Preservation performed upon acquisition of the Property included dry rot repairs, security upgrades, and repairs to walkways, carports, and elevators. Eden not only addressed the rehabilitation needs of the Property but also enhanced its management, which has improved the property’s operating performance. This has ensured the Property’s long-term affordability and viability.

DISCUSSION

One of the conditions of the Loan Agreement (the “Agreement”) was that the Agency would retain \$300,000 to create an Agency-Controlled Operating Reserve (the “Reserves”) at construction closing and would maintain it as a segregated interest-bearing account for the term of the Loan. The purpose of these Reserves was to fund any operating deficit¹ during the term of the Loan or to fund additional rehabilitation work at the Property. One of the conditions to request moneys from the

¹ The amount by which annual property operating expenses exceed gross revenues

Reserves for rehabilitation work was that Tennyson Preservation first complete the rehabilitation work and also provide evidence that the Property had not had an operating expense deficit for three (3) years. Tennyson Preservation would also have to demonstrate that it has satisfied all the conditions identified in the Agreement as conditions to disburse the Reserves.

Tennyson Preservation has now submitted a proposal to utilize the Reserves to fund repairs, including replacement of the roof which has to be done prior to the beginning of the rainy season. Staff is recommending that the Board approve the release of the Reserves at this moment and not wait an additional year in consideration of: a) the urgent need of the repairs; b) the fact that Tennyson Preservation is in compliance with all the Agreement's conditions to receive funding, including the Reserves; and c) the fact that Tennyson Preservation has provided the City financial statements showing that the Property has not had an operating deficit since the completion of the rehabilitation two (2) years ago.

ECONOMIC IMPACT

The approval of the use of the Reserves at this time to address much needed repairs will benefit current and future residents of the Property and of surrounding properties. By allowing the use of the Reserves, the City is helping the developer preserve existing housing for low-income households, which is one of the City's Housing Element policies.

FISCAL IMPACT

The release of the Reserves at this time will not have any impact to the City's General Fund. The Reserves have been held in an interest-bearing account since its creation, as required by the Agreement, and have been deemed to be a legitimate housing asset for use by the Authority, as the housing successor-in-interest to the Redevelopment Agency. The reserves were included on the list of housing assets submitted to the State Department of Finance earlier this year in compliance with AB 1484, which further clarified the requirements associated with the dissolution of the former Redevelopment Agency. The Reserves have been confirmed as a housing asset by the Department of Finance.

In addition to the installation of new roofs, Eden's proposal calls for the replacement of windows and sliding doors in most buildings and repairs to elevators. The cost of repairs total approximately \$322,000. Therefore, all the Reserves will be utilized for the proposed repairs. Any deficiency will be made up from project revenues or project reserves. As required by the Agreement, in order to be reimbursed, Eden will have to submit draw requests evidencing payment of the repairs included in the proposal.

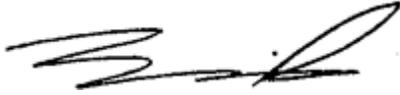
NEXT STEPS

If the Board approves staff's recommendation, staff will notify Tennyson Preservation that it can proceed with the repairs. Staff will then reimburse Tennyson Preservation for the cost of the repairs upon submission of draws requests. No further Board action will be necessary.

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo, Assistant Executive Director

Approved by:



Fran David, Executive Director

Attachment I Resolution Approving the Use of the Agency-Controlled Operating Reserve

HOUSING AUTHORITY OF THE CITY OF HAYWARD

RESOLUTION NO. HA-_____

Introduced by Authority Member _____

RESOLUTION APPROVING USE OF AGENCY-CONTROLLED
OPERATING RESERVE FOR IMPROVEMENTS AT TENNYSON
GARDENS APARTMENTS

WHEREAS, in 2009, the Redevelopment Agency of the City of Hayward (the “Redevelopment Agency”) entered into a loan agreement (the “Loan Agreement”) with Tennyson Preservation Limited Partnership (the “Borrower”), in the amount of \$1,500,000 to provide funding for rehabilitation improvements at Tennyson Gardens Apartments (“Tennyson Gardens”); and

WHEREAS, the Loan Agreement required the establishment of an Agency-Controlled Operating Reserve (the “Reserves”) in the amount of \$300,000 from the proceeds of the loan, which Reserves can be used to fund additional rehabilitation improvements at the Property, subject to a written request from the Borrower and a detailed explanation of the proposed use of the funds; and

WHEREAS, the Borrower has submitted a written request for use of the Reserves to fund the installation of a new roof and to perform other improvements at the Property; and

WHEREAS, all California redevelopment agencies were dissolved effective February 1, 2012; and

WHEREAS, Health & Safety Code Section 34176(a) provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, Health & Safety Code Section 34176(b)(3) provides that if the city that authorized the creation of a redevelopment agency elects not to retain the housing assets and functions previously performed by the former redevelopment agency and there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, the city may select the local housing authority which will retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, on January 10, 2012, the City Council of the City of Hayward elected not to retain the housing assets and functions previously performed by the Redevelopment Agency and instead selected the Housing Authority of the City of Hayward (the “Housing Authority”) to serve as the successor housing agency pursuant to Health & Safety Code Section 34176(b)(3); and

WHEREAS, the housing assets of the former Redevelopment Agency were transferred to the Housing Authority, including the Loan Agreement, as authorized by law; and

WHEREAS, the Housing Authority has the authority to approve the disbursement of the Reserves in its capacity as the successor-in-interest to the former Redevelopment Agency; and

WHEREAS, since the installation of the improvements has been completed, the Tennyson Gardens property has operated without an operating expense deficit, and, as such, it is appropriate to release the Reserves to the Borrower to fund the installation of a new roof and to perform other repairs.

NOW, THEREFORE, BE IT RESOLVED, that Housing Authority of the City of Hayward hereby approves the use of the Reserves to perform repairs and for the installation of a new roof at Tennyson Gardens, as proposed by the Borrower.

BE IT FURTHER RESOLVED, that the City Housing Authority's Executive Director or the Executive Director's designee is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the Authority to release the funds in the Reserves to the Borrower.

IN BOARD, HAYWARD, CALIFORNIA, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COMMISSION MEMBERS:

NOES: COMMISSION MEMBERS:

ABSENT: COMMISSION MEMBERS:

ABSTAIN: COMMISSION MEMBERS:

ATTEST: _____
Secretary of the Housing Authority of the
City of Hayward

APPROVED AS TO FORM:

General Counsel

DATE: October 23, 2012

TO: Mayor and City Council
Chair and Members of the Successor Agency Board
Chair and Members of the Housing Authority Board

FROM: Assistant City Manager
Director of Finance

SUBJECT: Approval of Transfer of Specified Properties from the City of Hayward to the Hayward Successor Agency and Approval of Fund Balance Transfer from the Housing Authority to the Hayward Successor Agency

RECOMMENDATION

That the Council and Boards adopt the attached resolutions:

- 1) City Council Resolution approving the transfer of specified properties from the City of Hayward to the Hayward Successor Agency;
- 2) Successor Agency Resolution approving the acceptance of specified properties from the City of Hayward to the Hayward Successor Agency; and
- 3) Housing Authority Resolution confirming the transfer of \$1,071,056.49 from the former Low Moderate Income Housing Fund in the Housing Authority fund balance to the Hayward Successor Agency for future redistribution under the provisions of ABx1 26 and AB 1484.

BACKGROUND

The California State Legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law in June of 2011. The California Supreme Court, in its decision in *California Redevelopment Association v. Matosantos*, issued December 29, 2011, declared the Dissolution Act to be constitutional. Under the Dissolution Act, all California redevelopment agencies, including the Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) were dissolved effective February 1, 2012, and various actions are now required by its successor agency (the “Successor Agency”) to unwind the affairs of the Dissolved RDA.

On June 27, 2012, as part of the state budget package, the California legislature passed AB 1484 (“AB 1484”). As a budget trailer bill, AB 1484 became effective immediately upon signature by the Governor, which occurred that same day. The main objective of AB 1484 was to amend the Dissolution Act. AB 1484 imposes some significant new obligations on successor agencies and

oversight boards of dissolved redevelopment agencies. Health and Safety Code Section 34179.5, added by AB 1484, requires each successor agency to employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a diligence review for the Dissolved RDA's housing fund (the "Housing DDR") and a due diligence review for all other funds of the Dissolved RDA (the "Non-Housing DDR") to determine the unobligated balances available for transfer to taxing entities. The Housing DDR and the Non-Housing DDR are hereinafter collectively referred to as the "DDRs."

DISCUSSION

The primary intent of this report is to recommend that the City Council, the Successor Agency Board and the Housing Authority Board approve certain actions to comply with various requirements of AB x1 26 and the Dissolution Act prior to the completion of the Due Diligence Reviews to ensure that those reviews accurately reflect the distribution of the Dissolved RDA's assets pursuant to the requirements of ABx1 26 and AB1484.

Property Transfers: In March 2011, the City Council and Redevelopment Agency Board approved the transfer of certain real properties from the Dissolved RDA to the City of Hayward (the "City"). Attachment V provides a listing of the properties that were transferred pursuant to that action. AB x1 26 requires the reversal of certain land and/or fund transfer transactions that occurred after January 1, 2011 between the Dissolved RDA and the City. The City held onto these properties while the Supreme Court case and other legislative action was pending. Now that dissolution activities have begun in earnest, the City desires to transfer the specified properties to the Successor Agency for appropriate action by the Successor Agency.

The recommended action to transfer these properties applies to all of the parcels listed on Attachment IV, with the following three exceptions: (1) the Residual Burbank Property previously transferred to the Successor Agency in August 2012 to allow environmental remediation activities on the site to continue; and (2) the A and Walnut and B and Grand properties previously transferred to the Housing Authority of the City of Hayward (the "Housing Authority") in July 2012, as the recipient of the Dissolved RDA's housing assets. The remaining properties on Attachment IV will now be transferred to the Successor Agency to comply with the requirements of AB x1 26 and AB 1484.

A key provision of AB1484 is the ability of the Successor Agency to prepare a long-range property management plan that would provide for a more thoughtful approach to the disposition of the Dissolved RDA's properties, including the transfer of public use properties to the appropriate governmental entity. The Successor Agency will work to prepare that long-range property management plan and envisions that some of the properties being transferred pursuant to the actions contemplated in this staff report may ultimately be available for transfer to the City to continue the public uses of those parcels.

Housing Fund Balance Transfer: The Housing Authority and the Dissolved RDA entered into an Affordable Housing Cooperation Agreement for the Downtown Hayward Redevelopment Project Area (the "Cooperation Agreement") under which the Dissolved RDA transferred funds from the Dissolved RDA's Low and Moderate Income Housing Funds ("Housing Funds") to the Housing

Authority for use in a variety of affordable housing programs. The Housing Authority used the Housing Funds to fund specified enforceable obligations. The Housing Successor Agency has a fund balance in excess of the current enforceable obligations and associated project management costs, including for the enforceable obligation associated with the South Hayward BART Transit-Oriented Development project. Housing Authority staff determined that approximately \$1,071,056.49 remained in the Housing Fund balance that should be returned to the Successor Agency. In order to ensure that the fund balances were reflected in the accurate accounts prior to the initiation of the Due Diligence Reviews, staff executed this fund transfer on October 3, 2012. With this recommended action, staff is requesting Housing Authority Board confirmation of this transfer.

ECONOMIC AND FISCAL IMPACT

The actions recommended in this report do not have a direct impact on the General Fund. These are activities associated with the dissolution of the Dissolved RDA and are important to ensure that the assets of the Dissolved RDA are transferred in the manner prescribed in AB x1 26 and AB 1484 in a timely manner to avoid the potential penalties for failure to meet the statutory deadlines, including the potential withholding of property and sales tax from the City. City Council and Successor Agency Board and Housing Authority Board approval and confirmation of these actions will assist staff in moving the dissolution process forward expeditiously.

NEXT STEPS

Following approval of the property transfers, staff will file the appropriate paperwork with the County Recorder to effectuate the transfers. Staff will also continue to work with the accountants preparing the DDRs and work to ensure that the DDRs accurately reflect the transfers subject of this Resolution. Staff will work to prepare the long-range property management plan and will work to identify the proper disposition of the public use properties.

Prepared and Recommended by: Kelly McAdoo, Assistant City Manager
Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

- Attachment I City Council Resolution Approving Transfer of Specified Properties to the Successor Agency
- Attachment II Successor Agency Resolution Consenting to the Transfer of Specified Properties from the City of Hayward
- Attachment III Housing Authority Resolution confirming transfer of specified funds to the Successor Agency as required under AB 1x 26
- Attachment IV Property Transfer Listing

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD
APPROVING THE TRANSFER OF SPECIFIED PROPERTY TO THE
SUCCESSOR AGENCY FOR THE REDEVELOPMENT AGENCY OF THE
CITY OF HAYWARD

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, in March of 2011, the City of Hayward (the “City”) acquired from the Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) the properties more particularly described in Exhibit A to this Resolution, incorporated herein by this reference (the “Properties”); and

WHEREAS, on January 10, 2012, pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City would act as successor agency for the Dissolved RDA (the “Successor Agency”), effective February 1, 2012; and

WHEREAS, pursuant to Assembly Bill 1484, enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, the City Council has considered and desires to approve the transfer of the Properties to the Successor Agency; and

WHEREAS, the accompanying staff report provides supporting information upon which the action set forth in this Resolution is based.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the conveyance of the Properties to the Successor Agency.

BE IT FURTHER RESOLVED that the City Council authorizes and directs the City Manager, with the concurrence of the City Attorney, to convey the Properties to the Successor Agency, by execution of one or more grant deeds for the conveyance of the Properties and to take any action and execute any document as may be necessary to implement this Resolution.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage and adoption.

HAYWARD, CALIFORNIA, October ____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Exhibit "A"

LIST OF AGENCY PROPERTIES

<u>APN</u>	<u>Description</u>
428-0071-049	City Hall Municipal Parking Structure (southeast corner of "B Street and Watkins Street)
428-0061-039-01	1027 A Street
444-0033-018-01	24311 Mission Blvd.
444-0033-019	24321 Mission Blvd.
444-0033-020	24331 Mission Blvd.
444-0033-023	24491 Mission Blvd.
428-0066-085; 428-0066-086	Cinema Place
431-0110-007	Residual Burbank School Site
431-0040-010; 431-0040-011; 431-0040-012-02	"B" and Grand (Affordable Housing Parcel)
431-0016-088-03	"A" and Walnut (Affordable Housing Parcel) - 123 A Street
415-0240-002; 415-0240-003-02	1154-1166 Russell Way
427-0001-031-01	22852 Foothill Blvd.
428-0071-018; 428-0071-019	22675-22695 Mission Blvd.
428-0076-023-13; 428-0076-027-09	Watkins Street (City Hall Land)

RESOLUTION NO. RSA2012-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD,
ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR
THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD,
A SEPARATE LEGAL ENTITY, APPROVING THE TRANSFER OF SPECIFIED
PROPERTY FROM THE CITY OF HAYWARD TO THE SUCCESSOR AGENCY

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, in March of 2011, the City of Hayward (the “City”) acquired from the Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) the properties generally described in Exhibit A to this Resolution, incorporated herein by this reference (the “Properties”); and

WHEREAS, on January 10, 2012 pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City would act as successor agency for the Dissolved RDA (the “Successor Agency”), effective February 1, 2012; and

WHEREAS, pursuant to Assembly Bill 1484, enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, the City Council has considered and desires to approve the transfer of the RDA Properties to the Successor Agency; and

WHEREAS, the accompanying staff report provides supporting information upon which the action set forth in this Resolution is based.

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby approves the acceptance of the Properties by the Successor Agency, and declares that this Resolution constitutes the resolution of acceptance by the Successor Agency of the conveyance of the Properties for the purposes of Government Code Section 27281.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, authorizes and directs the City Manager, with the concurrence of the City Attorney, to accept the conveyance of the Properties to the Successor Agency, by acceptance of one or more grant deeds for the conveyance of the Properties and to take any action and execute any document as may be necessary to implement this Resolution.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage and adoption.

HAYWARD, CALIFORNIA, October ____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES:	BOARD MEMBERS:
NOES:	BOARD MEMBERS:
ABSTAIN:	BOARD MEMBERS:
ABSENT:	BOARD MEMBERS:

ATTEST: _____
Secretary of the Successor Agency
of the City of Hayward

Exhibit "A"

LIST OF AGENCY PROPERTIES

<u>APN</u>	<u>Description</u>
428-0071-049	City Hall Municipal Parking Structure (southeast corner of "B" Street and Watkins Street)
428-0061-039-01	1027 A Street
444-0033-018-01	24311 Mission Blvd.
444-0033-019	24321 Mission Blvd.
444-0033-020	24331 Mission Blvd.
444-0033-023	24491 Mission Blvd.
428-0066-085; 428-0066-086	Cinema Place
431-0110-007	Residual Burbank School Site
431-0040-010; 431-0040-011; 431-0040-012-02	"B" and Grand (Affordable Housing Parcel)
431-0016-088-03	"A" and Walnut (Affordable Housing Parcel) - 123 A Street
415-0240-002; 415-0240-003-02	1154-1166 Russell Way
427-0001-031-01	22852 Foothill Blvd.
428-0071-018; 428-0071-019	22675-22695 Mission Blvd.
428-0076-023-13; 428-0076-027-09	Watkins Street (City Hall Land)

HOUSING AUTHORITY OF THE CITY OF HAYWARD

RESOLUTION NO. HA-_____

Introduced by Authority Member _____

RESOLUTION CONFIRMING RETURN OF EXCESS LOW AND
MODERATE INCOME HOUSING FUNDS FROM THE HOUSING
AUTHORITY TO THE HAYWARD SUCCESSOR AGENCY
PURSUANT TO THE REQUIREMENTS OF AB X1 26 AND AB 1484

WHEREAS, in March 2011, the City of Hayward (the “Housing Authority”) and the Redevelopment Agency of the City of Hayward (the “Dissolved RDA”) entered into that certain Affordable Housing Cooperation Agreement for the Downtown Hayward Redevelopment Project Area (the “Cooperation Agreement”) pursuant to which, the Agency granted Agency Low and Moderate Income Housing Funds (“Housing Funds”) to the Housing Authority for use in a variety of affordable housing programs; and

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the “Dissolution Act”) to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 10, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Hayward (the “City Council”) declared that the City would act as successor agency (the “Successor Agency”) for the Dissolved RDA effective February 1, 2012 but elected not retain the housing assets and functions previously performed by the Dissolved RDA and instead, pursuant to Health and Safety Code Section 34176(b)(3), selected the Housing Authority of the City of Hayward (the “Housing Authority”) to retain the housing assets and functions previously performed by the Dissolved RDA; and

WHEREAS, on January 10, 2012, pursuant to Health and Safety Code Section 34176(b)(3), the Governing Board of the Housing Authority, accepted the designation and declared its intent to serves as the successor housing agency for the Dissolved RDA (the “Housing Successor”) and thereby agreed to retain the housing assets and functions previously performed by the Dissolved RDA; and

WHEREAS, on February 1, 2012, the RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, pursuant to AB 1484 (“AB 1484”), enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, in the furtherance of the Cooperation Agreement, the Housing Authority funded specified enforceable obligations as approved on the Successor Agency’s enforceable obligation payment schedules and recognized obligation payment schedules; and

WHEREAS, staff identified Housing Fund balance in excess of the current enforceable obligations and associated project management costs and on October 3, 2012, staff executed a transfer of \$1,071,056.49 (the "Excess Unencumbered Housing Funds") to the Successor Agency as required under AB 1x 26 and AB 1484; and

WHEREAS, the accompanying staff report provides supporting information upon which the actions set forth in this Resolution is based.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Housing Authority hereby confirms and approves of the transfer of the Excess Unencumbered Housing Funds to the Successor Agency.

BE IT FURTHER RESOLVED that the Governing Board of the Housing Authority authorizes and directs the Housing Authority's Executive Director, with the concurrence of the Housing Authority's Counsel, to take any additional actions and execute any documents as may be necessary to implement this Resolution.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage and adoption.

HAYWARD, CALIFORNIA, October __, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:

CHAIR:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

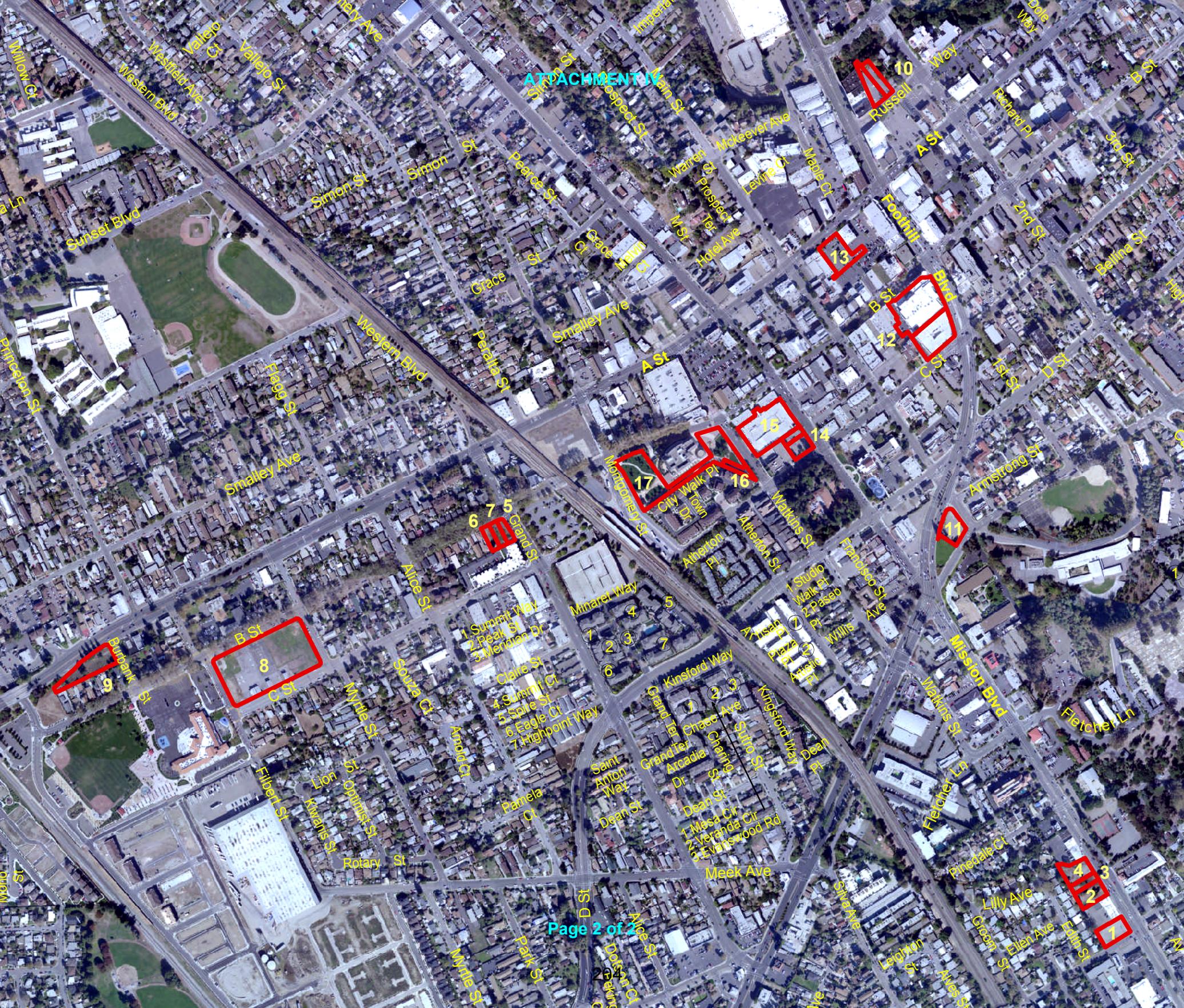
ABSENT: BOARD MEMBERS:

ATTEST: _____
Secretary of the Housing
Authority of the City of Hayward

APPROVED AS TO FORM:

General Counsel

ATTACHMENT IV



DATE: October 23, 2012

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Approval of Contract Amendment with Godbe Research for Completion of the Biannual Resident Satisfaction Survey

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) authorizing the City Manager to negotiate and execute a contract amendment with Godbe Research to increase the time of the Biannual Resident Satisfaction Survey from 16 minutes to 21 minutes, which will increase the original budget for the survey by \$3,950 to a total budget of \$28,910.

BACKGROUND

Beginning in 2008, the City has completed a Resident Satisfaction Survey (survey) every other fall. The FY 2013 budget allocates \$50,000 for the purpose of conducting a third survey. Mr. Bryan Godbe, President of Godbe Research, has conducted the two previous surveys. On July 30, 2012, the City Manager executed a contract with Godbe Research (Godbe) for the 2012 survey. The original contract was under \$25,000, and therefore did not require Council approval.

DISCUSSION

The scope of work in the original contract specified that the survey would be approximately 16-minutes in length, which is similar to the surveys that were completed in 2008 and 2010. With this timeframe in mind, staff worked with Godbe to draft a survey instrument based on the questions used in the past. Several of the draft questions were presented to the Council Economic Development Committee on September 17 for review and comment. The draft was then revised and presented in its entirety to the Council Budget and Finance Committee on September 26 for final review.

After incorporating the changes that were approved by the Budget and Finance Committee (including the deletion of a couple questions), the final survey instrument ran at approximately 21 minutes. This contract amendment will cover the additional cost of adding five minutes to the survey, which is \$3,950. Attachment II outlines the revised scope of work and project budget. This

additional cost will bring the total survey budget to \$28,910, which is over \$25,000 and therefore requires Council approval.

FISCAL IMPACT

As noted above, the FY 2013 budget allocates \$50,000 to the resident survey. Even with the increase in the Godbe contract budget, the project will cost less than the amount allocated.

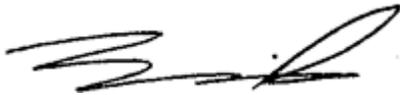
NEXT STEPS

The City Manager will execute a contract amendment with Godbe to complete the services outlined in the scope of work. Godbe will present preliminary findings to the Budget and Finance Committee on October 24 and the final results to the City Council on November 13.

Prepared by: Mary Thomas, Management Fellow

Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution

Attachment II: Revised Scope of Work and Project Budget

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT AMENDMENT WITH GODBE RESEARCH TO INCREASE THE 2012 RESIDENT SATISFACTION SURVEY FROM 16 TO 21 MINUTES WHICH WILL INCREASE THE ORIGINAL BUDGET FOR THE SURVEY BY \$3,950 TO A TOTAL BUDGET OF \$28,910

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a contract amendment with Godbe Research to increase the length and complete the 2012 Resident Satisfaction Survey for a total compensation not to exceed \$28,910.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

Scope of Work – 2012 Resident Satisfaction Survey

1. In-person meetings and conference calls as needed with Hayward to discuss the research objectives for the 2012 Resident Satisfaction Survey, questionnaire design, and other related topics for the survey.
2. Drafting, refining, and pre-testing a survey instrument of approximately 21-minutes in length, to accomplish the research objectives of the 2012 Resident Satisfaction Survey.
3. Purchase and development of a random digit dial (RDD) sample of residents in the City of Hayward, appropriate to the research objectives of the survey.
4. CATI programming the survey instrument for efficient data collection.
5. Translation of the survey instrument into Spanish.
6. Conducting approximate 21-minute interviews with 400 (n=400) total residents in the City, with the option for residents to take the survey in English or Spanish.
7. Processing the data collected from the survey according to strict quality control standards, as well as meeting with Hayward to review the topline report of initial findings a few days after the survey has finished fielding.
8. Producing a comprehensive report of findings, with complete cross-tabulations, and preparing an in-person presentation of findings for Hayward Administration and Council, similar to the 2008 and 2010 Resident Satisfaction Survey processes.
9. On-going post project consulting with Hayward regarding the survey results and recommendations, as needed.

Payment for 60% of project fees for the 2012 Resident Satisfaction Survey will be billed upon initiation of services, which is due 30 days after receipt of the first invoice. The remaining 40% of project fees will be billed upon approval of the final survey questionnaire and will be due 30 days after receipt of the second and final invoice.

Resident Satisfaction Survey Project Costs

The following costs are associated with conducting a 21-minute survey of 400 (n=400) total Hayward residents in English and Spanish, as part of the 2012 Resident Satisfaction Survey process. This conforms to the scope of work employed for the 2012 Resident Satisfaction Survey and is based on the needs of the City for the 2012 survey event. The fees outlined below are firm and fixed, and will not change provided that the scope of work for the project conforms to this agreement. Should project parameters or Hayward needs change, we will be happy to provide amended costs prior to proceeding.

Resident Satisfaction Survey of 400 Respondents

<u>Project Task</u>	<u>21-min.</u>
Random Sample	\$1,000.00
CATI Programming	\$1,650.00
Spanish Language Translation	\$1,050.00
English Telephone Interviewing	\$12,800.00
Spanish Interviewing Surcharge	\$1,500.00
Data Processing	\$1,060.00
Research Fee	\$7,500.00
Project Management	\$2,250.00
<u>Miscellaneous Expenses</u>	<u>\$100.00</u>
Project Total	\$28,910.00

DATE: October 23, 2012

TO: Mayor and City Council

FROM: Director of Maintenance Services

SUBJECT: Amendment of Hayward Municipal Code, Chapter 5, Article 7, Sections 5-7.25, Relating to Unlawful Nuisance on Public Property – Illegal Dumping

RECOMMENDATION

That the City Council introduces the proposed amendments to Hayward Municipal Code, Chapter 5, Article 7, relating to Unlawful Nuisance on Public Property - Illegal Dumping and adopts proposed amendments to the Master Fee Schedule relating to fees and charges for abatement of public nuisances.

SUMMARY

The City's existing Community Preservation and Improvement Ordinance, Chapter 5, Article 7, addresses unlawful nuisances on private property. The proposed amendment (the Ordinance) would add Section 5-7.25 to address unlawful nuisances on public property. This provision places responsibility on private property owners to keep the public right-of-way adjacent to their properties free of trash and debris in order to ensure safe travel for pedestrian and vehicular traffic, prevent blight, and otherwise protect and promote the public health, safety, and welfare. Staff would judiciously utilize the enforcement tools and remedies in the existing ordinance to address violations. Furthermore, the existing ordinance provides a mechanism for property owners to appeal any citation fees and penalties that may be issued.

BACKGROUND

The current Community Preservation and Improvement Ordinance only speaks to nuisance issues on private property. Over the past four years, the City has seen an increase in the discarding of mattresses, furniture, appliances, and trash being dumped or placed on City streets and sidewalks. The origin of these materials is sometimes unclear, but in some instances they can be traced to occupants of the adjacent private property. In any event, they create an unsafe, unhealthy, unsightly, and costly nuisance for the City. The following chart depicts the number of requests for removal of illegal dumping on public property reported to City during the last four fiscal years.

<i>Maintenance Services Department Activity Log</i>				
ILLEGAL DUMPING REMOVAL				
Fiscal Year	2009	2010	2011	2012
No. of Cases	514	726	1,081	1,521
Total Cubic Yards	4,972	5,074	6,080	10,595

Addressing the City Council’s priorities of a safe, clean, and green City, City staff, community groups, volunteer groups, and the Keep Hayward Clean and Green (KHCG) task force have been working together to address this issue by removing trash and debris left in the public right-of-way, to include mattresses, furniture, appliances, and trash. Along with contributing their time and effort to making the City a better place, these volunteer groups have been requesting a better solution in the form of an ordinance to make it a violation for trash and debris to be left in the public right-of-way.

DISCUSSION

The proposed revisions to the Hayward Municipal Code, Community Preservation and Improvement Ordinance, as it relates to unlawful nuisances on public property, is in the best interest of the public health, safety, and general welfare. Providing the ability to enforce violations, by way of an ordinance amendment, is intended to keep the public right-of-way safe by reducing the amount of trash and debris left on City streets and sidewalks. By revising the ordinance, staff is addressing the City Council’s top priorities to keep the City safe, clean, and green, along with responding to community groups, volunteer groups, and the KHCG task force who has been assisting City staff in removing items left on the City’s right-of-way.

The amended ordinance will enable City staff to notice, abate, and recover costs associated with removing trash and debris from the public right-of-way, should a property owner chose not to remove the trash and debris when they are noticed to do so. The intention of the ordinance amendment is to reduce the amount of trash and debris left on the public right-of-way, effectively improving the safety and cleanliness of the City.

The City’s current ordinance states “It is unlawful for any responsible party owning, leasing, renting, occupying, or having charge or possession of any property in the City to maintain or to allow to be maintained such property in a condition detrimental to public health, safety, or general welfare or in a condition which violates any code or ordinance adopted by the City.”¹ The current ordinance, as written, does not address the public property fronting, adjacent, or contiguous to private property.

While most property owners maintain their properties in good condition and keep the street and sidewalk areas free from trash and debris, it is necessary to require all property owners, by way of

¹ <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/CITY-CLERK/MUNICIPAL-CODE/CommunityPreservation&Improvement.pdf>

ordinance, to maintain their properties in a manner that is consistent with preserving the safety and cleanliness of adjacent public rights-of-way. By amending the current ordinance, the City will be able to issue violation notices for trash and debris deposited on public property, and to recover the costs associated with the removal of such trash and debris, if and when required to do so, specifically those property owners/managers that are not conscientious about maintaining their property and the adjacent areas.

The Ordinance seeks to achieve the above in two principle ways:

1. By educating the community through outreach and abatement notification that it is illegal to discard any type of trash or debris on the public right-of-way.
2. By allowing the City to recover the expense associated with abating the trash and debris.

Standard Notification Process - Upon approval of an amendment to the Community Preservation and Improvement Ordinance, if trash and debris is left on the public right-of-way, the property owner adjacent to the trash and debris would be responsible for removal of the item(s). Staff would use the standard notification procedure, whereas if/when trash and debris is reported to the City, City staff would perform an initial inspection of the location and issue a courtesy notice to the adjacent property owner to request that the items be removed prior to City staff reinspection.

Seventy-two hours following the issuance of the courtesy notice, staff would visit the location a second time to verify that the requested items had been removed. If the trash and debris remained upon secondary inspection, staff will immediately remove the items and issue the property owner a Notice of Violation, to include a fee and a penalty. The property owner would then be informed that 1) continued future violations would result in additional penalty fees, 2) non-payment would result in a special assessment against the property, and 3) a subsequent violation within twelve months from the date of the notice would result in additional fees.

The Administrative Hearing process would be an available option to property owners who dispute the Notice of Violation. The hearing must be requested within ten (10) calendar days from the date of the violation notice to dispute the facts of the violations(s) under the Hayward Municipal Code by calling City staff. A \$51 hearing fee would be required and must be submitted with any hearing request.

Available Waste Management Options - Currently, along with the work of City staff and community groups, the City's franchise agreement with Waste Management of Alameda County (WMAC) provides the City with two additional tools to assist with abating illegal dumping. First, the franchise agreement provides that, following a prescribed process, the City can direct WMAC to remove illegally dumped garbage located on the public right-of-way. Once removed, WMAC then bills the abutting property owner for the removal expense. One shortcoming of using this process is that it can take an average of seven days to have the trash or debris removed by WMAC personnel, once WMAC has been notified. Another drawback to using this process is that frequent use of this resolution can eventually lead to higher refuse service costs for all rate payers.

A second tool available to combat illegal dumping includes self-haul coupons that are available upon request from WMAC. These coupons waive the fee for a one-time disposal of two cubic yards of trash self-hauled to the Davis Street Transfer Station in San Leandro. Eligible households include residents of single-family homes, duplexes, triplexes, and four-plexes, but not larger multi-family complexes. WMAC provides a total of 100 self-haul coupons monthly to residents with cart service (1,200 coupons annually). While there is a high demand for these coupons (some residents report that they cannot get them if they call a few days after the first of the month), WMAC reports that 70% of the coupons issued are unused.

City staff and WMAC have recently arranged to make unredeemed self-haul coupons available upon request to managers of multi-family developments for distribution to their tenants to dispose of limited amounts of trash. Managers may request a coupon by calling Waste Management. The number of coupons is limited and will be provided on a first-come, first-served basis. The City may explore additional WMAC customer services, to include bulky items pick-up services to both single and multi-family residents upon expiration of the current WMAC contract (May 31, 2014; with three one-year extension options available at the discretion of the City).

ECONOMIC IMPACT

Improving the overall appearance and health and safety of all properties in Hayward supports a better image of Hayward. This, in turn, improves property values and supports more positive development, both residential and commercial, which leads to an economically healthier community.

FISCAL IMPACT

Presently, there is a significant expense to the City for the removal of illegally dumped items from the public right-of-way. The amendment to the ordinance has the potential to reduce the amount of City resources associated with the removal of illegally dumped items, which would allow City staff to perform other maintenance functions with existing resources. Staff anticipates a substantial increase in the number of calls and/or other communications from property owners that may be impacted by the ordinance and required to pay the disposal fees; however, some of these costs would be recovered when fees are collected from the property owners who do not respond to a violation notice. The cost recovery process would be through a special assessment collected through property taxes.

PUBLIC CONTACT

In April and May 2011, staff presented an overview of the illegal dumping issue to the Crime Free Managers and Crime Free Multi-Housing programs. In September 2011, staff met with the Southern Alameda County Rental Property Association to present them with an overview of the issue and allow for discussion and input regarding the proposed amendment. A community meeting followed in November 2011, to discuss the proposed revision to the ordinance. During the meeting, there was support for the Ordinance from many members of the community who thought this was a much needed tool to help in combating the illegal dumping problem in the City. There were also community members who attended the meeting who expressed opinions against the proposed

ordinance, which they feared would unfairly penalize responsible property owners. On October 13, 2012, a public notice about the October 23, 2012 City Council meeting was distributed to the public via the newspaper, public bulletin boards, City email lists, and distributed to those who attended the November 2, 2011 community meeting about this matter. Finally, staff again contacted the Alameda County Rental Property Association to alert them that the item would be appearing on the October 23, 2012 Council agenda.

Members of the public are encouraged to attend and participate during the October 23 City Council meeting, when the Ordinance will be introduced, then considered for adoption on November 13 by the City Council. The advanced public notice also complies with Government Code section 66016(a) which requires at least ten (10) days notice prior to levying any new fee or service charge or approving any increase in an existing fee or service charge.

NEXT STEPS

This report is next scheduled to be presented to the City Council on November 13, 2012, when the Ordinance will be considered for adoption.

Prepared by: Denise Blohm, Administrative Analyst II

Recommended by: Matt McGrath, Maintenance Services Director

Approved by:



Fran David, City Manager

Attachments:

- | | |
|----------------|---|
| Attachment I | Ordinance: Amend Hayward Municipal Code, Chapter 5, Article 7, by adding Section 5-7.25 |
| Attachment II | Resolution: Revising Master Fee Schedule by adding Illegal Dumping fees |
| Attachment III | Fee Schedule: Update Master Fee Schedule by adding Illegal Dumping fees |

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA
ADDING SECTION 5-7.25 REGARDING UNLAWFUL
NUISANCE ON PUBLIC PROPERTY TO ARTICLE 7 OF
CHAPTER 5 OF THE HAYWARD MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Section 5-7.25 is added to Article 7 of Chapter 5 of the Hayward Municipal Code and is hereby enacted to read as follows:

SEC. 5-7.25 UNLAWFUL NUISANCE ON PUBLIC PROPERTY. It shall be unlawful for any person owning, leasing, renting, occupying, or having charge or possession of any private property in the City to maintain or to allow to be maintained such property for any purposes so as to create any of the following conditions on adjacent or contiguous public property:

- (a) The discarding of furniture, appliances, containers of used motor oil, car batteries, tires and other household waste upon a public street, right-of-way or other public property;
- (b) The depositing or spilling of debris, including trash, paper, wood, plant cuttings and other vegetation onto the public right-of-way or other public property;
- (c) The depositing of mud, dirt, sand, gravel, or concrete onto the public right-of-way that is not associated with the construction or repair of any building or structure pursuant to section 3-5.02 of this code. In the event that such material is deposited in the public right-of-way the responsible party shall make every effort to ensure that the material does not flow into a public storm drain or watercourse and shall remove the material as quickly as is feasible;
- (d) The existence of any condition or use which unlawfully obstructs the free passage or use of any public right-of-way, street, or sidewalk.

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 23rd day of October 2012, by Council Member _____ .

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO _____

Introduced by Councilmember _____

RESOLUTION ADOPTING A REVISION TO THE MASTER FEE SCHEDULE RELATING TO FEES AND CHARGES FOR ABATEMENT OF PUBLIC NUISANCES

WHEREAS, section 15273 of the California Environmental Quality Act Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by City Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby adopts fees and charges relating to abatement of public nuisances in the City of Hayward and incorporates said fees as part of the City's Master Fee Schedule. A copy of the schedule of abatement charges and fees is attached hereto as Attachment III.

BE IT FURTHER RESOLVED that if any provision of this revision to the Master Fee Schedule is deemed to be invalid or beyond the authority of the City of Hayward, either on its face or as applied, the invalidity of such provision shall not affect the other provisions of this Master Fee Schedule, and the applications thereof; and to that end the provisions of this Master Fee Schedule shall be deemed severable.

BE IT FURTHER RESOLVED that this resolution shall become effective as of December 1, 2012.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Update to
FY 2013 Master Fee Schedule

Maintenance Service Department

Illegal Dumping on Public Right-of-Way	<u>Fee</u>	<u>Penalty</u>	<u>Total</u>
1. Violation			
Initial Inspection	No Charge	No Penalty	
First follow-up inspection shows violation eliminated	No Charge	No Penalty	
First follow-up inspection shows violation still exists, City abates illegal dumping	\$920	\$100	\$1,020
2. Subsequent Violation within 12 Months			
<i>(Same property owner)</i>			
Initial Inspection	No Charge	No Penalty	
First follow-up inspection shows violation eliminated	No Charge	No Penalty	
First follow-up inspection shows violation still exists, City abates illegal dumping	\$920	\$800	\$1,720
Each subsequent inspection shows violation still exists	\$920	\$1,000	\$1,920
Special Assessment (Annual per parcel)	\$342		\$342