



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**CITY COUNCIL AGENDA**  
**JULY 9, 2013**

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

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CITY OF  
**HAYWARD**  
HEART OF THE BAY

**CITY COUNCIL MEETING FOR JULY 9, 2013**  
777 B STREET, HAYWARD, CA 94541  
[WWW.HAYWARD-CA.GOV](http://WWW.HAYWARD-CA.GOV)

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**CLOSED SESSION**  
**Closed Session Room 2B – 5:00 PM**

1. **PUBLIC COMMENTS**
  2. Public Employment  
Pursuant to Government Code 54957
    - Performance Evaluation  
City Manager
  3. 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, Deputy City Attorney Vashi, Director of Maintenance Services McGrath  
Under Negotiation: All Groups
  4. Conference with Legal Counsel  
Pursuant to Government Code 54956.9
    - Pending Litigation  
Smith/City of Hayward, WCAB No. ADJ8926623  
Ayala/City of Hayward, WCAB No. ADJ8438374  
Scott/City of Hayward, WCAB No. ADJ8072894
  5. Adjourn to Special Meeting
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**SPECIAL CITY COUNCIL MEETING**

**Council Chambers – 7:00 PM**

**CALL TO ORDER Pledge of Allegiance** Council Member Peixoto

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PRESENTATION Business Recognition Award:** Chavez Market

## PUBLIC COMMENTS

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*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.*

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**NON-ACTION ITEMS:** *(Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.)*

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## SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION WORK SESSION

1. General Plan Update - Presentation of Draft Goals and Policies for three General Plan Elements: Community Safety, Hazards, and Mobility (Report from Director of Development Services Rizk)

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

## REGULAR WORK SESSION

2. Rotary Clock Tower – Presentation of Preliminary Design Drawings and Location for a Clock Tower Proposed by the Hayward Rotary Club (Report from Director of Development Services Rizk)

[Staff Report](#)  
[Attachment I Photo simulation of the Proposed Clock Tower](#)  
[Attachment II Elevations of the Proposed Clock Tower](#)  
[Attachment III Site Plan for the Proposed Clock Tower](#)

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**ACTION ITEMS:** *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of 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 anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

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## CONSENT

3. Approval of Minutes of the Special Joint City Council/Redevelopment Successor Agency/Housing Authority Meeting on June 18, 2013

[Draft Minutes](#)

July 9, 2013



4. Centex Sewer Lift Station Upgrade Project: Award of Contract  
[Staff Report](#)  
[Attachment I Resolution](#)  
[Attachment II Bid Summary](#)
  
  5. Pavement Rehabilitation Measure B FY14: Award of Contract  
[Staff Report](#)  
[Attachment I](#)  
[Attachment II](#)  
[Attachment III](#)  
[Attachment IV](#)  
[Attachment V](#)
  
  6. Authorization for an Exclusive Negotiating Period with Waste Management of Alameda County  
[Staff Report](#)  
[Attachment I Resolution](#)
  
  7. Consideration of Converting the Format of City Council Minutes to Action Minutes  
[Staff Report](#)  
[Attachment I Resolution](#)
- 

*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*
- 

## **PUBLIC HEARING**

8. Proposed FY2014 and FY2015 Water and Sewer Rates (Report from Director of Public Works Ameri)  
[Staff Report](#)  
[Attachment I Resolution](#)  
[Attachment II Staff Report from May 7, 2013](#)  
[Attachment III Public Hearing Notice](#)
  
9. Downtown Business Improvement Area Consideration of Annual Levy (Report from City Manager David)  
[Staff Report](#)  
[Attachment I Resolution](#)  
[Attachment II](#)  
[Attachment III](#)

July 9, 2013



## LEGISLATIVE BUSINESS

10. Designation of Voting Delegates and Alternates for the League of California Cities 2013 Annual Conference (Report from City Manager David)

[Agenda Report](#)

[Attachment I](#)

[Attachment II](#)

## 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

**NEXT MEETING – 7:00 PM, TUESDAY, JULY 16, 2013**

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**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 before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

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**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.

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\*\*\*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, 4<sup>th</sup> 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. \*\*\*

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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.

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*Please visit us on:*



July 9, 2013



**DATE:** July 9, 2013

**TO:** Mayor and City Council  
Planning Commission

**FROM:** Director of Development Services

**SUBJECT:** General Plan Update - Presentation of Draft Goals and Policies for three  
General Plan Elements: Community Safety, Hazards, and Mobility

## **RECOMMENDATION**

That City Council and the Planning Commission review and comment on this report and its attachments.

## **SUMMARY**

This joint work session is the second of three scheduled specifically to provide the City Council and Planning Commission the opportunity to provide initial feedback on draft goals and policies of the updated General Plan.

This work session will focus on goals and policies associated with the Community Safety (Attachment I), Hazards (Attachment II), and Mobility (Attachment III) elements. The attachments reflect and incorporate General Plan Task Force input received on June 20, 2013.

On July 30, the three elements for which draft goals and policies will be presented are: Natural Resources, which will include goals and policies related to air and water quality, biological resources and scenic resources; Health and Quality of Life, that will include goals and policies related to access to healthy foods, safe neighborhoods, and parks and open space; and Land Use, which will include goals and policies related to Priority Development Areas, the Industrial Technology and Innovation Corridor as well as Hillsides and Historic Districts.

The final and tenth element is the Housing Element. The Housing Element was most recently updated in June 2010 and subsequently certified by the State, and will follow a slightly different schedule. The Department of Housing and Community Development (HCD) has published a Housing Element Update Guidance package and is offering a streamlined review option for jurisdictions that meet certain requirements. The City will be taking advantage of this streamlined review while allowing for the Housing Element to be part of the final General Plan document presented to Council for adoption by June 2014.

Goal and policy development for the various elements in the updated General Plan will rely on the key findings/information from the background reports, existing General Plan policies and strategies, community outreach, and the Vision and Guiding Principles (which entailed significant public input).

## **BACKGROUND**

The Hayward 2040 General Plan project was authorized by City Council and initiated in July of 2012. To date, there have been six previous work sessions/meetings before the City Council and/or Planning Commission and nine previous community meetings. Additionally, input on the General Plan project has been received via the City's Hayward 2040 online tool at [Hayward2040.org](http://Hayward2040.org).

On June 18, 2013, the most recent joint work session was held to present goals and policies associated with the Economic Development, Public Facilities and Services, and Education and Life-Long Learning elements. Some of the comments raised at the June 18 work session were related to goals and policies that will be addressed in other elements including those that are part of this report. Policies addressing safety around schools can be found in Goal 1 of the Community Safety Element. Policies addressing Rising Sea levels can be found in Goal 4 of the Hazards Element. Policies related to aging in place and parks and open space are located in the Community Health and Quality of Life Element that will be presented on July 30.

Information on past meetings and the General Plan Update project and process can be found on the Hayward 2040 General Plan webpage on the City's [website](#).

## **DISCUSSION**

This second joint work session focuses on draft goals and policies associated with the Community Safety, Hazards, and Mobility elements. These three elements were presented to the General Plan Update Task Force for their input on June 20. A summary of the Task Force feedback is provided later in this report.

Staff is requesting that the City Council and Planning Commission review the attached draft goals and policies and provide feedback. Staff offers the following questions to guide review and discussion:

- Are the goals and policies appropriate and consistent with the Guiding Principles that were developed from the Community Vision?
- Do the goals and policies reflect the ideas that have been expressed by the community?
- Are there any goals or policies that should be eliminated?
- Are there any additional goals or policies that are needed to achieve the Community Vision?

Community Safety – The goals and policies included in this section have been reviewed by both the Fire and Police Departments prior to sharing with the General Plan Update Task Force. As Attachment I shows, the draft goals are:

- (1) Crime Prevention– Strengthen partnerships with the Hayward community to develop strategies and solutions that prevent crime;
- (2) Police Protection Services – Provide exceptional police protection services to promote a safe and secure community;
- (3) Fire Prevention – Prevent fires by conducting routine inspections, incorporating fire safety features in new developments, and educating the public to take proactive action to minimize fire risks;
- (4) Fire Protection and Emergency Medical Services – Provide coordinated fire protection and emergency medical services to promote a safe and healthy community; and
- (5) Disaster Preparedness, Response, and Recovery – Prepare the Hayward community for future emergencies and disasters to minimize property damage, protect and save lives, and recover as a resilient community.

The Guiding Principles that directly influenced goal and policy development for the Community Safety Element are:

- Guiding Principle #2: Hayward should have safe and clean neighborhoods with an expanded network of parks and thriving commercial centers that incorporate attractive design, support a diverse population, encourage long-term residency, and inspire all residents to live active, healthy, and green lifestyles.
- Guiding Principle #3: Hayward should develop and enhance its utility, communications, and technology infrastructure; and provide exceptional police, fire, and emergency services.
- Guiding Principle #5: Hayward should have a safe, walkable, vibrant, and prosperous Downtown that serves as an attractive destination for business, shopping and dining, arts and entertainment, and college-town culture.

For a fuller description of each of the draft Community Safety goals and the supporting policies, please review Attachment I.

*Hazards* – The goals and policies included in this section have been reviewed by both the Fire and Public Works Departments prior to sharing with the General Plan Update Task Force. As Attachment II shows, the draft goals are:

- (1) Regional Coordination – Promote a disaster-resilient region by reducing hazard risks through regional coordination and mitigation planning;
- (2) Seismic and Geologic Hazards – Protect life and minimize property damage from potential seismic and geologic hazards;
- (3) Flood Hazards –Protect life and minimize property damage from potential flood hazards;
- (4) Rising Sea Levels – Safeguard the Hayward shoreline, open space, recreational resources, and urban uses from flooding due to rising sea levels;
- (5) Urban Wildfire Hazards – Protect life and minimize potential property damage from urban wildfire hazards in hillside areas;

- (6) Hazardous Materials –Protect people and environmental resources from contaminated hazardous material sites and minimize risks associated with the use, storage, transport, and disposal of hazardous materials;
- (7) Airport Hazards – Minimize exposure to safety hazards associated with aircraft using the Hayward Executive Airport; and
- (8) Noise Hazards – Minimize human exposure to excessive noise.

The Guiding Principles that directly influenced draft goal and policy development for the Hazards Element are:

- Guiding Principle #3: Hayward should develop and enhance its utility, communications, and technology infrastructure; and provide exceptional police, fire, and emergency services.
- Guiding Principle #8: Hayward should preserve, enhance, and connect its baylands, hillsides, greenway trails, and regional parks to protect environmental resources, mitigate impacts of rising sea levels, and provide opportunities to live an active outdoor lifestyle.

For a fuller description of each of the draft Hazards goals and the supporting policies, please review Attachment II.

*Mobility* – The goals and policies included in this section have been reviewed by the Public Works - Engineering and Transportation Department prior to sharing with the General Plan Update Task Force. As Attachment III shows, the draft goals are:

- (1) Multimodal System – Provide a comprehensive, integrated, and connected network of transportation facilities and services for all modes of travel;
- (2) Regional Transportation Context – Connect Hayward to regional and adjacent communities’ transportation networks and reduce the impacts of regional through traffic in Hayward;
- (3) Complete Streets – Provide complete streets that balance the diverse needs of users of the public right-of-way;
- (4) Local Circulation – Enhance and maintain local access and circulation, while protecting neighborhoods from through traffic;
- (5) Pedestrian Facilities – Provide a universally accessible, safe, convenient, and integrated pedestrian system that promotes walking;
- (6) Bikeways – Create and maintain a safe, comprehensive, and integrated bicycle system and support facilities throughout the city that encourage bicycling that is accessible to all;
- (7) Public Transit – Improve coordination among public agencies and transit providers to meet public transit needs and provide greater mobility;
- (8) Transportation Demand Management – Encourage transportation demand management strategies and programs to reduce vehicular travel, traffic congestion, and parking demand;
- (9) Parking – Provide and manage a balanced approach to parking that meets economic development and sustainability goals;

- (10) Aviation – Develop the airport to meet projected airside and landside facilities needs and improve the overall efficiency of operations as a reliever airport;
- (11) Goods Movement – Balance the safe and efficient movement of goods with local access and circulation needs; and
- (12) Funding – Maintain sufficient funding to provide for existing and future transportation facility and service needs, including the operation and maintenance of the transportation system.

The Guiding Principles that directly influenced draft goal and policy development for the Mobility Element are:

- Guiding Principle #5: Hayward should have a safe, walkable, vibrant, and prosperous Downtown that serves as an attractive destination for business, shopping and dining, arts and entertainment, and college-town culture.
- Guiding Principle # 7: Hayward residents, workers, and students should have access to an interconnected network of safe, affordable, dependable, and convenient transportation options.

For a fuller description of each of the Mobility goals and the supporting policies, please review Attachment III.

*General Plan Update Task Force* – The General Plan Update Task Force held a special meeting on June 20 to review the draft goals and policies for the Community Safety, Hazards, and Mobility Elements. The Task Force was generally supportive of the draft goals and policies, especially those contained in the Mobility Element, because they felt the ideas and concepts were reflective of the input they had been hearing from the community.

Community Safety - The Task Force wanted to add language to policy CS-1.2 that references developing new crime prevention programs, in addition to maintaining existing programs. The policy has been updated to reflect that comment. The Task Force also wanted to modify the language in policy CS-1.10 that indicates the City will also support the use of technology to discourage crime. The policy has been updated to reflect this change. The Task Force wanted to strengthen the language in CS-1.11. The policy was modified from “consider conditions of approval” to “require conditions of approval” to reflect this. The Task Force requested a new policy be added under Goal 5 referencing the City’s coordination with senior homes to be sure they are equipped with enough emergency supplies to be self-sufficient similar to policy CS-5.5. Policy CS-5.6 has been added to address this comment. Lastly, the Task Force requested that a reference to disruptions in water service be added to policies CS-5.8 and CS-5.11. These policies were modified to include this language.

Hazards - The Task Force wanted stronger language to be used for policy HAZ-2.10 that would require the City to seismically upgrade City facilities. Given the costs associated with doing so for the former City Hall building on Mission Boulevard and its limitations for occupancy due to it being within 50 feet of an active fault trace, staff recommends leaving the language as is.

Mobility - The Task Force requested that the language in policy M-1.2 be modified from “attractive choices” to “desirable choices”. The policy has been modified to reflect this change. The Task Force also requested that policy M-7.2 include a reference to Transit providers meeting the travel needs of students and visitors and not just Hayward residents and businesses, which has been added.

*General Plan Format* – To allow for better monitoring and implementation of General Plan goals and policies, the updated General Plan will have a new layout similar to the 2010 Housing Element and will contain goals, policies, and implementation programs. The format will be similar to the City of Sacramento’s recently updated General Plan<sup>1</sup>. The new format will include goals that have a clear focus or end toward which effort will be directed, policies that will be clear and feasible, and implementation programs with metrics consistent with Council’s desire to measure program outcomes. The final product will be an interactive web-based General Plan that will be easy to navigate and will be searchable, allowing decision-makers and other users to quickly locate relevant information.

**FISCAL IMPACT**

The fiscal impacts associated with the General Plan Update were provided in the September 25, 2012 City Council agenda report. Below is a table showing the approved General Plan Update budget and the portion that has been spent and portion remaining as of mid-June, 2013.

<b>Budget for General Plan Update 2012-2014 (as adopted on 9/25/2012)</b>			
	<b>Approved Budget</b>	<b>Spent</b>	<b>Remaining</b>
City Staff Time	\$475,000	\$115,217	\$359,783
Jason Jones	\$266,800	\$130,800	\$136,000
Public Engagement Activities/Tools	\$10,000	\$6,000	\$4,000
Mintier Harnish/MIG	\$1,157,840	\$541,202	\$616,638
Miscellaneous Costs (outreach materials)	\$10,000	\$2,677	\$7,323
Subtotal	\$1,919,640		\$1,184,051
10% Contingency	\$191,964		\$191,964
<b>Grand Total</b>	<b>\$2,111,604</b>	<b>\$795,896</b>	<b>\$1,315,708</b>

**PUBLIC CONTACT**

Ongoing updates have been provided on the City’s web site and on [Hayward2040.org](http://Hayward2040.org). The City has been providing updates on the City’s Facebook and Twitter accounts as well encouraging participation on the [Hayward2040.org](http://Hayward2040.org) site.

<sup>1</sup> City of Sacramento General Plan at <http://www.sacgp.org/index.html>

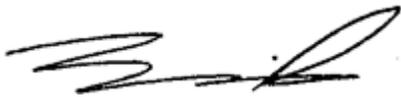
## NEXT STEPS

Staff will present draft goals and policies associated with the Natural Resources, Health and Quality of Life, and Land Use on July 30<sup>th</sup>, after review and input by the Task Force, to provide an opportunity for input prior to preparation of the draft General Plan. Following input from the City Council and Planning Commission, as well as the Task Force, the goals and policies will be updated and draft Implementation Programs will be developed. The draft General Plan is scheduled to be released for public review in the fall. Staff intends to present the draft General Plan during work sessions once the policy document has been released.

*Prepared by:* Sara Buizer, AICP, Senior Planner

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, City Manager

Attachments:

Attachment I	Draft Community Safety Element
Attachment II	Draft Hazards Element
Attachment III	Draft Mobility Element

## Goal 1 Crime Prevention

In general, three factors come together when a crime occurs: a criminal, a target (either a person or property), and an opportunity to commit the crime with a relatively low risk of getting caught. Crime prevention strategies are generally designed to remove (or reduce) one or more of the three factors. For example, the number of criminals can be reduced, not only by arrests and prosecutions, but also by intervention programs that direct at-risk youth and adults towards positive activities and opportunities. The number of targets can be reduced by educating people about how to avoid dangerous situations, such as going out alone at night, parking in an unsupervised area, and leaving valuable belongings in a car. Opportunities to commit crime can also be reduced by increasing human activity on streets and public spaces, and by siting and designing buildings to allow people to monitor outside activity. Technology, such as surveillance cameras and alarms, can aid in crime prevention by increasing the criminal's perceived risk of getting caught. This goal and its supporting policies are designed to promote a safer community by developing community partnerships and strategies to prevent crime. The policies are specifically designed to prevent crime by reducing one or more of the three factors of crime (criminal, target, or opportunity). Additional policies that can help prevent crime are also provided in other elements of the General Plan, especially the Health and Quality of Life Element, the Economic Development Element, and the Education and Lifelong Learning Element.

### GOAL CS-1

**Strengthen partnerships with the Hayward community to develop strategies and solutions that prevent crime.** *[Source: New Policy, City Staff; GPUTF; Public, CC/PC]*

#### CS-1.1 Community Partnerships

The City shall coordinate with residents, businesses, schools, park districts, and community and neighborhood organizations to develop and expand partnerships to prevent crime. *[Source: New Policy, City Staff; GPUTF; Public] (JP, IGC, PI)*

#### CS-1.2 Crime Prevention Programs

The City shall maintain and consider new Police Department programs that support residents and businesses in their efforts to prevent crime and improve neighborhood safety, such as Hayward Neighborhood Alert, Neighborhood Watch, Business Watch, Crime Free Multi-Housing Program, and Synchronized Multi-Agency Safe Housing (SMASH). *[Source: New Policy, City Staff; GPUTF; Public] (JP, CSO, PI)*

#### CS-1.3 Gang Intervention Programs

The City shall maintain and further develop Police programs, services, and strategies that keep children and teens out of gangs and involved in positive activities. *[Source: New Policy, City Staff; GPUTF; Public] (CSO)*

#### CS-1.4 Services for At-Risk Youth

The City shall coordinate with schools to provide services that help at-risk youth escape the path of crime, such as on-site counseling, crisis intervention services, emergency hotlines, and case management services. *[Source: New Policy, City Staff; GPUTF; Public] (IGC)*

#### CS-1.5 Recreational Programs

The City shall coordinate with park districts, youth organizations, faith-based organizations, and

community centers to provide recreational programs that deter children and young adults from crime. *[Source: New Policy, City Staff; GPUTF; Public] (IGC, JP)*

#### **CS-1.6 Crime Awareness Campaigns**

The City shall coordinate with schools, colleges, businesses, and neighborhood and community groups to develop, promote, and/or sponsor awareness campaigns about various crimes, including burglaries, child abuse, bullying, domestic violence, sexual assault, human trafficking, fraud, and identity theft. *[Source: New Policy, City Staff; GPUTF; Public] (JP, IGC, PI)*

#### **CS-1.7 Personal Security and Victim Avoidance Training**

The City shall encourage and promote local efforts to teach residents how to improve their personal security and avoid being a crime victim. *[Source: New Policy, City Staff] (JP, IGC, PI)*

#### **CS-1.8 Cyber Safety**

The City shall coordinate with local school districts, parent-teacher organizations, and community centers to educate residents (especially children and seniors) about the dangers they could encounter on the Internet and how to avoid them. *[Source: New Policy, City Staff] (IGC, JP, PI)*

#### **CS-1.9 Crime Prevention Through Environmental Design**

The City shall continue to include the Police Department in the review of development projects to promote the implementation of Crime Prevention Through Environmental Design (CPTED) principles. *[Source: New Policy; City Staff] (RDR)*

#### **CS-1.10 Technology**

The City shall encourage and support the use of technology (such as private surveillance cameras, deployed public camera systems, theft-prevention

devices, emergency call boxes, alarms, and motion-sensor lighting) to discourage crime. *[Source: New Policy, City Staff] (RDR, PI)*

#### **CS-1.11 On-Site Security**

The City shall require conditions of approval related to the provision of on-site security and safety measures for bars, nightclubs, live entertainment businesses, and related uses. Conditions of approval may include surveillance cameras, crowd management practices, and on-site security staff. *[Source: New Policy, City Staff] (JP, RDR)*

#### **CS-1.12 Emergency Call Boxes in Parks**

The City shall coordinate with the Hayward Area Recreation and Park District (HARD) and East Bay Regional Park District (EBRPD) to increase the number of emergency call boxes in parks and along trails, especially in areas that are out of cell phone range. *[Source: New Policy; GPUTF] (IGC)*

#### **CS-1.13 Entertainment Uses**

The City shall require entertainment and nightlife uses to implement best practices that promote a healthy balance of public safety and nightlife vibrancy. *[Source: New Policy; City Staff] (RDR)*

#### **CS-1.14 Coordination of Homeless Services**

The City shall coordinate with community organizations to develop and maintain a comprehensive system of services to alleviate homelessness and related public safety concerns. *[Source: New Policy; City Staff] (JP, IGC)*

#### **CS-1.15 Image and Public Safety**

The City shall maintain and implement programs that address conditions that foster crime or the fear of crime, such as blight, litter, graffiti, illegal dumping, panhandling, and abandoned vehicles. *[Source: New Policy; City Staff] (CSO, FB)*

## Goal 2 Police Protection Services

The quality of the City's Police Department and its relationship with the community has a direct impact on Hayward's overall safety, security, and quality of life. This goal and its supporting policies are designed to enhance the services of the Hayward Police Department and to create stronger community partnerships. The policies address staffing levels, training, police facilities and equipment, and community relations.

### GOAL CS-2

**Provide exceptional police protection services to promote a safe and secure community.**  
*[Source: New Goal; GPUTF; Public; CC/PC]*

#### CS-2.1 Community Policing Strategies

The City shall promote community policing strategies that support community partnerships and problem-solving techniques that build public trust and proactively address public safety issues.  
*[Source: New Policy; City Staff] (CSO, JP, PI)*

#### CS-2.2 Police Strategic Plan

The City shall maintain and implement a Police Department Strategic Plan to:

- Set near-term goals for the Department in response to a dynamic and changing environment.
- Align police services with the community's desires and expectations.
- Accurately assess the operational needs of the Police Department to best serve the Hayward community.

*[Source: New Policy, City Staff] (MPSP)*

#### CS-2.3 Police Staffing

The City shall strive to attain a Police Department staffing ratio of 1.5 sworn officers per 1,000 residents.  
*[Source: New Policy; City Staff] (CSO, FB)*

#### CS-2.4 Response Time for Priority 1 Calls

The City shall strive to arrive at the scene of Priority 1 Police Calls within 5 minutes of dispatch, 90 percent of the time.  
*[Source: New Policy; City Staff] (CSO)*

#### CS-2.5 Police Equipment and Facilities

The City shall ensure that Police equipment and facilities are provided and maintained to meet reasonable standards of safety, dependability, and efficiency.  
*[New Policy; City Staff] (CSO, FB)*

#### CS-2.6 Police Facilities Master Plan

The City shall maintain and implement a Police Department Facilities Master Plan that serves as the long-term plan for providing the Police Department with state-of-the-art equipment and facilities, including police headquarters, police substations, training facilities, detention facilities, shooting ranges, and emergency operations centers.  
*[Source: New Policy, City Staff] (MPSP)*

#### CS-2.7 Police Training

The City shall ensure that Police officers have access to state-of-the-art training programs and professional development opportunities.  
*[Source: New Policy, City Staff] (CSO, FB)*

#### CS-2.8 Cross Training

The City shall increase cross training among disciplines in the Police Department so that short-term personnel needs and service gaps can be filled by internal staff.  
*[Source: New Policy, City Staff] (CSO)*

#### CS-2.9 Culture Competency Training

The City shall ensure that all officers receive comprehensive cultural competency training to better serve the needs of Hayward's diverse population.  
*[Source: New Policy, City Staff] (CSO)*

### **CS-2.10 Cooperative Delivery of Services**

The City shall coordinate with local, State, and Federal law enforcement agencies to promote local and regional cooperation in the delivery of law enforcement services and to maintain mutual aid agreements. *[Source: New Policy; City Staff] (IGC)*

### **CS-2.11 Community Facilities Districts**

The City shall consider the establishment of community facilities districts to ensure that new development does not constrain the City's ability to provide adequate police services to the Hayward community. *[Source: New Policy; City Staff] (RDR, JP)*

### **CS-2.12 Development Fees**

The City shall consider the establishment of development impact fees to help fund Police Department operations. *[Source: New Policy, City Staff] (MPSP, CSO)*

### **CS-2.13 Police Communications**

The City shall consider the development of a comprehensive Police communication program to inform residents of crimes, investigations, and emergencies. Communication methods may include text messaging, social media postings, telephone and cellular phone messaging, and website postings. *[Source: New Policy; City Staff] (CSO, PI)*

## **Goal 3 Fire Prevention**

With an aging stock of residential, commercial, and industrial buildings, Hayward is a community that will likely experience more structural fires in the future. This goal and its supporting policies are designed to protect life and property by preventing structural fires in the Hayward community. Fire prevention is accomplished by minimizing fire risks through education, routine inspections, and requiring building renovations

and new construction to comply with fire access and building codes. Additional policies related to the prevention of wildland fires are provided in the Hazards Element.

## **GOAL CS-3**

**Prevent fires by conducting routine inspections, incorporating fire safety features in new development, and educating the public to take proactive action to minimize fire risks.**  
*[Source: New Goal; Public; GPUTF]*

### **CS-3.1 Fire Prevention Education**

The City shall maintain and implement a fire prevention and safety education program for Hayward residents and businesses. The program shall be directed primarily at high-risk population groups, such as seniors and young children. *[Source: Existing Policy, modified] (PI)*

### **CS-3.2 Fire and Building Codes**

The City shall adopt and enforce fire and building codes. *[Source: Existing Policy, modified] (CSO, JP, IGC)*

### **CS-3.3 Development Review**

The City shall continue to include the Fire Department in the review of development proposals to ensure projects adequately address fire access and building standards. *[Source: New Policy; City Staff] (RDR)*

### **CS-3.4 Adequate Water Supply for Fire Suppression**

The City shall require new development projects to have adequate water supplies to meet the fire-suppression needs of the project without compromising water suppression services to existing uses. *[Source: New Policy; City Staff] (RDR)*

### **CS-3.5 Water Supply Infrastructure**

The City shall require development to construct and install fire suppression infrastructure and

equipment needed to serve the project. *[Source: New Policy; City Staff]* (RDR)

### **CS-3.6 Fire Safety Inspections**

The City shall maintain its fire inspection program for commercial, industrial, and multi-family residential buildings in compliance with the requirements of State law. *[Source: New Policy; City Staff]* (CSO)

### **CS-3.7 Fire Hazards on City-Owned Property**

The City shall remove excessive or overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish from City-owned property to prevent fires and minimize fire risks to surrounding properties. *[Source: New Policy; City Staff]* (CSO)

### **CS-3.8 Fire Hazards on Other Properties**

The City shall maintain code enforcement programs that require private and public property owners to remove excessive or overgrown vegetation (e.g., trees, shrubs, weeds) and rubbish to prevent fires and minimize fire risks to surrounding properties. *[Source: New Policy; City Staff]* (CSO)

## **Goal 4 Fire Protection and Emergency Medical Services**

The quality of the City's Fire Department and emergency medical services has a direct impact on Hayward's overall health, safety, and quality of life. This goal and its supporting policies are designed to enhance the fire protection and emergency medical services of the Hayward Fire Department. The policies address a variety of issues, including staffing levels, emergency response times, training, fire facilities and equipment, and coordination with ambulance service providers and hospitals.

## **GOAL CS-4**

**Provide coordinated fire protection and emergency medical services to promote a safe and healthy community.** *[Source: New Goal; GPUTF; Public; CC/PC]*

### **CS-4.1 Fire Strategic Plan**

The City shall maintain and implement a Fire Department Strategic Plan to:

- Set near-term goals for the Department in response to a dynamic and changing environment.
- Align fire and emergency medical services with the community's desires and expectations.
- Accurately assess the operational needs of the Fire Department to best serve the Hayward community.

*[Source: New Policy, City Staff]* (MPSP)

### **CS-4.2 Fire Department Staffing**

The City shall strive to attain a Fire Department staffing ratio of 1.0 firefighter per 1,000 residents. *[Source: New Policy; City Staff]* (CSO, FB)

### **CS-4.3 Fire Department Response Times**

The City shall maintain the ability to respond to fire and emergency medical calls based on the following standards:

- The first unit shall arrive on scene within five minutes of dispatch, 90 percent of the time.
- All remaining units shall arrive on scene within 8 minutes of dispatch.

*[Source: New Policy; City Staff]* (MPSP, CSO)

### **CS-4.4 Timing of Services**

The City shall ensure that growth and development does not outpace the expansion of Hayward Fire Department staffing and the

development of strategically located and fully equipped fire stations. *[Source: New City Policy; City Staff] (MPSO, CSO)*

#### **CS-4.5 Station Call Volumes and the Reallocation of Resources**

The City shall monitor call volumes at individual fire stations to determine if certain areas of the City are in high demand of fire and emergency medical services. The City shall consider reallocating resources (fire units and/or equipment) or building new fire stations to serve high demand areas. *[Source: New Policy; City Staff] (MPSP, CSO, FB)*

#### **CS-4.6 New Fire Stations**

The City shall ensure that new fire stations are strategically placed to provide optimum response times throughout the Hayward community. *[New Policy; City Staff] (CSO)*

#### **CS-4.7 Fire Facilities Master Plan**

The City shall develop, maintain, and implement a Fire Department Facilities Master Plan that serves as the long-term plan for providing the Fire Department with state-of-the-art equipment and facilities. *[Source: New Policy, City Staff] (MPSP)*

#### **CS-4.8 Fire and Paramedic Training**

The City shall ensure that firefighters and paramedics have access to state-of-the-art training and professional development opportunities. *[Source: New Policy, City Staff] (CSO)*

#### **CS-4.9 Cooperative Delivery of Services**

The City shall maintain mutual aid agreements and coordinate with local, State, and Federal fire agencies to promote regional cooperation in the delivery of services. *[Source: New Policy; City] (IGC)*

#### **CS-4.10 Investment in Technology**

The City shall invest in technology that enhances the City's ability to deliver emergency medical

response, fire-rescue, and fire protection services more efficiently and cost-effectively. *[Source: New Policy; City Staff] (CSO, FB)*

#### **CS-4.11 Community Facilities Districts**

The City shall consider the establishment of community facilities districts to ensure that new development does not constrain the City's ability to provide adequate fire services to the Hayward community. *[Source: New Policy; City Staff] (RDR, JP)*

#### **CS-4.12 Development Fees**

The City shall consider the establishment of development impact fees to fund Fire Department operations. *[Source: New Policy, City Staff] (MPSP, CSO)*

#### **CS-4.13 Ambulance Services**

The City shall enhance and expand the Advanced Life Support Emergency Medical Service capabilities of the Hayward Fire Department and expand ambulance services to include Basic Life Support Transport Services. *[Source: New Policy, City Staff] (CSO, FB)*

#### **CS-4.14 Emergency Medical Services**

The City shall encourage the expansion of emergency medical services offered at local hospitals and urgent care clinics. *[Source: New Policy, City Staff] (IGC, JP)*

#### **CS-4.15 Center for Public Safety Excellence**

The City shall initiate and complete the accreditation process for the Center for Public Safety Excellence to improve the service delivery of the Hayward Fire Department. *[Source: New Policy, City Staff] (CSO)*

### **Goal 5 Disaster Preparedness, Response, and Recovery**

Hayward is located in an area that is susceptible to a variety of potential disasters, including

earthquakes, landslides, coastal flooding, and wildland fires. Preparing for disasters and having pre-planned policies to coordinate a strategic response is not only important for government agencies, but also for local residents and businesses. Preparedness ensures that government agencies, residents, and businesses have the necessary equipment and resources to stay safe during a disaster and to survive without regular services (such as water and electricity) during the following phase of recovery. This goal and its supporting policies are designed to prepare residents and businesses for disasters, and to ensure that the City of Hayward and other government agencies are ready to respond to protect lives and property during an emergency. Related policies that discuss potential development in hazardous areas of the City are provided in the Hazards Element.

## GOAL CS-5

**Prepare the Hayward community for future emergencies and disasters to minimize property damage, protect and save lives, and recover as a resilient community. [Source: New Goal; Public; GPUTF].**

### CS-5.1 Local Hazard Mitigation Plan

The City shall maintain and implement the Multi-Jurisdictional Local Hazard Mitigation Plan to address disasters, such as earthquakes, flooding, dam or levee failure, hazardous material spills, epidemics, fires, extreme weather, major transportation accidents, and terrorism. [Source: New Policy; City Staff] (MPSP)

### CS-5.2 Public Education

The City shall provide public education to promote citizen awareness and preparedness for self-action in case of a major disaster or emergency. [Source: Existing Policy; modified] (PI)

### CS-5.3 Neighborhood Preparedness Tools and Resources

The City shall provide neighborhood organizations with emergency preparedness tools and resources (such as Map Your Neighborhood) to increase community capacity and self-sufficiency after a disaster. [Source: New Policy; City Staff] (PI)

### CS-5.4 Emergency Preparedness Kits

The City shall encourage all households to prepare and maintain emergency kits with enough supplies to be self-sufficient for three to seven days. [Source: New Policy; City Staff] (PI)

### CS-5.5 CSUEB Coordination

The City of Hayward shall coordinate with California State University, East Bay (CSUEB) to ensure that students and faculty living on campus are equipped with enough emergency supplies to be self-sufficient for three to seven days. [Source: New Policy; City Staff] (IGC; PI)

### CS-5.6 Nursing Homes Coordination

The City of Hayward shall coordinate with nursing home providers to ensure that seniors living in these facilities are equipped with enough emergency supplies to be self-sufficient for three to seven days. [Source: New Policy; City Staff] (PI)

### CS-5.7 Community Emergency Response Training

The City shall maintain and further develop its volunteer-based Community Emergency Response Team (CERT) and related emergency response training programs, and establish a leadership structure within the volunteer community to coordinate with during a disaster. [Source: New Policy; City Staff] (CSO, FB)

### CS-5.8 Emergency and Disaster Drills

The City shall coordinate with local and regional jurisdictions, schools and colleges, businesses, and

community organizations to conduct emergency and disaster preparedness exercises that test operational and emergency response plans. The City shall incorporate energy and water disruptions and shortages into the drills. *[Source: New Policy; City Staff; GPUTF] (IGC, PI)*

#### **CS-5.9 Comprehensive Emergency Management Plan**

The City shall maintain and implement a Comprehensive Emergency management Plan to:

- Outline the City of Hayward's responsibilities in emergencies.
- Coordinate the response and recovery efforts of City Departments, local energy providers, and local, State, and Federal agencies.
- Establish procedures for the Emergency Operation Center (EOC).

*[Source: New Policy; City Staff] (CSO, MPSP)*

#### **CS-5.10 Energy Assurance Plan**

The City shall develop, maintain, and implement a citywide Energy Assurance Plan that documents the energy needs of critical City and community facilities and functions, establishes goals and actions to increase energy resiliency during disasters, and prioritizes the use of renewable energy or other sustainable technologies to reduce dependency on the grid during power outages.

*[Source: New Policy; City Staff] (CSO, MPSP)*

#### **CS-5.11 Emergency Operations Center**

The City, in conjunction with other local, State, and Federal agencies, shall ensure operational readiness of the Emergency Operations Center (EOC) by conducting annual training for staff, and maintaining, testing, and updating equipment to meet current standards. The City shall incorporate energy and water disruptions and shortages into the training and testing exercises.

*[Source: New Policy; City Staff] (CSO/IGC)*

#### **CS-5.12 New Emergency Operations Center**

The City shall strive to establish a stand-alone Emergency Operations Center. *[Source: New Policy; City Staff] (CSO, FB)*

#### **CS-5.13 Mutual Aid Agreements**

The City shall continue to participate in mutual aid agreements to ensure adequate resources, facilities, and other support for emergency response. *[Source: New Policy; City Staff] (IGC)*

#### **CS-5.14 Mass Communications Device**

The City shall maintain and regularly upgrade its mass communications systems to effectively notify people during disasters and emergencies by using current communication technologies. *[Source: New Policy; City Staff] (CSO)*

## Goal 1 Regional Coordination

The impacts of disasters are rarely confined to the limits of a single jurisdiction, and almost always affect multiple agencies within a region. As a result, the Federal Disaster Mitigation Act of 2000 encourages cooperation between State, regional, and local agencies, prompting them to work together to mitigate hazards. This goal and its supporting policies are designed to promote a disaster-resilient region through regional coordination and mitigation planning. This is accomplished by implementing a Multi-Jurisdictional Hazards Mitigation Plan, a comprehensive plan that addresses hazards at the regional and local level. By participating in regional and local hazards mitigation, the City will minimize disaster risks and improve the safety of the Hayward community.

### GOAL HAZ-1

**Promote a disaster-resilient region by reducing hazard risks through regional coordination and mitigation planning.**  
*[Source: New Policy, City Staff]*

#### HAZ-1.1 Multi-Jurisdictional Local Hazards Mitigation Plan

The City shall coordinate with regional and local agencies to implement the Multi-Jurisdictional Local Hazards Mitigation Plan for the San Francisco Bay Area. *[Source: New Policy; City Staff] (IGC, MPSP)*

#### HAZ-1.2 Plan Implementation and Monitoring

The City shall monitor and evaluate the success of the Multi-Jurisdictional Local Hazards Mitigation Plan, including the local strategies provided in the Hayward Annex. The City shall ensure that strategies are prioritized and implemented through the Capital Improvement Program and by

providing adequate budget for on-going programs and Department operations. *[Source: New Policy; City Staff] (MPSP, CSO, FB)*

#### HAZ-1.3 Plan Updates

The City shall support the Association of Bay Area Governments (ABAG) in its role as the lead agency that prepares and updates the Multi-Jurisdictional Local Hazards Mitigation Plan. If ABAG cannot fulfill this role in the future, the City shall coordinate with Alameda County and other local agencies to encourage the development and implementation of a new Multi-Jurisdictional Local Hazards Mitigation Plan. *[Source: New Policy; City Staff] (IGC)*

## Goal 2 Seismic and Geologic Hazards

Hayward is located in a seismically active region that contains several major active faults, including the San Andreas Fault, Hayward Fault, and Calaveras Fault. The Hayward Fault crosses through the city and generally runs parallel and within a few hundred feet of Mission Boulevard. Other potentially active faults within Hayward include the Chabot Fault, the Carlos Bee Fault, and several adjacent and secondary faults. As a result of its location and geologic setting, the city of Hayward is subject to a variety of seismic and geologic hazards, including fault rupture, strong ground shaking, liquefaction, and landslides. In addition, segments of the city could flood if an earthquake generates a tsunami or causes an upstream dam to fail. This goal and its supporting policies are designed to minimize risks associated with seismic and geologic hazards.

**GOAL HAZ-2**

**Protect life and minimize property damage from potential seismic and geologic hazards.**  
*[Source: Existing Policy, modified]*

**HAZ-2.1 Seismic Safety Codes and Provisions**

The City shall enforce the seismic safety provisions of the Building Code and Alquist-Priolo Special Studies Zone Act to minimize earthquake-related hazards in new construction, particularly as they relate to high occupancy structures or buildings taller than 50 feet in height.  
*[Source: Existing Policy, modified] (RDR)*

**HAZ-2.2 Geologic Investigations**

The City shall require a geologic investigation for new construction on sites within (or partially within) the following zones:

- Fault Zone (see Figure -- in the Hazards Background Report)
- Landslide Zone (see Figure -- in the Hazards Background Report)
- Liquefaction Zone (see Figure -- in the Hazards Background Report)

A licensed geotechnical engineer shall conduct the investigation and prepare a written report of findings and recommended mitigation measures to minimize potential risks related to seismic and geologic hazards. *[Source: New Policy; City Staff, GPUTF] (RDR)*

**HAZ-2.3 Fault Zones Assumption**

The City shall assume that all sites within (or partially within) any fault zone are underlain by an active fault trace until a geotechnical investigation by a licensed geotechnical engineer proves otherwise. *[Source: Existing Policy, modified] (RDR)*

**HAZ-2.4 New Buildings in a Fault Zone**

The City shall prohibit the placement of any building designed for human occupancy over active faults. All buildings shall be set back from active faults by at least 50 feet. The City may require a greater setback based on the recommendations of the licensed geotechnical engineer evaluating the site and the project.  
*[Source: Existing Policy, modified] (RDR)*

**HAZ-2.5 Existing Buildings in a Fault Zone**

The City shall prohibit the expansion of existing buildings (constructed prior to the adoption of the Alquist-Priolo Special Studies Zone Act) that are located over an active fault. Renovations to existing buildings within a fault zone shall be subject to the limitations and requirements of the Alquist-Priolo Special Studies Zone Act. *[Source: New Policy; City Staff] (RDR)*

**HAZ-2.6 Infrastructure and Utilities**

The City shall require infrastructure and utility lines that cross faults to include design features to mitigate potential fault displacement impacts and restore service in the event of major fault displacement. Mitigation measures may include plans for damage isolation or temporary bypass by using standard isolation valves, flexible hose or conduit, and other techniques and equipment.  
*[Source: Existing policy, modified] (RDR)*

**HAZ-2.7 Dam Failure**

The City shall coordinate with agencies responsible for the maintenance of the South Reservoir Dam, the Del Valle Dam, and other small dams along Alameda Creek to ensure that dam infrastructure is maintained and enhanced to withstand potential failure during an earthquake.  
*[Source: New Policy, City Staff] (IGC)*

**HAZ-2.8 Tsunami Warning System and Evacuation Plan**

The City shall coordinate with the Hayward Area Recreation and Park District (HARD) and the East Bay Regional Parks District (EBRPD) to develop and implement a tsunami warning system and evacuation plan for the Hayward shoreline.

*[Source: New Policy, City Staff] (MPSP, IGC)*

**HAZ-2.9 Seismic Retrofit Program**

The City shall establish and promote a seismic retrofit program to encourage property owners to upgrade buildings, especially masonry and soft-story buildings (i.e., buildings designed with minimal bracing on the first floor). *[Source: Existing Policy, City Staff; GPUTF; Public] (MPSP, PI)*

**HAZ-2.10 City Facilities**

The City shall strive to seismically upgrade existing City facilities that do not meet current building code standards. Where upgrades are not economically feasible, the City shall consider the relocation and/or reconstruction of facilities.

*[Source: New Policy; City Staff] (PI, CSO)*

**HAZ-2.11 Critical Facilities**

The City shall encourage seismic upgrades to hospitals, schools, long-term care facilities, and other important facilities that do not meet current building code standards. Where upgrades are not economically feasible, the City shall encourage the relocation and/or reconstruction of facilities.

*[Source: New Policy; City Staff] (PI, CSO)*

**HAZ-2.12 Public Awareness**

The City shall promote greater public awareness of earthquake hazards and promote resources and programs to help property owners make their homes and businesses more seismically safe.

*[Source: Existing Policy, modified] (PI)*

**Goal 3 Flood Hazards**

Various parts of Hayward are subject to flooding during major storm events, including shoreline areas and upland areas located along streams, creeks, and drainage ways. The geographic extent of local flood hazards are anticipated to increase in the next century as a result of rising sea levels caused by global warming. Extreme weather conditions caused by global warming could also increase flooding risks during major storms. This goal and its supporting policies are designed to minimize damage and risks associated with flood hazards, including flood hazards associated with extreme weather caused by global warming. Related policies that address rising sea levels are discussed under Goal 4.

**GOAL HAZ-3**

**Protect life and minimize property damage from potential flood hazards.** *[Source: New Goal; GPUTF; Public; CC/PC]*

**HAZ-3.1 FEMA Coordination**

The City shall coordinate with the Federal Emergency Management Agency (FEMA) to ensure that Federal Insurance Rate Maps correctly depict flood hazards in the city. *[Source: Existing Policy, modified] (IGC)*

**HAZ-3.2 Development in Floodplains**

The City shall implement Federal, State, and local requirements related to new construction in flood plain areas to ensure that future flood risks to life and property are minimized. *[Source: Existing Policy, modified] (RDR)*

**HAZ-3.3 Flood Plain Management Ordinance**

The City shall maintain and enforce a Flood Plain Management Ordinance to:

- Promote public health, safety, and general welfare by minimizing public and private losses due to floods,
- Implement the Cobey-Alquist Flood Plain Management Act, and
- Comply with the eligibility requirements of the National Flood Insurance Program.

*[Source: New Policy; City Staff] (MPSP, RDR)*

#### **HAZ-3.4 Changing Flood Conditions Associated with Global Warming**

The City shall coordinate with the Alameda County Flood Control and Water Conservation District to evaluate the need to expand the capacity of flood control facilities based on changing flood conditions associated with global warming and extreme weather. *[Source: Existing Policy, modified] (IGC)*

#### **HAZ-3.5 Public Awareness**

The City shall promote greater public awareness of flooding hazards and promote resources and programs to help property owners protect their homes and businesses from flood damage. *[Source: New Policy; City Staff] (PI)*

### **Goal 4 Rising Sea Levels**

Sea levels are projected to rise by at least 55 inches over the next century. As sea levels rise, the Hayward shoreline, as well as industrial, commercial, and residential areas along creeks and drainage ways, will become more and more vulnerable to water inundation during both normal high tides and flooding during major storm events. If unmitigated, rising sea levels have the potential to inundate the open space and recreational resources along the shoreline, and flood nearby industrial, commercial, and residential areas. This goal and its supporting policies are designed to protect the Hayward

shoreline and adjacent urban uses from the impacts of rising sea levels.

#### **GOAL HAZ-4**

**Safeguard the Hayward shoreline, open space, recreational resources, and urban uses from flooding due to rising sea levels. *[Source: New Goal; Public; GPUTF, CC/PC].***

##### **HAZ-4.1 Monitor Rising Sea Level**

The City shall monitor information from regional, State, and Federal agencies on rising sea levels in the San Francisco Bay to determine if additional adaptation strategies should be implemented to address flooding hazards. *[Source: New Policy; City Staff] (IGC, CSO)*

##### **HAZ-4.2 Adapting to Rising Tides**

The City shall continue to participate in the Adapting to Rising Tides Project to develop adaptation strategies that protect the Hayward shoreline and enhance the community's overall resilience to rising sea levels. *[Source: New Policy; City Staff] (IGC)*

##### **HAZ-4.3 Shore Realignment Master Plan**

The City shall coordinate with the Hayward Area Shoreline Planning Agency, the Bay Conservation Development Commission, and other agencies involved in the Adapting to Rising Tides Project to develop and implement a Regional Shore Realignment Master Plan. The Master Plan shall identify:

- A preferred long-term strategy and implementation program to protect the regional shoreline.
- Interim standards to regulate development within potentially affected areas if sea levels rise prior to the construction of shoreline protection projects.

- Potential flood mitigation measures to apply to development projects within potentially affected areas.

*[Source: New Policy; City Staff; GPUTF] (IGC)*

#### **HAZ-4.4 Revisions to FIRM Maps**

The City shall coordinate with the Federal Emergency Management Agency (FEMA) to revise Federal Insurance Rate Maps (FIRM) to reflect rising sea levels or the construction of levee or shoreline enhancement projects that remove properties from the flood plain. *[Source: New Policy; City Staff] (IGC)*

#### **HAZ-4.5 Rising Sea Level Disclosures**

The City shall require that all new development within areas subject to future flooding as a result of rising sea levels provide future residents and property owners with deed notices upon transfer of title concerning rising sea levels and flooding. *[Source: New Policy, City Staff; GPUTF] (RDR)*

### **Goal 5 Urban Wildfire Hazards**

The foothill neighborhoods of Hayward are located adjacent to natural hillsides and open space areas that are prone to wildfires. This goal and its supporting policies are designed to minimize urban wildfire risks through the implementation of wildland/urban interface guidelines, fire prevention codes, and open space management practices that reduce the potential for wildfires.

### **GOAL HAZ-5**

**Protect life and minimize potential property damage from urban wildfire hazards in hillside areas.** *[Source: Existing Policy, modified]*

#### **HAZ-5.1 Wildland/Urban Interface Guidelines**

The City shall maintain and implement Wildland/Urban Interface Guidelines for new development within fire hazard areas. *[Source: Existing Policy, modified] (MPSP, RDR)*

#### **HAZ-5.2 Fire Prevention Codes**

The City shall enforce fire prevention codes that require property owners to reduce wildfire hazards on their property. *[Source: Existing Policy, modified] (CSO, RDR)*

#### **HAZ-5.3 Defensible Space and Fuel Reduction**

The City shall promote defensible space concepts to encourage property owners to remove overgrown vegetation and to reduce fuel loads on hillside properties, especially near structures and homes. *[Source: New Policy] (PI, JP, IGC, RDR)*

#### **HAZ-5.4 Grant Funding**

The City shall seek grant funding to mitigate potential wildfire threats to the community and to implement special training workshops and projects related to defensible space and fuel reduction practices. *[Source: New Policy] (CSO)*

#### **HAZ-5.5 Park District Coordination**

The City shall coordinate with the East Bay Regional Park District and the Hayward Area Recreation and Park District to promote forestry and park management practices that reduce the potential for wildland fires. *[Source: Existing Policy, modified] (CSO)*

**HAZ-5.6 Regional Coordination**

The City shall coordinate with Alameda County, the cities of Pleasanton, Dublin, and San Ramon, and other fire protection agencies to reduce the potential for wildfire hazards in the East Bay hills.

*[Source: Existing Policy, modified] (CSO)*

**Goal 6 Hazardous Materials**

Hazardous materials are toxic, ignitable, corrosive, or reactive substances that can cause harm to people. Hazardous materials are used by households and businesses within urban areas. The improper use and disposal of hazardous materials can contaminate soil and groundwater resources and compromise the health and quality of life of residents. Accidents involving the transportation of hazardous materials can also cause explosions or spills that endanger the lives and property of nearby residents and businesses. This goal and its supporting policies are designed to establish strategies to minimize exposure to hazardous materials through the documentation, monitoring, clean-up, and re-use of hazardous material sites; and the implementation of best practices for the routine use, storage, transport, and disposal of hazardous materials.

**GOAL HAZ-6**

**Protect people and environmental resources from contaminated hazardous material sites and minimize risks associated with the use, storage, transport, and disposal of hazardous materials. *[Source: Existing Policy, modified]***

**HAZ-6.1 Hazardous Materials Program**

The City shall maintain its status as a Certified Unified Program Agency and implement the City's Unified Hazardous Materials and Hazardous Waste Management Program, which includes:

- Hazardous Materials Release Response Plans and Inventories (Hazardous Materials Business Plans - HMBP);

- California Accidental Release Prevention (CalARP) Program;
- Underground Storage Tank (UST) Program;
- Above-ground Petroleum Storage Act (APSA) Program, including Spill Prevention, Control, and Countermeasure (SPCC) Plans;
- Hazardous Waste Generator Program;
- On-site Hazardous Waste Treatment (Tiered Permit) Program; and
- California Fire Code Hazardous Material Management Plans (HMMP) and Hazardous Materials Inventory Statements (HMIS).

*[Source: New Policy; City Staff] (CSO, MPSP, RDR)*

**HAZ-6.2 Site Investigations**

The City shall require site investigations to determine the presence of hazardous materials and/or waste contamination before discretionary project approvals are issued by the City. The City shall require appropriate measures to be taken to protect the health and safety of site users and the greater Hayward community. *[Source: New Policy; City Staff] (RDR)*

**HAZ-6.3 Permit Requirements**

The City shall direct the Fire Chief (or their designee) and the Planning Director (or their designee) to evaluate all project applications that involve hazardous materials, electronic waste, medical waste, and other hazardous waste to determine appropriate permit requirements and procedures. *[Source: New Policy; City Staff] (RDR)*

**HAZ-6.4 Land Use Buffers**

The City shall review applications for commercial and industrial uses that involve the use, storage, and transport of hazardous materials to determine the need for buffer zones or setbacks to minimize risks to homes, schools, community centers,

hospitals, and other sensitive uses. *[Source: Existing Policy, modified]* (RDR)

#### **HAZ-6.5 Collection Programs**

The City shall maintain and further develop its collection programs for household hazardous waste and e-waste (cell phones, batteries, computers, televisions, computers, monitors, etc.). *[Source: Existing Policy, modified]* (CSO, MPSP)

#### **HAZ-6.6 Education Resources**

The City shall provide educational resources to residents and businesses to promote safe practices related to the use, storage, transportation, and disposal of hazardous materials. *[Source: Existing Policy, modified]* (PI)

#### **HAZ-6.7 Agency Coordination**

The City shall coordinate with State, Federal, and local agencies to develop and promote best practices related to the use, storage, transportation, and disposal of hazardous materials. *[Source: Existing Policy, modified]* (IGC, PI)

#### **HAZ-6.8 Truck Routes**

The City shall maintain designated truck routes for the transportation of hazardous materials through the City of Hayward. The City shall discourage truck routes passing through residential neighborhoods to the maximum extent feasible. *[Source: Existing Policy, modified]* (MPSP, PI)

### **Goal 7 Airport Hazards**

The Hayward Executive Airport is designated as a General Aviation Reliever Airport located in northwest Hayward. The airport is owned and operated by the City of Hayward. A variety of aircraft, including single and twin-engine airplanes, corporate jets, and helicopters, use the airport on a daily basis. Commercial, industrial, residential, and recreational properties near the airport could be exposed to aviation-related accidents and related hazards. This goal and its supporting

policies are designed to minimize this exposure. The Federal Aviation Administration (FAA) has the sole authority to regulate aviation activities in the United States, including the certification of aircraft and pilots. The City of Hayward's role is to maintain and operate the airport and regulate land uses in the vicinity of the airport. Related policies that address airport noise are provided under Goal HAZ-8.

### **GOAL HAZ-7**

**Minimize exposure to safety hazards associated with aircraft using the Hayward Executive Airport.** *[Source: New Goal; City Staff].*

#### **HAZ-7.1 Land Use Safety Compatibility and Airspace Protection Criteria**

The City shall consider land use safety and airspace protection when evaluating development applications within the Airport Safety Zones of the Hayward Executive Airport. *[Source: New Policy, City Staff]* (RDR)

#### **HAZ-7.2 Airport Land Use Compatibility Plan**

The City shall require all development projects to comply with the provision of the Hayward Executive Airport Land Use Compatibility Plan, except for sections of the plan that have been overruled by the Hayward City Council. *[Source: New Policy, City Staff]* (IGC, RDR)

#### **HAZ-7.3 Commission Review**

The City shall ensure that all applicable plans, ordinances, and development applications are reviewed by the Alameda County Airport Land Use Commission in compliance with State law. *[Source: New Policy, City Staff]* (IGC, MPSP, RDR)

### **Goal 8 Noise Hazards**

Exposure to excessive noise can impact the health and quality of life of residents and employees.

Excessive noise can cause hearing loss, stress, hypertension, sleep disturbance, and fatigue. The Hayward community contains a variety of noise sources, including aircraft, trains, vehicle traffic on freeways and roadways, and industrial and commercial operations. This goal and its supporting policies are designed to minimize human exposure to excessive noise by evaluating noise exposure risks and incorporating appropriate mitigation measures.

## GOAL HAZ-8

**Minimize human exposure to excessive noise.**  
*[Source: Existing Policy, modified]*

### HAZ-8.1 Locating Noise Sensitive Uses

The City shall strive to locate noise sensitive uses, (e.g., residences, schools, hospitals, libraries, religious institutions, and convalescent homes) away from major sources of noise. *[Source: New Policy; City Staff] (RDR)*

### HAZ-8.2 Noise Mitigation

The City shall require development projects to incorporate noise mitigation when located in noise environments that are not compatible with the proposed uses of the project. The City shall use Table HAZ-1 (Exterior Noise Standards for Various Land Uses) and Figure HAZ-1 (Future Noise Contour Maps) to determine potential noise exposure impacts, noise compatibility thresholds, and the need for mitigation. The City shall determine mitigation measures based on project-specific noise studies, and may include sound barriers, building setbacks, the use of closed windows and the installation of heating and air conditioning ventilation systems, and the installation of noise attenuating windows and wall/ceiling insulation. *[Source: Existing Policy, modified] (RDR)*

## NOISE TERMINOLOGY

**dB<sub>A</sub>:** Measurement unit for “a-weighted decibels,” which are commonly used for measuring environmental and industrial noise and the potential hearing damage associated noise health effects.

**Equivalent Energy Noise Level (Leq):** Constant noise level that would deliver the same acoustic energy to the ear of a listener as the actual time-varying noise would deliver over the same exposure time. No “penalties” are added to any noise levels during the exposure time; Leq would be the same regardless of the time of day during which the noise occurs.

**Day-Night Average Noise Level: (L<sub>dn</sub>):** A 24-hour average Leq with a 10 dBA “penalty” added to noise levels during the hours of 10:00 P.M. to 7:00 A.M. to account for increased sensitivity that people tend to have to nighttime noise. Because of this penalty, the L<sub>dn</sub> would always be higher than its corresponding 24-hour Leq (e.g., a constant 60 dBA noise over 24 hours would have a 60 dBA Leq, but a 66.4 dBA L<sub>dn</sub>).

**Community Noise Equivalent: Level (CNEL)** An L<sub>dn</sub> with an additional 5 dBA “penalty” for the evening hours between 7:00 P.M. and 10:00 P.M. This is essentially a measure of ambient noise.

**Sound Exposure Level or Single Event Level (SEL):** A descriptor used to characterize the severity of short-duration sound events. SEL is the time-averaged, constant intensity, A-weighted sound level over a one-second reference time that would produce the same sound exposure as the actual time-varying sound over the actual exposure time. In practice, SEL is usually applied in situations where there are multiple sound events, each one having its own characteristic SEL.

<b>TABLE HAZ-1 Exterior Noise Compatibility Standards for Various Land Uses</b>	
<b>Land Use Type</b>	<b>Highest Level of Exterior Noise Exposure that is Regarded as “Normally Acceptable”<sup>a</sup> (Ldn<sup>b</sup> or CNEL<sup>c</sup>)</b>
Residential: Single-Family Homes, Duplex, Mobile Home	60 dBA <sup>d</sup>
Residential: Townhomes and Multi-Family Apartments and Condominiums	65 dBA
Urban Residential Infill <sup>e</sup> and Mixed-Use Projects <sup>f</sup>	70 dBA
Lodging: Motels and Hotels	65 dBA
Schools, Libraries, Churches, Hospitals, Nursing Homes	70 dBA
Auditoriums, Concert Hall, Amphitheaters	Mitigation based on site-specific study
Sports Arena, Outdoor Spectator Sports	Mitigation based on site-specific study
Playgrounds, Neighborhood Parks	70
Golf Courses, Riding Stables, Water Recreation, Cemeteries	75
Office Buildings: Business, Commercial, and Professional	70
Industrial Manufacturing, Utilities, Agriculture	75

Source: Governor’s Office of Planning and Research, *State of California General Plan Guidelines 2003*, October 2003.

- a. As defined in the *State of California General Plan Guidelines 200*, “Normally Acceptable” means that the specified land uses is satisfactory, based upon the assumption that any building involved is of normal conventional construction, without any special noise mitigation.
- b. Ldn or Day Night Average is an average 24-hour noise measurement that factors day and night noise levels.
- c. CNEL or Community Noise Equivalent Level measurements are a weighted average of sound levels gathered throughout a 24-hour period.
- d. dBA or A-weighted decibel scale is a measurement of noise levels.
- e. Urban residential infill would include all types of residential development within existing or planned urban areas (such as Downtown, The Cannery Neighborhood, and the South Hayward BART Urban Neighborhood) and along major corridors (such as Mission Boulevard).
- f. Mixed-Use Projects would include all mixed-use developments throughout the City of Hayward.

**HAZ-8.3 Incremental Noise Impacts of Commercial and Industrial Development**

The City shall consider the potential noise impacts of commercial and industrial developments that are located near residences and shall require noise mitigation measures as a condition of project approval. *[Source: New Policy; City Staff] (RDR)*

**HAZ-8.4 Noise Mitigation and Urban Design**

The City shall consider the visual impact of noise mitigation measures and shall require solutions that do not conflict with urban design goals and standards. *[Source: New Policy; City Staff] (RDR)*

**HAZ-8.5 Residential Noise Standards**

The City shall require the design of new residential development to comply with the following noise standards:

- The maximum acceptable interior noise level for new residential units (single-family and multi-family units) shall be an Ldn of 45 dB.
- For project locations that are primarily exposed to aircraft, train, and BART noise, the maximum instantaneous noise level in bedrooms shall not exceed 50dB(A) at night (10:00 pm to 7:00 am), and the maximum instantaneous noise level in all interior rooms shall not exceed 55dB(A) during the day (7:00 am to 10:00 pm).
- The maximum acceptable exterior noise level for the primary open space area of a detached single-family home, which is typically the backyard or a fenced side yard, shall be an Ldn of 60 dB. This standard does not apply to secondary open space areas, such as front yards, balconies, stoops, and porches.
- The maximum acceptable exterior noise level for the primary open space area of

townhomes and multi-family or mixed-use developments (private rear yards for townhomes; and common courtyards, roof gardens, or gathering spaces for multi-family projects) shall be an Ldn of 65 dB. This standard does not apply to secondary open space areas, such as front yards, balconies, stoops, and porches.

*[Source: Existing Policy, modified] (RDR)*

**HAZ-8.6 Noise Standards for Lodging, Nursing Homes, and Hospitals**

The City shall require the design of lodging, nursing homes, hospitals, and other similar uses to comply with the following noise standards:

- The maximum acceptable interior noise level for sleeping areas shall be an Ldn of 45 dB.
- For project locations that are primarily exposed to aircraft, train, and BART noise, the maximum instantaneous noise level in sleeping areas shall not exceed 50dB(A) at night (10:00 pm to 7:00 am) and 55dB(A) during the day (7:00 am to 10:00 pm).

*[Source: New Policy; City Staff] (RDR)*

**HAZ-8.7 Noise Standards for Office and Similar Uses**

The City shall require the design of new office developments and similar uses to achieve a maximum interior noise standard of 45dBA Leq (peak hour). *[Source: New Policy, City Staff] (RDR)*

**HAZ-8.8 Park Noise**

The City shall coordinate with the Hayward Area Recreation and Park District (HARD) and the East Bay Regional Park District (EBRPD) to establish and enforce hours of operation for park and recreational facilities near residential homes.

*[Source: New Policy; City Staff] (IGC)*

**HAZ-8.9 OSHA Standards**

The City shall encourage businesses to comply with Occupational Safety and Health Administration (OSHA) standards related to noise safety and ear protection when employees work in noisy environments (interior and exterior). *[Source: New Policy; City Staff]* (CSO)

**HAZ-8.10 BART Trains and Bus Transit**

The City shall encourage BART and AC Transit to upgrade their trains and transit fleets with vehicles that generate less noise when driving and idling. *[Source: Existing Policy, modified]* (IGC)

**HAZ-8.11 Freeway Sound Walls**

The City shall encourage Caltrans, in conjunction with any new freeway project, to construct attractive sound walls and landscaping strips along freeways to protect adjacent areas from excessive freeway noise. *[Source: Existing Policy, modified]* (IGC)

**HAZ-8.12 Transportation Noise**

The City shall consider potential noise impacts when evaluating proposals for transportation projects, including road, freeway, and transit projects, and will strive to minimize noise impacts through the implementation of mitigation measures. *[Source: Existing Policy, modified]* (RDR, IGC)

**HAZ-8.13 Utilities**

The City shall require the evaluation of public facilities (e.g., utility substations, water storage facilities, and pumping stations) to determine potential noise impacts on surrounding uses and identify appropriate mitigation measures. *[Source: Existing Policy, modified]* (IGC, CSO, RDR)

**HAZ-8.14 Airport Noise**

The City shall monitor noise impacts from aircraft operations at the Hayward Executive Airport and maintain and implement the noise abatement

policies and procedures outlined in the Airport Noise Ordinance and Airport Land Use Compatibility Plan. *[Source: Existing Policy, modified]* (CSO, MPSP, RDR)

**HAZ-8.15 Airport Noise Evaluation and Mitigation**

The City shall require project applicants to evaluate potential airport noise impacts if the project is located within the 60 dB CNEL contour line of the Hayward Executive Airport or Oakland International Airport (as mapped in the Airport Land Use Compatibility Plan). All projects shall be required to mitigate impacts to comply with the interior and exterior noise standards established by the Airport Land Use Compatibility Plan. *[Source: New Policy, City Staff]* (IGC, RDR)

**HAZ-8.16 Airport Disclosure Notices**

The City shall require that all new development within an airport-defined over-flight zone provide deed notices disclosing airport over-flights and noise upon transfer of title to future residents and property owners. *[Source: New Policy, City Staff]* (RDR)

**HAZ-8.17 Community Noise Control Ordinance**

The City shall maintain, implement, and enforce a community noise control ordinance to regulate noise levels from public and private properties, vehicles, construction sites, and landscaping activities. *[Source: Existing Policy, modified]* (CSO, MPSP)

**HAZ-8.18 Mixed-Use Developments**

The City shall require the full disclosure of the potential noise impacts of living in a mixed-use development by requiring residential disclosure notices within deeds and lease agreements as a condition of project approval. *[Source: Existing Policy, modified, City Staff]* (RDR)

**HAZ-8.19 Downtown Housing Development**

The City shall require the full disclosure of the potential noise impacts of living in an urban downtown environment by requiring residential disclosure notices within deeds and lease agreements as a condition of project approval.

*[Source: Existing Policy, modified, City Staff] (RDR)*

## Goal 1 Multimodal System

The transportation system in Hayward serves both regional and local travel needs across a broad spectrum of modes. A multimodal approach to transportation is intended to create an integrated transportation and circulation system that allows for opportunities to travel by any mode of travel (e.g., walking, bicycling, transit, and automobiles) to reach key destinations in a community and region safely and directly. Multimodal approaches to transportation have multiple benefits. They can lead to safer travel for all roadway users. They can improve health by allowing people to walk or bicycle or take transit. These travel modes promote active lifestyles and reduce automobile-related emissions and pollution. Finally, they can provide options and increase mobility for people who cannot or do not drive.

Policies in this section guide the overall provision for a balanced multi-modal system of transportation facilities and services in Hayward. This multi-modal system includes the roadway, which serves automobiles, trucks, public transit, and bicycles, as well as pedestrian ways, such as sidewalks and trails, to serve all users of the public right-of-way. Policies in subsequent sections of this Element address specific facilities, travel modes, and programs and contribute to the improvement of the city's roadways into a multimodal transportation network, from the development of complete streets (Goal 3); to improved pedestrian, biking, and transit options (Goals 5, 6, and 7); to the implementation of Transportation Demand Management strategies (Goal 8).

## GOAL M-1

**Provide a comprehensive, integrated, and connected network of transportation facilities and services for all modes of travel. [Source: New Goal]**

### M-1.1 Transportation System

The City shall provide a safe and efficient transportation system for the movement of people, goods, and services through, and within Hayward. [Source: Existing Policy] (MPSP/SO)

### M-1.2 Multimodal Choices

The City shall promote development of an integrated, multi-modal transportation system that offers desirable choices among modes including pedestrian ways, public transportation, roadways, bikeways, rail, and aviation. [Source: New Policy, City Staff] (MPSP/SO)

### M-1.3 Multimodal Connections

The City shall implement a multimodal system that connects residents to activity centers throughout the city, such as commercial centers and corridors, employment centers, transit stops/stations, the airport, schools, parks, recreation areas, and other attractions. [Source: New Policy, City Staff] (MPSP/SO)

### M-1.4 Multimodal System Extensions

The City shall require all new development that proposes or is required to construct or extend streets to develop a transportation network that complements and contributes to the city's multimodal system, maximizes connections, and minimizes barriers to connectivity. [Source: New Policy, City Staff] (RDR)

### M-1.5 Flexible LOS Standards

The City shall consider flexible Level of Service (LOS) standards, as part of a multimodal system approach, for projects that increase transit-ridership, biking, and walking in order to reduce

air pollution, energy consumption, and greenhouse gas emissions. *[Source: New Policy, City Staff]* (RDR/MPSP)

#### **M-1.6      Bicycling Walking, and Transit Amenities**

The City shall encourage the development of facilities and services, (e.g., secure term bicycle parking, street lights, street furniture and trees, transit stop benches and shelters, and street sweeping of bike lanes) that enable bicycling, walking, and transit use to become more widely used modes of transportation and recreation. *[Source: Existing Policy; modified]* (MPSP /SO)

#### **M-1.7      Eliminate Gaps**

The City shall strive to create a more comprehensive multimodal transportation system by eliminating “gaps” in roadways, bikeways, and pedestrian networks, increasing transit access in underserved areas, and removing natural and man-made barriers to accessibility and connectivity. *Source: New Policy, City Staff]* (RDR/MPSP)

#### **M-1.8      Transportation Choices**

The City shall provide leadership in educating the community about the availability and benefits of using alternative transportation modes. *[Source: Existing Policy; modified]* (PI)

## **Goal 2 Regional Transportation Context**

Hayward is located in central Alameda County at the crossroads of several regional transportation facilities necessitating coordination with neighboring jurisdictions and sharing regional through traffic on local streets. The city is a major cross road for key interstate highways (I-238, I-580 and I-880), and State highways (SR 92, and SR 185). In addition, two BART lines (Fremont-Richmond and Fremont-Daly City/Millbrae) serve the city, with a 3rd line (East Dublin/Pleasanton-SFO Airport) operating just north of the city, and

Amtrak service connects the city via a station nearby downtown to Sacramento and San Jose.

Policies in this section focus on the regional transportation context. With a significant portion of traffic volume on its local streets attributable to regional through traffic, these policies seek to must coordinate with adjacent communities as well as county, regional, and state agencies to address local traffic congestion, provide access to regional transit systems, and connect the city’s transportation facilities to adjacent and regional systems.

### **GOAL M-2**

**Connect Hayward to regional and adjacent communities’ transportation networks and reduce the impacts of regional through traffic in Hayward.** *[Source: Existing Goals 1 and 5; modified]*

#### **M-2.1      Regional Coordination**

The City shall continue to coordinate its transportation planning with regional agencies (Metropolitan Transportation Commission and Alameda County Transportation Commission) and adjoining jurisdictions. *[Source: Existing Policy; modified]* (IGC)

#### **M-2.2      Regional Plans**

The City shall support regional and countywide transportation plans (e.g., Plan Bay Area, Countywide Transportation Plan) that make alternatives to automobile use a transportation-system priority. *[Source: Existing Policy; modified]* (MPSP/IGC)

#### **M-2.3      Multi-Jurisdictional Transportation Corridors**

The City shall work with the Metropolitan Transportation Commission, AC Transit, and adjacent communities to improve city roadways, pedestrian ways, bicycle facilities, and transit corridors to connect with neighboring and

regional transportation networks and contribute to a regional multimodal transportation system.

*Source: New Policy, City Staff] (MPSP/IGC)*

#### **M-2.4 Regional Transit Options**

The City shall work with adjacent communities, AC Transit, BART, and Amtrak to assess transit options and provide facilities and services that efficiently move local and regional transit riders through Hayward. *[Source: Existing Policy; modified] (PSR/IGC)*

#### **M-2.5 Regional Traffic Impacts**

The City shall review and comment on development applications in Alameda County and adjoining cities which may impact Hayward's transportation systems, and shall suggest solutions to reduce negative effects on local circulation and mobility. *[Source: Existing Policy; modified] (SO/IGC)*

### **Goal 3 Complete Streets**

“Complete streets” are streets designed and constructed to serve all users of streets, roads, and highways, regardless of their age or ability, or whether they are driving, walking, bicycling, or taking transit. Careful planning and coordinated development of complete streets infrastructure can provide long-term cost savings for the City by reducing road construction, repair and maintenance costs and expanding the tax base; it can improve public health by encouraging active lifestyles and improving roadway safety; it can provide economic benefits to property owners and businesses; and it can decrease pollution. In 2013 the City adopted a Complete Streets Policy, which implements the California Complete Streets Act (AB 1358, 2008) and requirements adopted by the Metropolitan Transportation Commission (Resolution 4035) and Alameda County Transportation Commission (Master Program Funding Agreement) that require the development

complete streets in order to receive transportation infrastructure funding.

Policies in this section, as well as the goals and policies in other sections of this Mobility Element, support the City's Complete Streets Policy through the development of a well-balanced, connected, safe, and convenient network of complete streets that are designed and constructed to serve all modes (e.g., driving, walking, bicycling, or taking transit) and all users, regardless of their age or ability. Policies also seek to connect, balance, and prioritize transportation modes based on surrounding uses, activities, and right-of-way allowances; integrate different types of facilities into existing streets to make them more complete; and plan and design new streets to create complete streets.

#### **GOAL M-3**

**Provide complete streets that balance the diverse needs of users of the public right-of-way.** *[Source: New Goal; Complete Streets Policy]*

##### **M-3.1 Serving All Users**

The City shall provide safe, comfortable, and convenient travel along and across streets to serve all users, including pedestrians, bicyclists, and motorists, movers of commercial goods, and users and operators of public transportation. *[Source: New Policy; Complete Streets Policy] (MPSP/SO)*

##### **M-3.2 Non-Auto Needs**

The City shall consider the needs of transit riders, pedestrians, people in wheelchairs, cyclists, and others in long-range planning and street design. *[Source: Existing Policy; modified] (RDR/MPSP)*

##### **M-3.3 Balancing Needs**

The City shall balance the needs of all travel modes when planning transportation improvements and managing transportation use in

the public right-of-way. *[Source: Existing Policy; modified]* (MPSP/SO)

### **M-3.4 Routine Practice**

The City shall continue to work towards making complete streets practices (e.g., considering and accommodating all users and all modes within the appropriate context) a routine part of everyday transportation decision-making. *[Source: New Policy; Complete Streets Policy]* (RDR/MPSP/SO)

### **M-3.5 All Projects and Phases**

The City shall incorporate appropriate complete streets infrastructure into transportation planning, funding, design, approval, and implementation processes and projects. *[Source: New Policy; Complete Streets Policy]* (RDR/MPSP)

### **M-3.6 Context Sensitive**

The City shall consider the land use and urban design context of adjacent properties in both residential and business districts as well as urban, suburban, and rural areas when designing complete streets. *[Source: New Policy; Complete Streets Policy]* (RDR/MPSP)

### **M-3.7 Development Review**

The City shall consider the needs of all transportation users in the review of development proposals to ensure on-site and off-site transportation facility improvements complement existing and planned land uses. *[Source: Existing Policy; modified]* (RDR)

### **M-3.8 Connections with New Development**

The City shall ensure that new commercial and residential development projects provide frequent and direct connections to the nearest bikeways, pedestrian ways, and transit facilities. *[Source: New Policy, City Staff]* (RDR)

### **M-3.9 Private Complete Streets**

The City shall encourage large private developments (e.g., office parks, apartment complexes, retail centers) to provide internal complete streets that connect to the existing public roadway system and provide a seamless transition to existing and planned transportation facilities. *[Source: New Policy, City Staff]* (RDR)

### **M-3.10 Motorists, Bicyclists, and Pedestrian Conflicts**

The City shall develop safe and convenient bikeways and pedestrian crossings that reduce conflicts between pedestrians, bicyclists, and motor vehicles on streets, multi-use trails, and sidewalks. *[Source: New Policy, City Staff]* (MPSP)

### **M-3.11 Adequate Street Tree Canopy**

The City shall ensure that all new roadway projects and major reconstruction projects provide for the development of an adequate street tree canopy. *Source: New Policy, City Staff]* (MPSP)

### **M-3.12 Americans with Disabilities Act Compliance**

The City shall continue to comply with regulations of the Americans with Disabilities Act when designing, constructing, or improving transportation facilities. *[Source: Existing Policy; modified]* (RDR/MPSP)

## **Goal 4 Local Circulation**

The existing streets and highways serve many different functions as presented in the hierarchy of street classifications. The average daily traffic (ADT) volume roadways provide an indication of the key corridors serving both regional through traffic and local access. The City defines its streets by functional classifications, creating a hierarchy of streets and highways that range from regional-serving, limited access freeways, such Interstate 880, to local streets that primarily provide access to abutting properties. Local access and

circulation effects not only vehicular travel, but also walking, biking, and transit. Local access and circulation for all modes include managing the roadway system to improve traffic flow, while protecting the neighborhoods from through traffic.

Policies in this section support maintaining necessary quality of service to meet the local access and circulation needs of existing and future residents and businesses. The vehicle level of service (LOS) standard allows for planned growth in downtown and multimodal districts, while considering effects on alternative modes.

#### GOAL M-4

**Enhance and maintain local access and circulation, while protecting neighborhoods from through traffic. [Source: Existing Policy; modified]**

##### M-4.1 Traffic Operations

The City shall strive to address traffic operations, including traffic congestion, intersection delays, and travel speeds, while balancing neighborhood safety concerns. [Source: Existing Policy; modified] (SO)

##### M-4.2 Roadway Network Development

The City shall develop a roadway network that categorizes streets according to function and type as shown on the Circulation Diagram and considering surrounding land use context. [Source: New Policy, City Staff] (MPSP)

##### M-4.3 Level of Service

The City shall maintain a minimum vehicle Level of Service E at signalized intersections during the peak commute periods except when a LOS F may be acceptable due to costs of mitigation or when there would be other unacceptable impacts, such as right-of-way acquisition or degradation of the pedestrian environment due to increased crossing

distances or unacceptable crossing delays. [Source: Existing Policy; modified] (RDR/MPSP)

##### M-4.4 System Management

The City shall encourage alternatives to road construction and expansion (e.g., adaptive signals and coordinated signals) as necessary for improving traffic flows. [Source: Existing Policy; modified] (RDR/MPSP)

##### M-4.5 Emergency Access

The City shall develop a roadway system that is redundant (i.e., includes multiple alternative routes) to the extent feasible to ensure mobility in the event of emergencies. [Source: New Policy, City Staff] (MPSP)

##### M-4.6 Transit Arterials

The City shall consider improvements, on arterials with transit service to preserve bus operating speeds. [Source: Existing Policy; modified] (MPSP/IGC)

##### M-4.7 Neighborhood Traffic Calming

The City shall continue to evaluate circulation patterns and implement appropriate traffic-calming measures to prevent speeding in neighborhoods. [Source: Existing Policy; modified] (MPSP/SO)

##### M-4.8 Priority Development Areas

The City shall improve access to and circulation within the Downtown City Center, Cannery Transit Neighborhood, South Hayward BART Mixed-Use Corridor and Urban Neighborhood, and Mission Boulevard Mixed-Use Corridor Priority Development Areas, consistent with adopted plans. [Source: Existing Policy; modified] (MPSP)

#### Goal 5 Pedestrian Facilities

The city is served by a network of pedestrian facilities that include sidewalks, paths, and

recreational trails. Walking is the most basic form of transportation and is an important part of healthy and active lifestyles. In Hayward, with its temperate climate, extensive transit services, and many activity centers, walking is used for both transportation and recreation. However, the level of pedestrian activity is influenced by surrounding land use and urban design. People are more likely to walk in mixed-use communities with higher population densities, diverse land uses, and transit-friendly design.

Policies in this section support the goal of making Hayward a more pedestrian-friendly city. Safe, walkable environments will be created through the provision of a continuous pedestrian network with sidewalks that are enjoyable places to walk. Residents will be encouraged to integrate walking into their daily activities to promote a healthier lifestyle and improve energy resource conservation goals.

*The Community Facilities and Services Element includes a goal and set of policies related to the city's trails and open space corridors.*

## GOAL M-5

**Provide a universally accessible, safe, convenient, and integrated pedestrian system that promotes walking. [Source: New Goal; City staff]**

### M-5.1 Pedestrian Needs

The City shall consider pedestrian needs, including appropriate improvements to crosswalks, signal timing, signage, and curb ramps, in long-range planning and street design. [Source: Existing Policy; modified] (RDR/MPSP)

### M-5.2 Pedestrian System

The City shall strive to create and maintain a continuous system of connected sidewalks, pedestrian paths, creekside walks, and utility

greenways throughout the city that facilitates convenient and safe pedestrian travel, connects neighborhoods and centers, and is free of major impediments and obstacles. [Source: Existing Policy; modified] (MPSP /SO)

### M-5.3 Access to Transit

The City shall enhance and maintain sidewalk and other pedestrian improvements for access to key transit stops and stations for seniors and other persons with special needs. [Source: Existing Policy; modified] (MPSP/SO)

### M-5.4 Sidewalk Design

The City shall require that sidewalks, wherever possible, be developed at sufficient width to accommodate pedestrians including the disabled; a buffer separating pedestrians from the street and curbside parking; amenities; and allow for outdoor uses such as cafes. [Source: New Policy, City Staff] (RDR/MPSP)

### M-5.5 Streetscape Design

The City shall require that pedestrian-oriented streets be designed and maintained to provide a pleasant environment for walking including shade trees; plantings; well-designed benches, trash receptacles, , and other furniture; pedestrian-scaled lighting fixtures; wayfinding signage; integrated transit shelters; public art; and other amenities. [Source: New Policy, City Staff] (MPSP)

### M-5.6 Safe Pedestrian Crossings

The City shall strive to improve pedestrian safety at intersections and mid-block locations by providing safe, well-marked pedestrian crossings, bulb-outs, or median refuges that reduce crossing widths, and/or audio sound warnings. [Source: New Policy, City Staff] (SO)

### M-5.7 Safe Sidewalks

The City shall develop safe and convenient pedestrian facilities that are universally accessible,

adequately illuminated, and properly designed to reduce conflicts between motor vehicles and pedestrians. *[Source: New Policy, City Staff]* (RDR)

#### **M-5.8 Parking Facility Design**

The City shall ensure that new automobile parking facilities are designed to facilitate safe and convenient pedestrian access, including clearly defined internal corridors and walkways connecting parking areas with buildings and adjacent sidewalks and transit stops. *[Source: New Policy, City Staff]* (RDR)

### **Goal 6 Bikeways**

The city is served by a network of designated bicycle facilities including on-street facilities and regional recreational trails. Combined with good transit service, temperate weather, and relatively flat topography, bicycling in Hayward is an effective transportation and recreation option. Bicycle activity and purpose differ by geographic areas in Hayward with more utilitarian bicycle trips occurring on on-street bikeways in the flatlands, while recreational bicyclists use the Bayland trails and experienced cyclists climb the steeper roads and trails in the Hill Area. While bicyclists are permitted on all roads (with the exception of access-controlled freeways), the City recognizes that certain roadways provide more optimal routes for bicyclists, for reasons such as directness or access to key destinations.

Policies in this section support an increase in trips taken by bicycling and implementation of the Hayward Bicycle Master Plan. The Hayward Bicycle Master Plan sets forth detailed goals and objectives and identifies existing and recommended facilities for providing the opportunity to travel by bicycle as an alternative mode of transportation and recreation for physical, environmental and social benefits. With its location in the central Alameda County, bikeways in Hayward are also a key part of the

countywide and regional bikeway network. The construction of a comprehensive citywide bikeway network, support facilities such as convenient and secure bicycle parking, and an educated driving public will help facilitate increased bicycling.

### **GOAL M-6**

**Create and maintain a safe, comprehensive, and integrated bicycle system and support facilities throughout the city that encourage bicycling that is accessible to all.** *[Source: New Goal; City staff]*

#### **M-6.1 Bikeway System**

The City shall maintain and implement the Hayward Bicycle Master Plan. *[Source: Existing Policy; modified]* (MPSP)

#### **M-6.2 Encourage Bicycle Use**

The City shall encourage bicycle use in all neighborhoods, especially where short trips are most common. *[Source: New Policy, City Staff]* (PI)

#### **M-6.3 Appropriate Bikeway Facilities**

The City shall provide bikeway facilities that are appropriate to the street classifications and type, traffic volume, and speed on all right-of-ways. *[Source: New Policy, City Staff]* (MPSP)

#### **M-6.4 Bicycles on Transit**

The City shall encourage AC Transit and BART to expand access to cyclists, including providing bike racks on buses and trains and secure bicycle parking at transit stations and stops. *[Source: Existing Policy; modified]* (IGC)

#### **M-6.5 Connections between New Development and Bikeways**

The City shall ensure that new commercial and residential development projects provide frequent and direct connections to the nearest bikeways and do not interfere with existing and proposed

bicycle facilities. *[Source: New Policy, City Staff]* (RDR)

#### **M-6.6 Bike Safety for Children**

The City shall support infrastructure and programs that encourage children to bike safely to school. *[Source: New Policy, City Staff]* (MPSP/SO)

#### **M-6.7 Conversion of Underused Facilities**

The City shall convert underused rights-of-way along travel lanes, drainage canals, and railroad corridors to bikeways wherever desirable and financially feasible. *[Source: New Policy, City Staff]* (MPSP/SO)

### **Goal 7 Public Transit**

Hayward is served by a number of transit services providing viable transit options to residents and visitors through a network of local, regional and intercity bus services, paratransit services, and rapid transit and regional rail services. These services are provided by a number of public and private transportation agencies and companies including Bay Area Rapid Transit (BART), Alameda-Contra Costa Transit District (AC Transit), Amtrak, and Greyhound Lines. Public transportation facilities are planned, funded, installed and maintained under an integrated regulatory framework that includes Federal, State, and local funding sources that contribute to capital and operational costs.

Policies in this section support coordination with public transit providers to meet Hayward's local transit needs. Since the city relies primarily on other transit providers, including AC Transit for bus service and BART and Amtrak for commuter rail services, coordination is an essential part of the City's strategy to identify and serve the transit needs of the community. The City contributes to the creation of a robust transit system by ensuring adequate transit-support facilities are provided as appropriate. .

### **GOAL M-7**

**Improve coordination among public agencies and transit providers to meet public transit needs and provide greater mobility.** *[Source: Existing Goal; modified]*

#### **M-7.1 Transit System**

The City shall support a connected transit system by improving connections between transit stops/stations and roadways, bikeways, and pedestrian facilities. *[Source: New Policy, City Staff]* (RDR/MPSP)

#### **M-7.2 Agency Coordination**

The City shall coordinate with AC Transit, BART, Amtrak and other transit providers to meet the travel needs of Hayward residents, students, visitors, and businesses. *[Source: Existing Policy; modified]* (IGC)

#### **M-7.3 Transit Links**

The City shall encourage improved transit links from the BART and Amtrak stations to major activity centers within the city (e.g., Downtown, the Industrial Technology and Innovation Corridor, Southland Mall, Chabot College, and California State University East Bay). *[Source: Existing Policy; modified]* (MPSP/IGC)

#### **M-7.4 Transit Needs**

The City shall work with transit providers to identify transit needs and develop options for providing expanded service to underserved areas in the city. *[Source: Existing Policy; modified]* (PSR/IGC)

#### **M-7.5 Safe System**

The City shall work with AC Transit, BART, and Amtrak to maintain a safe, clean, comfortable, and rider-friendly waiting environment at all transit stops within the city. *[Source: New Policy, City Staff]* (SO/IGC)

**M-7.6 Transit Information**

The City shall work with AC Transit to coordinate routes and service times and to post routes and schedules at bus stops. *[Source: Existing Policy] (SO/IGC)*

**M-7.7 Bus Stops**

The City shall work with AC Transit to continue to provide and maintain attractive, sheltered bus stops whenever feasible throughout the City. *[Source: Existing Policy; modified] (IGC)*

**M-7.8 Service Disruptions**

The City shall advise AC Transit of proposed changes in street networks which may affect bus service. *[Source: Existing Policy; modified] (SO/IGC)*

**M-7.9 Development Impacts on Transit**

The City shall require developers of large projects to identify and address, as feasible, the potential impacts of their projects on AC Transit ridership and bus operations as part of the project review and approval process. *[Source: Existing Policy; modified] (RDR)*

**M-7.10 New Facilities**

The City shall work with transit providers to incorporate transit facilities into new private development and City project designs including incorporation of transit infrastructure (i.e., electricity, fiber-optic cable, etc.), alignments for transit route extensions, and new station locations. *[Source: New Policy, City Staff] (RDR/MPSP/IGC)*

**M-7.11 Shuttle Service**

The City shall evaluate the need for shuttle service citywide and support public and private efforts and activities to bridge gaps in existing transit service. *[Source: Existing Policy; modified] (SO/IGC/JP)*

**M-7.12 Paratransit**

The City shall continue to support paratransit services to meet the transportation and mobility needs of all Hayward residents with special needs. *[Source: Existing Policy; modified] (IGC/JP)*

**M-7.13 Taxi Service**

The City shall promote the continued operation of taxi service, including the provision of dedicated, on-street loading spaces where appropriate, incremental improvements in gas mileage, and improved access for passengers with disabilities. *[Source: New Policy, City Staff] (MPSP/JP)*

## Goal 8 Transportation Demand Management

Transportation demand management (TDM) programs include a variety of measures that can be an effective way to reduce vehicle trips and parking demand. TDM programs include a variety of strategies ranging from financial incentives, carpool and vanpools, telecommuting, and informational and promotional activities. TDM programs are typically implemented at the local level by the City, major employers, developers, and public and private institutions. Regional agencies also provide TDM programs, such as the Guaranteed Ride Home (GRH) funded by the Alameda CTC, and the 511.org, which provide transit information and rideshare matching.

Policies in this section focus on TDM strategies and programs that the City can implement to reduce congestion, vehicle miles traveled, and parking demand. For a primarily urban, built-out city where opportunities to widen intersections and roadways to accommodate future growth are limited, TDM strategies and programs provide another option to address the transportation needs of residents, visitors, and employees.

**GOAL M-8**

**Encourage transportation demand management strategies and program to reduce vehicular travel, traffic congestion, and parking demand. [Source: Existing Policy]**

**M-8.1 Increase Vehicle Occupancy**

The City shall work with a broad range of agencies (e.g., Metropolitan Transportation Commission, BAAQMD, AC Transit, Caltrans) to encourage and support programs that increase vehicle occupancy including the provision of traveler information, shuttles, preferential parking for carpools/vanpools, transit pass subsidies, and other methods. [Source: New Policy, City Staff] (MPSP/PI/IGC)

**M-8.2 Citywide TDM Plan**

The City shall maintain and implement a citywide Travel Demand Management Program, which provides a menu of strategies and programs for developers and employers to reduce single-occupant vehicle travel in the city. [Source: Existing Policy; modified] (MPSP)

**M-8.3 Employer-based Strategies**

The City shall encourage employers to participate in TDM programs (e.g., guaranteed ride home, subsidized transit passes, carpool and vanpool programs) and to participate in or create Transportation Management Associations to reduce parking needs and vehicular travel. [Source: Existing Policy; modified] (RDR/MPSP)

**M-8.4 Automobile Commute Trip Reduction**

The City shall encourage employers to provide transit subsidies, bicycle facilities, alternative work schedules, ridesharing, telecommuting and work-at-home programs, employee education, and preferential parking for carpools/vanpools. [Source: New Policy, City Staff] (RDR/MPSP)

**M-8.5 Public-Private Transportation Partnerships**

The City shall encourage public-private transportation partnerships (e.g., car sharing companies) to establish programs and operations within the city to reduce single-occupant vehicle use. [Source: New Policy, City Staff] (IGC/JP)

**M-8.6 Regional TDM Program**

The City shall implement the Alameda County Transportation Commission Travel Demand Management Element of the Congestion Management Program, which includes a checklist covering specific TDM strategies that the city could employ as part of its own TDM plan (e.g., preferential parking, car/van pools, casual car pools, subsidized transit passes). [Source: Existing Policy; modified] (RDR/MPSP)

**Goal 9 Parking**

Hayward residents and visitors generally want to have parking readily available on their neighborhood streets, at commercial centers, and at transit stations. On-street parking is provided on most roadways in both residential and commercial areas of the city. The majority of the on-street parking is currently free and unrestricted even though the City's Traffic Code allows for metered parking. The City does own and maintain public parking facilities in the downtown area. Parking in these facilities is free to the public. In addition, as part of a Joint Powers Agreement with BART, parking along Tennyson Road and Dixon Street adjacent to the South Hayward BART station is paid parking. Detailed parking requirements are included in the City's Parking Ordinance.

Policies in this section support the provision and management of parking, recognizing that parking provision should be balanced with other City objectives such as encouraging transit uses,

bicycling, and walking, as well as reduction in emissions.

## GOAL M-9

**Provide and manage a balanced approach to parking that meets economic development and sustainability goals. [Source: Existing Goal; modified]**

### PFS-9.1 Appropriate Parking

The City shall ensure that adequate parking is provided appropriately to all areas of the city, while prioritizing alternative transportation modes and Transportation Demand Management strategies that reduce parking demand. [Source: Existing Policy; modified] (RDR/MPSP)

### PFS-9.2 Parking Reductions

The City shall consider reduced parking requirements for new residential developments that fulfill senior, disabled, or other special housing needs or are located near public transit. [Source: Existing Policy; modified] (RDR/MPSP)

### PFS-9.3 Parking Off-Sets

The City shall encourage developers and employers to offer programs (e.g., transit passes or other transit enhancements) to reduce parking demand and shall consider reducing parking requirements where programs are in place or planned. [Source: Existing Policy; modified] (RDR/MPSP)

### PFS-9.4 Parking Management

The City shall continue to coordinate with other public and institutional parking suppliers (e.g., BART, Chabot College, and Cal State University, East Bay) to provide sufficient parking, and to implement parking charges and preferential parking programs (e.g. designated parking spaces for carpool/vanpool, electric vehicle, and carshare closer to building entrances.), and shall work with such agencies to minimize the impacts of their

parking policies on adjacent residential streets. [Source: Existing Policy; modified] (MPSP/IGC)

### PFS-9.5 Identify Parking Deficiencies and Conflicts

The City shall monitor parking supply and use to identify deficiencies or conflicts as they develop, particularly for public parking areas Downtown. [Source: New Policy, City Staff] (PSR)

### PFS-9.6 Reduction of Parking Areas

The City shall strive to reduce the amount of land devoted to parking through such measures as development of parking structures, the application of shared parking for mixed-use developments, and the implementation of Transportation Demand Management strategies to reduce parking needs. [Source: New Policy, City Staff] (RDR/MPSP)

### PFS-9.7 Residential Permit Parking

The City shall maintain and implement the Residential Permit Parking Program to minimize the adverse effects of spillover parking into residential areas. [Source: New Policy, City Staff] (MPSP)

### PFS-9.8 Downtown Parking

The City shall maintain and implement a Downtown Parking Management Plan that considers consolidation and expansion of downtown parking with multi-level parking structures and other options to address Downtown parking needs. [Source: Existing Policy; modified] (MPSP)

## Goal 10 Aviation

The Hayward Executive Airport is owned and operated by the City of Hayward. It is a reliever airport serving smaller jets and general aviation operations. The function of a reliever airport is to reduce the aircraft mix at a commercial service primary airport and provide less congested airport for smaller jet and general aviation operations.

The Airport Master Plan (2002) for the Hayward Executive Airport lays out the future development of the airport to meet projected airside and landside facilities needs and improve the airport's overall efficiency of operation.

Policies in this section support general aviation while encouraging compatibility with adjacent properties.

### GOAL M-10

**Develop the airport to meet projected airside and landside facilities needs and improve the overall efficiency of operations as a reliever airport. [Source: Existing Goal; modified]**

#### M-10.1 Airport Master Plan

The City shall maintain and implement the Airport Master Plan and the Airport Layout Plan. [Source: New Policy] (MPSP)

#### M-10.2 Airport Land Use Compatibility

The City shall ensure uses surrounding the airport are compatible with existing and planned airport operations and are consistent with the Airport Land Use Compatibility Plan for the Hayward Executive Airport. [Source: New Policy] (RDR/MPSP)

### Goal 11 Goods Movement

Goods movement in Hayward is provided primarily by trucks using Interstate and State highways to deliver goods from the port of Oakland to city residences and businesses. The City has a designated truck route system made up of freeways, state routes and other major streets within the city roadway network. The trucking system is supplemented by railroad networks and aviation facilities. Union Pacific (UP) has three rail lines that run through the city. The UP's Coast subdivision (Mulford Line) runs between the Bay and Interstate 880 through the entire length of Hayward serving freight as well as the Amtrak

Coast Starlight long distance passenger train. The City's Hayward Executive Airport provides air freight service.

Policies in this section support the movement of goods via trucks, rail, and air transportation to promote economic vitality, while addressing impacts of rail and truck operations on residential neighborhoods.

### GOAL M-11

**Balance the safe and efficient movement of goods with local access and circulation needs. [Source: Existing Goal; modified]**

#### M-11.1 Goods Movement

The City shall provide a efficient transportation system for the movement of goods and services through and within Hayward, while meeting the safety and mobility needs of all roadway users. [Source: Existing Policy; modified] (MPSP)

#### M-11.2 Designated Truck Routes

The City shall require trucks to use designated routes and shall prohibit trucks on local streets to address traffic operations and safety concerns in residential neighborhoods. [Source: Existing Policy; modified] (RDR)

#### M-11.3 Truck Parking in Neighborhoods

The City shall prohibit overnight and other specified truck parking activities in residential areas. [Source: Existing Policy; modified] (RDR)

#### M-11.4 Rail Crossings

The City shall coordinate with the California Public Utilities Commission to address safety concerns and conflicts at at-grade rail crossings. [Source: New Policy; modified] (MPSP/IGC)

## Goal 12 Funding

Policies in this section support the identification and pursuit of sufficient funds to construct, maintain, manage, and operate a multimodal transportation system. Transportation funding sources include federal funds with the passage of MAP-21 as well as state, regional, and local funds.

### GOAL M-12

**Maintain sufficient funding to provide for existing and future transportation facility and service needs, including the operation and maintenance of the transportation system.**  
*[Source: Existing Goal; modified]*

#### M-12.1 Federal and State Funding

The City shall identify, develop, and prioritize transportation projects to compete for Federal and State funds for freeway, highway, transit, bicycle and pedestrian improvements. *[Source: Existing Policy; modified] (MPSP/FB)*

#### M-12.2 Regional Funding

The City shall continue to seek funding through regional and county measures for transportation improvements. *[Source: Existing Policy GP 15.2; modified] (FB)*

#### M-12.3 Local Funding Mechanisms

The City shall continue to use local financing mechanisms, such as Measure B, gas tax and the Vehicle Registration Fee, to help fund transportation projects. *[Source: Existing Policy; modified] (FB)*

#### M-12.4 Funding for Alternative Modes

The City shall identify and pursue all available funding for alternative modes of transportation. *[Source: Existing Policy; modified] (FB)*

**DATE:** July 9, 2013

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Rotary Clock Tower – Presentation of Preliminary Design Drawings and Location for a Clock Tower Proposed by the Hayward Rotary Club

### **RECOMMENDATION**

That the City Council reviews and comments on this report and its attachments, and provides direction to staff regarding further progress on the project.

### **BACKGROUND**

The Hayward Rotary Club approached the City with an offer to donate a clock tower and community reader board project (“the Tower”). They expressed a desire for the Tower to be located in a prominent location. Staff has been working with representatives of the Rotary Club to develop a design and agree upon a location, construction materials, and long-term maintenance. Hayward Rotary is proposing to design, manage and raise funds for the construction of the 45-foot tall, three-sided steel Tower. Working with staff, a tentative location has been selected at the intersection of Mission Boulevard, Foothill Boulevard and Jackson Street. Both Hayward Rotary and staff are reluctant to go any further in the process without review and direction from Council.

### **DISCUSSION**

*Project Description* – The Tower is proposed to be located in the newly constructed and landscaped triangle-shaped median at the intersection of Mission Boulevard, Foothill Boulevard, and Jackson Street. The structure would also include two electronic reader boards that will flash public service/event messages to passing motorists along Jackson/Foothill and Mission.

Preliminary drawings of the proposed 45-foot tall clock tower show a three-sided steel structure supported by three pipes (approximately twelve inches in diameter) embedded in three concrete poured-in-place caissons (see photo simulations, Attachment I). These pipes form the vertical component of the tower, and exposed portions of the tower will be powder-coated for protection and to eliminate the need for painting. Structural components, as determined by the final design, will connect the three pipes above the fifteen-foot level to form the frame to support flat steel panels for the clock, City logo, and two single-sided electronic reader boards. The clock structure will be

topped by a low-profile, standing-seam metal hipped roof with the seams running horizontally (see elevation drawings, Attachment II).

The most prominent feature of the tower on the two sides of the structure facing Jackson/Foothill and Mission will be the two, eight-foot diameter open-mounted clocks, with the Rotary Club logo shown within the clock faces. The third face of the structure facing inward toward the landscaped area at Five Corners will be the Rotary Club logo, in place of a clock. Below the clocks and the Rotary logo will be three additional eight-by-ten-foot steel panels featuring the City's rosette logo. Below these logo panels on the two sides facing Jackson/Foothill and Mission will be two five-by-ten-foot color LED electronic reader board panels. The LED matrix will feature 64 horizontal lines and 144 columns. These reader board panels are considered moderately sized and appropriately scaled to the proposed. By way of comparison, the dimensions of the reader boards for Southland Mall, which face the I-880 freeway, are nearly three times as large (14-feet, 8-inches by 26-feet, 8-inches).

Project Location – The proposed Tower could be located at the northern apex of the triangle-shaped landscape island formed by the intersection of Mission Boulevard, Foothill Boulevard, and Jackson Street in Downtown Hayward (Attachment III). When approaching the City with the Tower project, Hayward Rotary expressed a strong desire to have the Tower located in a prominent location, marking the entrance to the Downtown. Staff has worked with Rotary Club representatives to tentatively identify this site as meeting their objectives.

Hayward Rotary likes this location as thousands of vehicles pass by on a typical day, making it one of the busiest intersections and most prominent locations in the City of Hayward. Although in tentative agreement, staff remains concerned about the site because of the many design and traffic elements already present at the intersection, partially as a result of the just-completed 238 Corridor Improvement Project: traffic signals, large light bridges, new medians and landscaping including trees of some height, way-finding signs, etc.

The proposed site plan shows the Tower situated for maximum exposure to southbound traffic on Mission Boulevard and northbound traffic on Jackson Street/Foothill Boulevard. The site plan also shows the proposed sign situated within the landscaping and in front of trees recently installed in this area as part of the Route 238 Improvement Project.

Site Plan Review – Depending on direction provided by Council regarding desirability of the project, the preliminary design plans and location of the proposed Tower, staff will initiate the formal Site Plan Review process to establish Findings and Conditions of Approval for this project. Site Plan Review will also provide additional opportunities for public input through hearings before the Planning Commission and City Council. Considerations for approval of the proposed Tower will include:

1. Is the proposed Tower compatible with surrounding structures and uses and is it an attractive addition to the City?
2. Does the design of the proposed Tower take into consideration physical and environmental constraints?

3. Does the proposed Tower comply with the intent of City development policies and regulations?
4. Will the proposed Tower be operated in a manner that is acceptable and compatible with surrounding development?

*Issues of Concern* – Staff greatly appreciates the desire of the Hayward Rotary Club to donate a structure of this scope and lasting significance to the community; and clearly understands Rotary’s desire to have it located in a prominent location with appropriate recognition of Hayward Rotary as the donor. However, as with all projects, there are some important things left to consider, as well as issues related to such things as long-term maintenance. Staff is seeking direction from Council before going any further with the project on the following issues:

1. The location is one that has been identified as a compromise. Staff is concerned about this project being too large for the area and adding to an already very visually-busy intersection.
2. Further on the location, the Tower will be very prominent and could act as a distraction for drivers attempting to negotiate the intersection, particularly with the inclusion of the reader board. The community is in need of a new reader board Downtown to display up-coming community events and is very appreciative of Hayward Rotary including this on the Tower. However, staff is concerned that the location of the Tower makes the reader board problematic for driver safety.
3. Rotary has worked very diligently with staff to identify design elements and construction materials and methods that meet the project’s budget and satisfy the shared goal of having a great addition to the Downtown. However, staff remains concerned that the design and construction materials may not be at the level desired by the community, given the prominent location.
4. Clearly, it is important for Hayward Rotary, as the project donor, to have its logo and identification on the Tower. However, staff is concerned that by allowing them to do this, it sets a precedent or creates a situation whereby other service clubs and organizations will seek the same opportunity or claim favoritism. Ideally, Hayward Rotary would donate the Tower and allow it to display only City of Hayward identification.
5. There have been on-going discussions between Rotary representatives and staff about what messages go on the reader board and who controls it. These have not all been resolved, although Rotary has been very clear that the City can put whatever community and City messages it wants on the reader board, but they are also clear that Rotary messages are also to be allowed. This poses some concerns for staff.
6. Many of the issues staff has been discussing with representatives of the Rotary Club are not dissimilar to those being discussed with another party for a similarly donated project. Staff believes that the issues common to both need to be addressed and resolved in a similar manner such that the City has control over objects placed in the public right of way or on public property, once construction is completed and dedication has occurred.

*Memorandum of Understanding (MOU)* – Staff has been discussing the terms of an MOU with Rotary representatives. The City will need to establish a Memorandum of Understanding or other legal agreement with the Hayward Rotary Club to identify responsibility for design, permitting,

construction, maintenance, removal after use ends, and management of the proposed clock tower and its electronic reader boards. The proposed permanent location within a public right-of-way will also need to be addressed through an easement, lease or other similar agreement. If Council directs staff to proceed with the project, staff will continue to work with representatives of the Hayward Rotary Club to develop and agree upon appropriate language for the Memorandum of Understanding to govern all issues, which would be presented to Council at a future date with the formal Site Plan Review application.

*Environmental Review* - The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15303: New Construction or Conversion of Small Structures.<sup>1</sup>

## **FISCAL IMPACT**

The Hayward Rotary Club is planning to fund the design and construction of the Clock Tower with approximately \$130,000 in donations. There will be staff costs associated with processing the application and developing the MOU. Funding for these items will be discussed as part of the MOU negotiations, along with responsibility for future maintenance costs associated with the tower.

## **PUBLIC CONTACT**

No formal public outreach regarding the proposed Tower has occurred, but as noted above, if Council desires to proceed with this proposal, staff will initiate the formal Site Plan Review process for this project. Site Plan Review will include opportunities for public input through hearings before the Planning Commission and City Council.

Prior to public hearings before the Planning Commission and City Council, a notice of the public hearings will be sent to every property owner and occupant within at least 300 feet of the subject site, as noted on the latest County Assessor's records, as well as to the Chamber of Commerce, and Downtown businesses and homeowners' associations. These public hearings will also be noticed in *The Daily Review* newspaper.

## **NEXT STEPS**

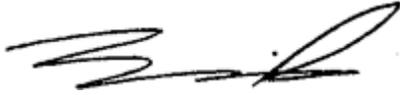
If Council desires staff to proceed with the project, feedback from the City Council on the preliminary plans and location of the proposed clock tower will be used to further refine the design of the tower prior to Site Plan Review. Staff will also draft an official Agreement/MOU to specify maintenance obligations, establish right of entry to construct on the City-owned property, management of the electronic reader boards, etc.

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<sup>1</sup> Section 15303 does not provide a specific threshold for towers, but the statute does list a few specific examples of what qualifies as a "small structure". Additionally, a quick review of related case law indicates that a key factor in determining "smallness" includes "the potential for cumulative impacts of successive projects of the same type, in the same place over time that could create a significant environmental impact..." In this case, there are no unusual circumstances that could lead to a significant impact because the project involves the construction of one tower and does not involve other changes to the property.

*Prepared by:* Ned Thomas, AICP, Planning Manager  
David Rizk, AICP, Director of Development Services

Recommended and Approved by:



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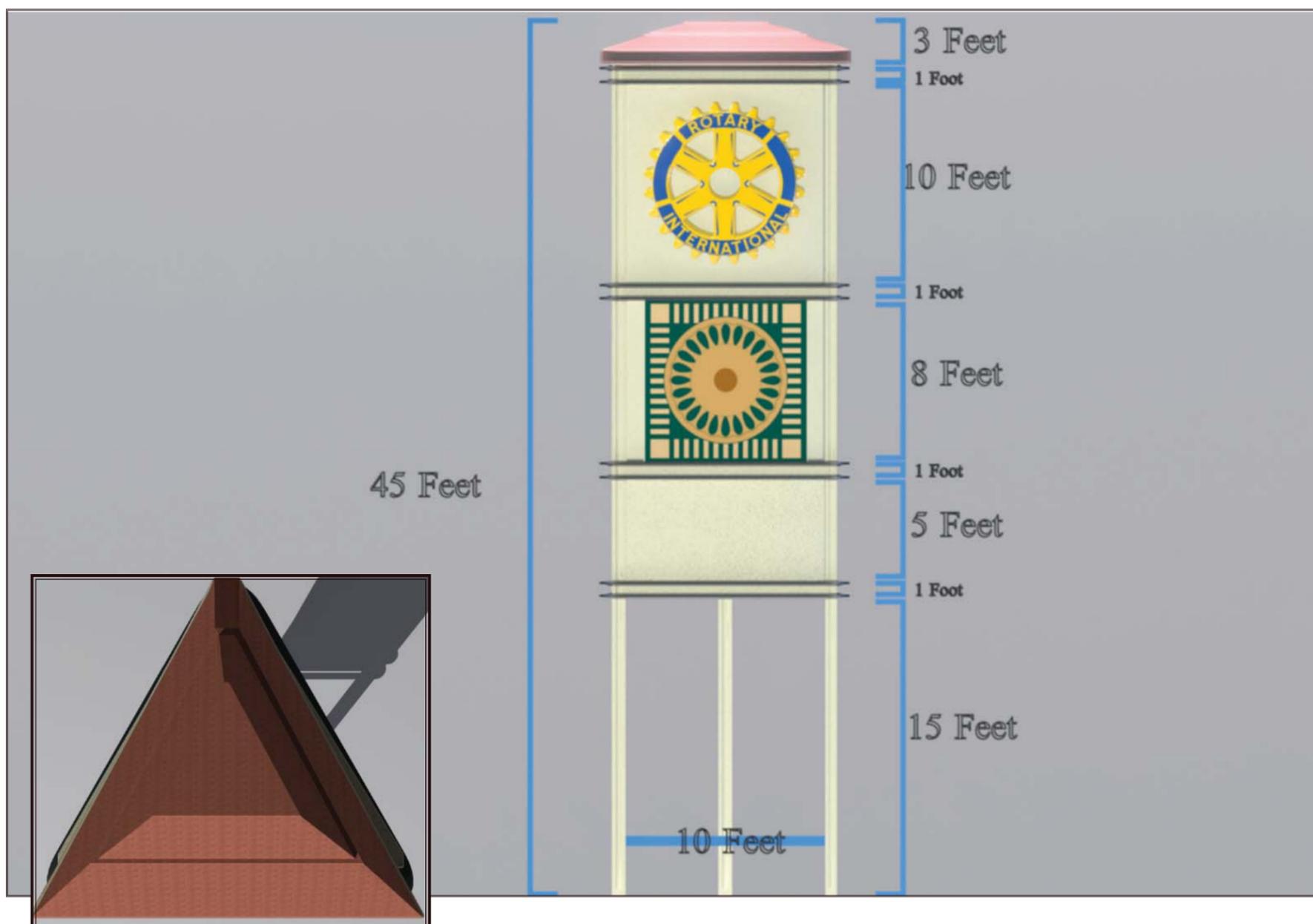
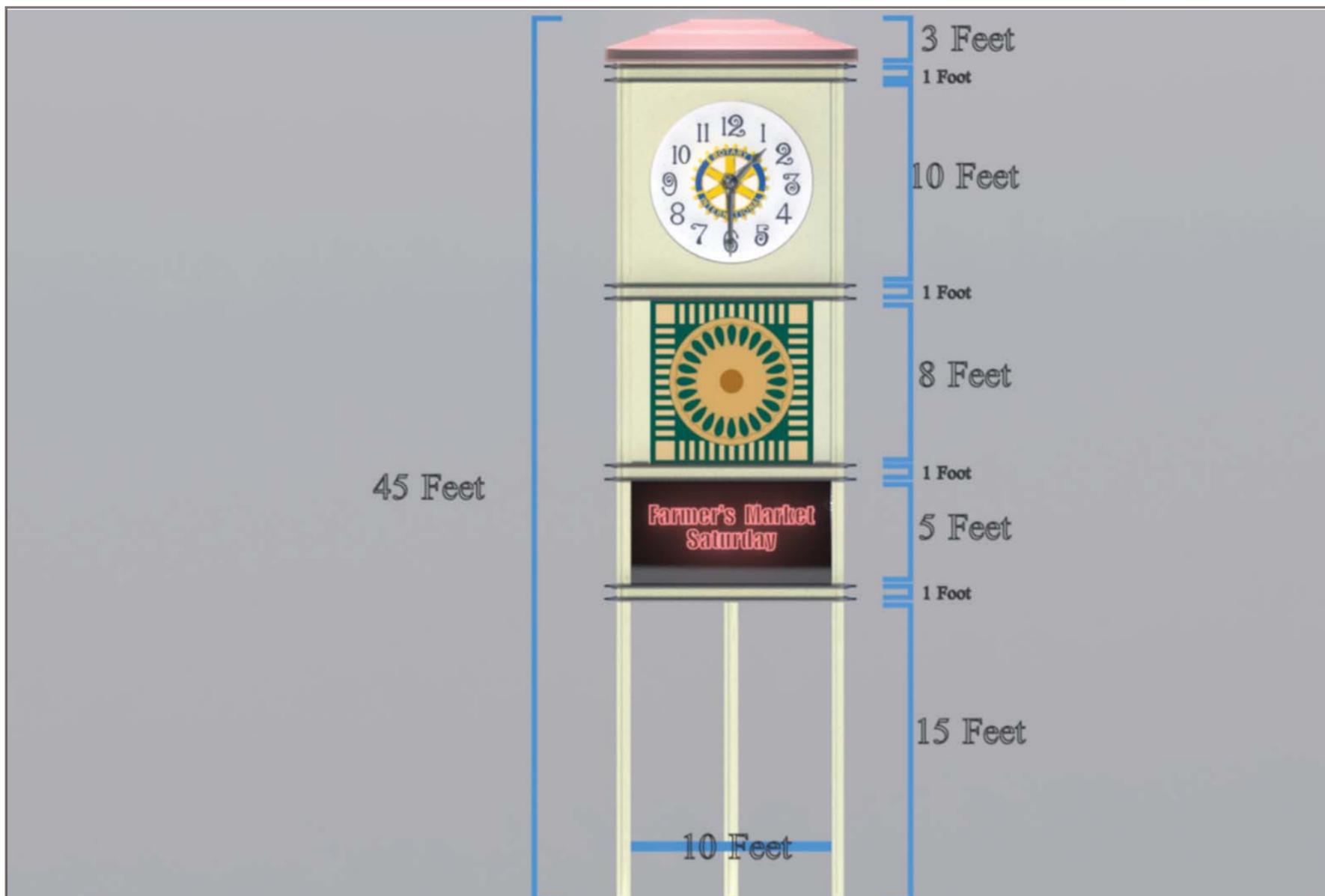
Fran David, City Manager

Attachments:

Attachment I	Photo simulation of the Proposed Clock Tower
Attachment II	Elevations of the Proposed Clock Tower
Attachment III	Site Plan for the Proposed Clock Tower

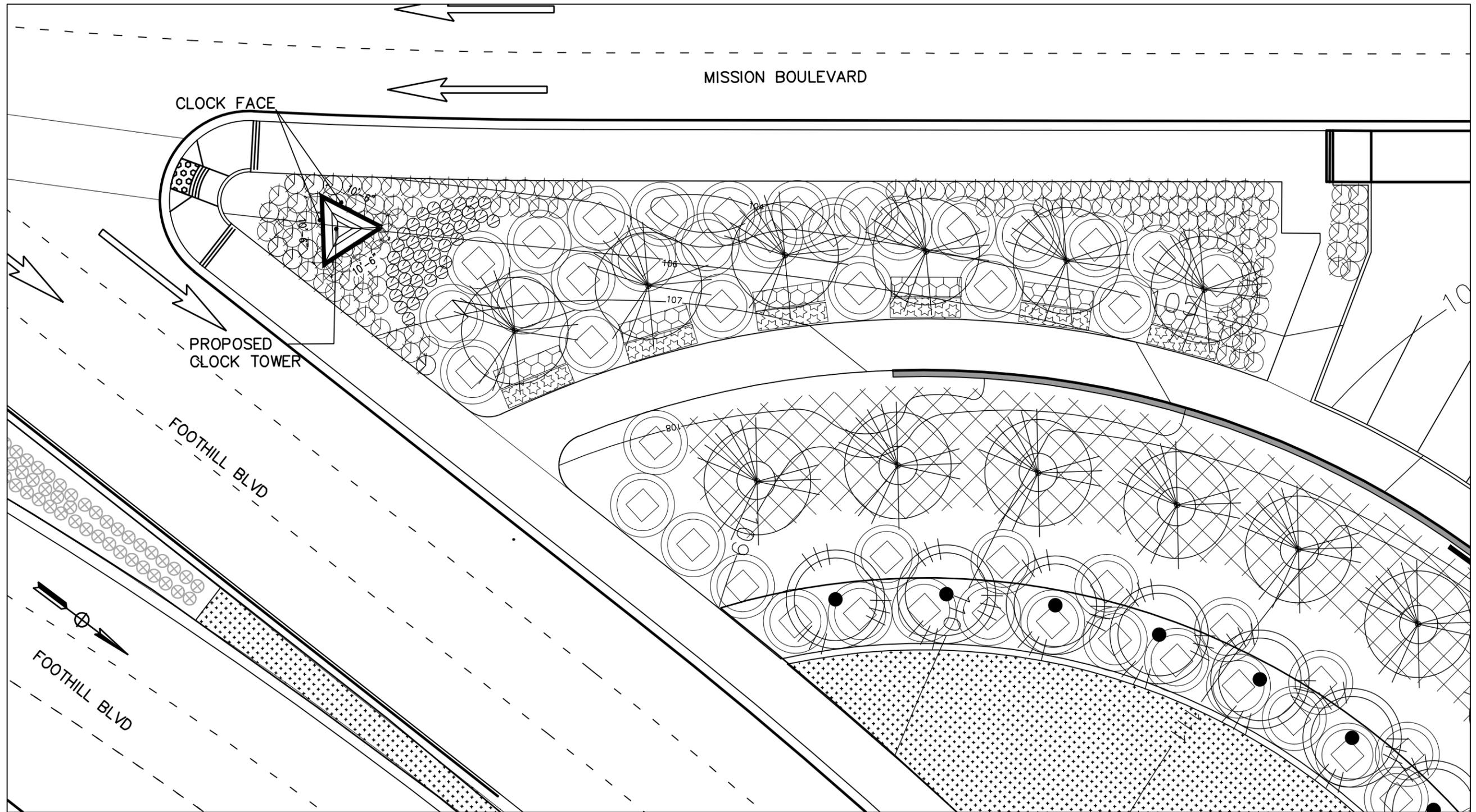


Proposed Rotary Clock Tower for City of Hayward, CA  
**NOT CONSTRUCTION OR PRICING**  
**hb+a Architects**



Proposed Rotary Clock Tower for City of Hayward, CA  
**NOT CONSTRUCTION OR PRICING**

hb+a Architects



1 SITE PLAN

SCALE 1/16"=1'-0"

REV	DESCRIPTION	DATE	APPR	REFERENCE INFORMATION AND NOTES	PROJECT NAME AND SHEET DESCRIPTION:			PROJECT NUMBER
					<p><b>HAYWARD ROTARY CLOCK</b></p> <p><b>PROPOSED SITE PLAN</b></p>			SHEET CODE:
								A-1
								SHEET NUMBER:
								OF
						HB+A Architects 2811 Castro Valley Blvd, Suite 109, Castro Valley, CA. 94546 510-830-4797 Off 866-501-8083 Fax		
					DATE 02.20.13 DESIGN DRAWN PWC CHECKED			



**MINUTES OF THE SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT  
SUCCESSOR AGENCY/HOUSING AUTHORITY MEETING  
OF THE CITY OF HAYWARD**  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, June 18, 2013, 7:00 p.m.

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The Special Joint City Council/Redevelopment Successor Agency/Housing Authority meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RSA/HA Member Halliday.

**ROLL CALL**

Present: COUNCIL/RSA/HA MEMBERS Zermeño, Jones, Halliday, Peixoto,  
Salinas, Mendall  
MAYOR/CHAIR Sweeney  
Absent: None

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Lawson announced that Council met with legal counsel pursuant to Government Code 54956.9 regarding McKay, et al v. City of Hayward, et al., U.S.D.C. CV12-1613 NC; met with real property negotiators pursuant to Government Code 54956.8 regarding 822 C Street (APN 428-0071-020-00); met with labor negotiators pursuant to Government Code 54957.6 regarding all groups; and met with property negotiators pursuant to Government Code 54956.8 regarding 22632 Main Street (APN 428-0066-024-00), 22654 Main Street (APN 428-0066-039-00), 22696 Main Street (APN 428-0066-038-02), 1026 C Street (APN 428-0066-037-00), 1026 C Street (APN 428-0066-038-01). There were no reportable items.

**PUBLIC COMMENTS**

Mr. Michael Emerson, C Street resident and Hayward 9/11 Memorial proponent, reported that the design and paperwork for building the Hayward 9/11 Memorial were in place, but he expressed there was disagreement regarding the terms of the Memorandum of Understanding. Mayor Sweeney encouraged City staff and Mr. Emerson to continue the dialogue.

Ms. Mary Greenlee submitted a speaker card but did not speak.

Mr. Sil DeFazio, Pacific Street resident, thanked the City for the improvements done to Industrial Boulevard. Mr. DeFazio reported there were problems on Pacific Street related to homelessness encampment, illegal dumping, cars parked illegally, and street maintenance. Mr. DeFazio provided photographs for the record.

Ms. Wynn Grich, Industrial Parkway SW resident, thanked Supervisor Valle for his assistance related to her bill from St. Rose Hospital. Ms. Grich spoke against fracking because of potential environmental and health effects such as contamination of air quality and migration of natural gases that would cause water and food shortages. She encouraged the public to sign petitions against fracking.

Mr. Elie Goldstein, Kraskis' Nutrition business owner on Foothill Boulevard, raised a concern about public safety and cleanliness around his business and in Municipal Parking Lot #5. Mr. Goldstein shared that the outside security guard at the internet café next door to his business presented a negative image to the area.

Ms. Beneba Thomas, Golden Tea Garden business owner on Main Street, expressed the illegal internet café, Chances Are, next to her business, attracted a negative element and caused problems for her business. City Attorney Lawson noted the internet café was prohibited by the City's ordinance and added that law enforcement was working with other agencies including the Internal Revenue Service.

Alameda County Supervisor Richard Valle reported that the Alameda County Board of Supervisors met to address healthcare in Alameda County and noted that his office was funding a health clinic at Hayward High School and was planning to open another one at Mt. Eden High School in 2014. Supervisor Valle noted that his office was in support of keeping St. Rose Hospital open and sustainable and asked the Council to send a representative to the June 19, 2013, Eden Township Healthcare District meeting and speak in support of St. Rose Hospital and San Leandro Hospital.

Mr. Kim Huggett, President and CEO of the Hayward Chamber of Commerce, announced the Downtown Hayward Street Parties and invited all to attend on June 20, July 18, and August 15, 2013. Mr. Huggett also announced the Chamber of Commerce Annual Business Luncheon and Leadership Hayward Graduation on June 27, 2013, at Chabot College and invited all to attend.

## **SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION WORK SESSION**

1. General Plan Update - Presentation of Draft Goals and Policies for three General Plan Elements: Economic Development, Public Facilities, and Education and Life-Long Learning

Staff report submitted by Senior Planner Buizer, dated June 18, 2013, was filed.

Development Services Rizk announced the item and introduced Senior Planner Buizer who provided a synopsis of the report.

Mayor Sweeney suggested that Goal 1 for the Education and Life-Long Learning element should be changed to Public School Performance and Reputation. Mr. Sweeney noted that under the Public Facilities and Services element there should be a connection between flood control infrastructure and sea level rise.

Planning Commissioner Lamnin noted it was important to have goals, policies and budget interrelated and moving in the same direction. Ms. Lamnin suggested that Policy ED-5.4-Community Appearance Programs include language about what was desired for the City and articulate the Sign Ordinance. Ms. Lamnin suggested against separating vocational/training schools from universities, but focusing in preparing students to be successful in life.



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Planning Chair Faria suggested rephrasing the Public Facilities and Services Policy PFS-1 to read, “Ensure the provision of adequate and accessible efficient facilities... allocated.” Ms. Faria recommended adding language about technology and the availability of wireless access to Goal 9 Telecommunications under the Public Facilities and Services element. In terms of the goals, Ms. Faria inquired about the baseline for measuring goals.

Planning Commissioner McDermott was also interested in how the City was going to measure accomplishments. In regards to the Economic Development Policy ED-1.18 Local Hiring, Ms. McDermott noted it was important to work collaboratively with schools and colleges to ensure students gained the skills to meet the needs of local businesses. Ms. McDermott expressed the importance of identifying the needs of existing businesses, attracting businesses that were a good fit, and giving new small businesses the opportunity to do business with Hayward. Ms. McDermott liked Economic Development Policy ED-6.4 Permit Processing and suggested creating a paperless environment whenever possible. She stressed the importance of having safe neighborhoods and a solid school system that would attract families to Hayward and encouraged the collaborative efforts between the City and the Hayward Unified School District.

Planning Commissioner Trivedi expressed support for the Public Facilities and Services element and for ensuring the provisions of reliable, dependable, accessible and efficient facilities. Mr. Trivedi expressed support for metrics in order to track goals accomplished. Mr. Trivedi wanted to see more emphasis on arts, culture, and civic engagement. He concurred with Mayor Sweeney that the first goal under the Education and Life-Long Learning element should be Public School Performance and Reputation, and he suggested having a medical school located in Hayward and internships and professional development opportunities for students.

Planning Commissioner Loché spoke about the importance of fostering communication between the City and students. Commissioner Loché suggested adding a section to Public Facilities and Services Goal 9 Telecommunications about the City communicating with Hayward residents and using modern technology. For the Education and Life-Long Learning element, Mr. Loché encouraged a more reciprocal learning partnership among Chabot College, Cal State University East Bay and Hayward Unified School District. He suggested adding alumni as part of the effort highlighted in Policy EDL-2.14-Public School Marketing Campaign.

Planning Commissioner Márquez concurred with Commissioner Lamnin that the City should prepare students to be productive residents and suggested providing a summary of all educational opportunities in Hayward and partnering with the Hayward Chamber of Commerce and large employers to provide internships to prepare students for the workforce. Ms. Marquez suggested adding “aging in place” to guiding principles and providing easy access to public facilities and amenities.

Council Member Zermeño noted that the proposed General Plan Update met the community’s expectations and the emphasis on economic development and education. Mr. Zermeno offered the

following suggestions: Under Economic Development Policy ED-6.7-Business Incentives add track businesses that cease to do business in Hayward and improve upon findings; under Education and Lifelong Learning Policy EDL-2.12 add “students” to the group recognized for improving test scores; extend the collaboration between Chabot College and California State University East Bay to include the Hayward Chamber of Commerce; and expand the Hayward Local Agencies Committee to include the Hayward Chamber of Commerce, Chabot College and California State University East Bay.

Council Member Mendall suggested refining the Economic Development element and removing Policy ED-1.7-International Business and Trade, Policy ED-2.4- Crowdsourcing and Crowdfunding, and Policy ED-4.8-Local Purchasing. Mr. Mendall liked the Public Facilities and Services element and suggested renaming Policy PFS-4.12 to Renewable Energy, reframing Policy PFS-7.5-Municipal Waste Reduction to be more general, removing Policy PFS-9.6-Household Telecommunication Systems, and adding language to Policy PFS-9 to make telecommunication facilities more attractive. For the Education and Life-Long Learning element, Mr. Mendall noted that Goals 3, 4 and 6 were strong but suggested improving the focus on Goals 1, 2 and 5.

Council Member Halliday noted the policies for the Education and Life-Long Learning element were important and were presented based on the stages of life, was content that the City was going to continue to seek funding for the construction of a new and expanded Main Library and that after-school tutoring programs were going to expand. Ms. Halliday agreed with Council Member Zermeno that students who are doing well academically needed to be recognized. She appreciated that the City would evaluate the feasibility of developing supplemental training resources to help students. She appreciated that the City was encouraging the development of the fiber optic system to support the City’s network. She was content that the concept of “complete neighborhoods” was included in the Economic Development element, but wanted to see it more emphasized in the Plan. Ms. Halliday agreed that it was important to ensure that seniors were aging in place.

Council Member Jones suggested that the Public Facilities and Services element should have a reference to a facilities bond initiative or a financing mechanism to ensure the facilities were invested in and maintained. Mr. Jones noted that the Economic Development element should include language about the City’s support of a diverse community and the businesses that emerge from that diversity.

Council Member Salinas suggested adding a goal of healthcare economy under the Education and Life-Long Learning element. Mr. Salinas appreciated that the General Plan Update had an element on Education and that the entire lifespan of education was captured. Mr. Salinas noted it was important to work collaboratively among the City, Chabot College, California State University East Bay, Hayward Area Recreation and Park District, and Hayward Unified School District in order to help students succeed.

The Council unanimously consented to hear testimony from the President of the Hayward Unified School District (HUSD) Board, Mr. William McGee.

Mr. William McGee, President of the HUSD Board, stated he was pleased to see the Education element in the General Plan Update and he noted that the Board was looking forward to a successful



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partnership with the City. Mr. McGee spoke about the academic success of math and English programs that had helped students pass the California High School Exit Exam the first time they took it. Mr. McGee recommended that a topic of safety in schools and in the surrounding neighborhoods be included in the General Plan Update.

**CONSENT**

Consent Item No. 2 and 6 were removed for separate vote.

2. Approval of Minutes of the City Council Meeting on May 28, 2013

It was moved by Council Member Halliday, seconded by Council Member Mendall, and unanimously carried, to approve the minutes of the City Council Meeting of May 28, 2013, with amendments.

3. Resignation of William Roberts from the Downtown Hayward Business Improvement Area Advisory Board

Staff report submitted by City Clerk Lens, dated June 18, 2013, was filed.

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

Resolution 13-082, "Resolution Accepting the Written Resignation of William Roberts from the Downtown Hayward Business Improvement Area Advisory Board"

4. Adoption of an Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2010-0380 Relating to the Rooftop Garden Villas Residential Development

Staff report submitted by City Clerk Lens, dated June 18, 2013, was filed.

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

Ordinance 13-07, "Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2010-0380 Relating to the Rooftop Garden Villas Residential Development"

5. B Street Pavement Repair: Award of Contract

Staff report submitted by Assistant City Engineer Owusu, dated June 18, 2013, was filed.

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

Resolution 13-083, “Resolution Increasing the Administrative Change Order Amount for the B Street Pavement Repair Project, Project No. 5107, and Awarding the Contract to Fonseca/McElroy Grinding Co., Inc.”

6. For Full-Service Restaurants, Additional Extension up to December 26, 2013 of Temporary Revisions to the Alcohol Beverage Outlet Regulations to Allow on a Trial Basis Happy Hours from 4:00 to 9:00 pm and Music until Midnight

Staff report submitted by Director of Development Services Rizk, dated June 18, 2013, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Salinas, and carried with Mayor Sweeney voting no to adopt the following:

Resolution 13-088, “Resolution Extending Until December 26, 2013 a Happy Hour Trial Program Allowing Reduced Price Alcohol Sales and Musical Entertainment During Specified Times at Full Service Restaurants”

7. Hayward Executive Airport Administration Building Project: Approval of Addendum, Award of Contract, Transfer of Funds, and Appropriation of Additional Funds

Staff report submitted by Assistant City Engineer Owusu, dated June 18, 2013, was filed.

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

Resolution 13-084, “Resolution Approving Addendum No. 1 for the Hayward Executive Airport Administration Building Project, Project No. 6815, and Awarding the Contract to SW Allen Construction, Inc.”

Resolution 13-085, “Resolution Amending Resolution 12-121, As Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2013, for a Transfer of Funds from the Airport Real Estate Fund (Fund 633) to the Airport Capital Improvement Fund



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(Fund 632); and for an Appropriation of Funds from the Airport Capital Improvement Fund to the Airport Administration Building Project, Project No. 6815”

8. Downtown Business Improvement Area Annual Report, Proposed Budget for FY 2013-2014, and Setting Public Hearing for July 9, 2013

Staff report submitted by Analyst Thomas, dated June 18, 2013, was filed.

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

Resolution 13-086, “Resolution Accepting Annual Report and Declaring Intention to Levy Annual Charges for the Downtown Hayward Business Improvement Area for the Fiscal Year 2014 and Providing for Notice of Hearing Thereon”

9. Support for the Extension of Authority for Alameda County Transportation Commission to Impose the Transactions and Use Tax for Countywide Transportation Programs until December 31, 2020, Conditioned on Voter Approval (AB 210)

Staff report submitted by Transportation Manager Frascinella, dated June 18, 2013, was filed.

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

Resolution 13-087, “Resolution Approving Support for the Extension of Authority for Alameda County Transportation Commission (ACTC) to Impose the Transactions and Use Tax for Countywide Transportation Programs Until December 31, 2020, Conditioned on Voter Approval (AB 210)”

**PUBLIC HEARING**

10. Public Hearing for the Proposed FY 2014 Mid-Biennial Operating Budget Update for the City of Hayward, Hayward Redevelopment Successor Agency, and Hayward Housing Authority; and the FY 2014 Capital Improvement Program Budget Update

Staff report submitted by Financial Analyst Barton and Director of Finance Vesely, dated June 18, 2013, was filed.

Director of Finance Vesely and City Manager David provided a synopsis of the report.

In response to Council/RSA/HA Member Halliday's inquiry about the Gann Appropriation Limit, Finance Director Vesely noted there would be a more comprehensive report for the June 25, 2013 Council meeting, and noted the appropriations limit for FY 2014 was approximately \$253,000,000 and approximately \$83,000,000 subject to limit.

Council/RSA/HA Member Peixoto shared he was content to hear about the revenue generated from sales and property taxes.

Council/RSA/HA Member Zermeño thanked staff and all employees for their efforts to help balance the City's operating budget.

Council/RSA/HA Member Salinas asked City Manager David to relay to the entire organization his appreciation for all employees who helped balance the City's operating budget.

Council/RSA/HA Member Mendall complimented Finance Director Vesely on her ability to present complex information in a way that was easy to understand.

Council/RSA/HA Member Jones commended staff's effort to put together a complex document and appreciated the comment that economic development was critical to the City's ability to create a strong community.

Council/RSA/HA Member Halliday commended staff's efforts to balance the budget during challenging economic times. Ms. Halliday appreciated that staff was conservative in revenue projections and she was glad there was a plan to finance long term liabilities.

There being no public comments Mayor/Chair Sweeney opened and closed the public hearing at 8:53 p.m.

Mayor/Chair Sweeney announced that the adoption of the budget was scheduled for June 25, 2013.

## **LEGISLATIVE BUSINESS**

### **11. Adoption of an Ordinance Amending Chapter 4, Article 3 of the Hayward Municipal Code Relating to Card Club Regulations**

Staff report submitted by City Clerk Lens, dated June 18, 2013, was filed.

Mayor Sweeney noted the introduction of the ordinance did not garner a unanimous vote and the hearing allowed for discussion.

There being no public comments Mayor Sweeney opened and closed the public hearing at 8:55 p.m.



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It was moved by Council Member Halliday, seconded by Council Members Zermeño and Peixoto, and carried with Mayor Sweeney voting no, to adopt the following:

Ordinance 13-08, “Ordinance Amending Chapter 4, Article 3 of the City’s Municipal Code, Relating to Card Club Regulations”

**COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Zermeño announced the Keep Hayward Clean and Green Task Force Clean-Up and Graffiti Removal at the South Hayward neighborhood on June 22, 2013.

Council Member Salinas reminded the “Let’s Do Lunch Hayward... and Breakfast Too” started serving free breakfast and lunch on June 17 and would continue through August 9, 2013, at various sites throughout Hayward.

**ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 8:58 p.m., in memory of Dr. Norma Rees, former president of California State University East Bay. Council Member Salinas acknowledged that Dr. Rees was a longtime resident of Hayward, was actively involved in the Hayward Rotary Club, and volunteered for various City projects.

**APPROVED:**

Michael Sweeney  
Mayor, City of Hayward  
Chair, Redevelopment Successor Agency  
Chair, Housing Authority

**ATTEST:**

Miriam Lens  
City Clerk, City of Hayward  
Secretary, Redevelopment Successor Agency  
Secretary, Housing Authority

**DATE:** July 9, 2013  
**TO:** Mayor and City Council  
**FROM:** Director of Public Works - Utilities & Environmental Services  
**SUBJECT:** Centex Sewer Lift Station Upgrade Project: Award of Contract

### **RECOMMENDATION**

That Council adopts the attached resolution:

1. Approving Addenda No. 1, 2 and No. 3, providing minor revisions to the Plans and Specifications; and
2. Awarding contract to Clyde G. Steagall, Inc. in the amount of \$243,511.

### **BACKGROUND**

On May 21, 2013, Council approved the plans and specifications for the Centex Sewer Lift Station Upgrade Project and called for bids to be received on June 18, 2013. Addendum No. 2 postponed the call for bids date to June 25, 2013. The additional week of bidding allowed time for contractors to adjust their bids based on changes in Addendum No. 3.

The work in this project involves removing existing electrical and mechanical equipment at the Centex Sewer Lift Station and replacing it with new equipment. The major equipment that required replacement includes two sewer pumps, piping, valves, electrical motor control center, and automatic transfer switch. The work also includes installing a new human machine interface panel and modifications to the programmable logic controller at the lift station's SCADA (Supervisory Control and Data Acquisition) system control panel. Currently, the sewer pumps are turned on and off locally based on the wastewater level at the station. With the upgrade, the pumps and other equipment can be monitored and controlled by the City's SCADA system remotely from the Utilities Center on Soto Road.

In November 2012, the Council approved a professional service agreement with consultant A.T.E.E.M. Electrical Engineering Inc. for electrical equipment design and construction support services.

To expedite the project's schedule, the City has procured the two sewer pumps prior to the award of the project. The pumps can be installed by the contractor when the construction starts. This eliminates the time for the contractor to order and receive the pumps which can take up to four months.

Once the mechanical and electrical equipment upgrade is complete, programming the SCADA system has to be done before the lift station can be monitored and controlled at the Utilities Center. Staff will prepare an agreement with a separate consultant to perform this specialized work at a later date.

PG&E electrical service for the Lift Station will need to be upgraded due to the new electrical equipment. Staff has worked with PG&E and completed a design for this service upgrade. The City will have a contract in place with PG&E when construction starts in a few months.

## **DISCUSSION**

On June 25, 2013, the City received five bids. Clyde G. Steagall, Inc. submitted the low bid in the amount of \$243,511, which is approximately 30.4% below the Engineer's Estimate of \$350,000. D.W. Nicholson Corp. submitted the second lowest bid in the amount of \$321,420. The bids ranged from \$243,511 to \$378,500.

The low bid by Clyde G. Steagall, Inc. (Steagall) is substantially below the Engineer's Estimate. Staff has learned that Steagall also bid below the engineer's estimate by a large amount on projects for some other local public agencies. In particular, for a City of San Jose project, Steagall's bid was 32% below its engineer's estimate. Staff has checked with San Jose and other cities that had recent projects with Steagall to learn about any performance issues, and did not receive negative feedback from them. Therefore, while Steagall's bid is substantially below both the Engineer's Estimate and the second low bid, Steagall's bid is considered acceptable.

All bid documents and licenses are in order. Staff recommends award of contract to the low bidder, Clyde G. Steagall, Inc. in the amount of \$243,511.

## **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
PG&E Electrical Service Upgrade	10,000
SCADA Programming	10,000
Purchase Two Sewer Lift Pumps	50,000
Construction Contract	243,511
Inspection and Testing	<u>50,000</u>
Total	\$423,511

The FY 2014 Capital Improvement Program includes \$600,000 for the Centex Sewer Lift Station Upgrade Project in the Sewer Collection System Replacement Capital Improvement Fund.

## **PUBLIC CONTACT**

During construction, notices will be provided to affected residents and property owners, to inform them of the nature and purpose of the work, potential impacts, work schedule and City contact for additional information.

## **SCHEDULE**

Award Contract	July 9, 2013
Begin Work	August 2013
Complete Work	May 2014

*Prepared by:* Thomas Lam, Associate Civil Engineer

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

Approved by:



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Fran David, City Manager

Attachments:

Attachment I - Resolution Award  
Attachment II - Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING ADDENDA No. 1, 2 AND 3 PROVIDING MINOR REVISIONS TO THE PLANS AND SPECIFICATIONS AND AWARDING THE CONTRACT FOR CENTEX SEWER LIFT STATION UPGRADE PROJECT, PROJECT NO. 7549 TO CLYDE G. STEAGALL, INC.

WHEREAS, by resolution on May 21, 2013, the City Council approved the plans and specifications for the Centex Sewer Lift Station Upgrade Project, Project No. 7549, and called for bids to be received on June 18, 2013; and

WHEREAS, Addenda No. 1, 2, and 3 were issued to postpone the bid opening date to June 25, 2013 and to make minor revisions to the plans and specifications; and

WHEREAS, on June 25, 2013, five bids were received ranging from \$243,511 to \$378,500; Clyde G. Steagall, Inc., of Loomis, CA submitted the low bid in the amount of \$243,511, which is 30.4 percent below the Engineer's Estimate of \$350,000;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Addenda No. 1, 2 and 3 are hereby approved and adopted as part of the plans and specifications for the project.

BE IT FURTHER RESOLVED that Clyde G. Steagall, Inc., is hereby awarded the contract for the Centex Sewer Lift Station Upgrade Project, Project No. 7549, 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 final proposal 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 an agreement with Clyde G. Steagall, Inc., in the name of and for and on behalf of the City of Hayward, in an amount not to exceed \$243,511, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2013

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

CITY OF HAYWARD  
 CONSTRUCTION OF CENTEX SEWER LIFT STATION UPGRADE  
 PROJECT NO. 614-7549  
 BIDS OPENED: JUNE 25, 2013  
 (NUMBER OF BIDS RECEIVED - 5)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>Clyde G. Steagall Inc.</b> PO BOX 350 LOOMIS, CA 95650 PHONE: 916-652-1700 FAX: 916-652-1702		<b>D. W. Nicholson Corp.</b> 24747 Claywiter Rd. Hayward, CA 94545 PHONE: 510-887-0900 FAX: 510-783-9948	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	20,000.00	20,000.00	5,000.00	5,000.00	15,000.00	15,000.00
2	1	LS	ELECTRICAL AND MECHANICAL UPGRADE TO CENTEX SEWER LIFT STATION	245,000.00	245,000.00	201,216.00	201,216.00	260,420.00	260,420.00
3	1	LS	CONCRETE PUMP SUPPORT PEDESTAL	50,000.00	50,000.00	6,795.00	6,795.00	15,000.00	15,000.00
4	1	LS	RECYCLING IMPLEMENTATION	5,000.00	5,000.00	500.00	500.00	1,000.00	1,000.00
5	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
			<b>TOTAL</b>		<b>350,000.00</b>		<b>243,511.00</b>		<b>321,420.00</b>

CITY OF HAYWARD  
 CONSTRUCTION OF CENTEX SEWER LIFT STATION UPGRADE  
 PROJECT NO. 614-7549  
 BIDS OPENED: JUNE 25, 2013  
 (NUMBER OF BIDS RECEIVED - 5)

<b>BID SUMMARY</b>				<b>AMG Engineering</b> 1970 Windy Peak Court Antioch, CA 94531 PHONE: 925-323-1871 FAX: 925-978-0234		<b>Blocka Construction Inc.</b> 4455 Enterprise Street Fremont, CA 94538 PHONE: 510-657-3686 FAX: 510-657-3688		<b>JMB Construction</b> 132 South Maple Avenue South San Francisco, CA 94080 PHONE: 650-267-5300 FAX: 650-267-5302	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	81,818.00	81,818.00	10,000.00	10,000.00	17,000.00	17,000.00
2	1	LS	ELECTRICAL AND MECHANICAL UPGRADE TO CENTEX SEWER LIFT STATION	211,950.00	211,950.00	286,000.00	286,000.00	319,000.00	319,000.00
3	1	LS	CONCRETE PUMP SUPPORT PEDESTAL	5,400.00	5,400.00	10,000.00	10,000.00	12,000.00	12,000.00
4	1	LS	RECYCLING IMPLEMENTATION	7,300.00	7,300.00	1,000.00	1,000.00	500.00	500.00
5	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
			<b>TOTAL</b>		<b>336,468.00</b>		<b>337,000.00</b>		<b>378,500.00</b>



**DATE:** July 9, 2013  
**TO:** Mayor and City Council  
**FROM:** Director of Public Works – Engineering & Transportation  
**SUBJECT:** Pavement Rehabilitation Measure B FY14: Award of Contract

**RECOMMENDATION**

That Council adopts the attached resolution:

- 1) Increasing the Administrative Change Order amount from \$100,000 to \$443,000;
- 2) Rejecting the bid protest from Gallagher & Burk, Inc.; and
- 3) Awarding the contract to G. Bortolotto & Co., Inc. in the amount of \$1,324,945.79.

**BACKGROUND**

On May 7, 2013, Council approved the plans and specifications for the Pavement Rehabilitation Measure B FY 2014 project, and called for bids to be received on June 4, 2013. This Measure B-funded pavement rehabilitation project is a continuation of the City's ongoing program to repair failed pavement sections with localized pavement section repairs and the application of asphalt concrete overlay on streets City-wide. This work extends the useful life of the pavement before it deteriorates to the point where more costly reconstruction work will be needed. To satisfy the requirements of the Americans with Disabilities Act (ADA), accessible ramps will be installed at the curb returns of street intersections where ramps are absent or do not conform to current standards.

**DISCUSSION**

The selection of City streets for rehabilitation is based on staff's analysis of the pavement condition indices identified through the City's computerized Pavement Management Program (PMP), field examination, and the functional classification of each street. The streets identified for rehabilitation include Danforth Lane, Grasmere Place, Harvest Court, Linfield Lane, Peterman Avenue, Seabreeze Court, Thornwall Lane, Victory Lane, Coventry Lane and a section of Oakes Drive from Chatham Court to Warwick Place (See Attachment II). These streets cover a total of 4.2 lane miles of roadway of the City's 659 total lane miles.

On June 4, 2013, ten bids were received. G. Bortolotto & Co., Inc. of San Carlos submitted the low bid in the amount of \$981,945.79, which is 13.5% below the Engineer's estimate of \$1,134,916. Gallagher & Burk, Inc. of Oakland submitted the second lowest bid in the amount of \$985,320,

which is 13.2% below the Engineer's estimate. The bids ranged from \$981,945.79 to \$1,649,808.60.

On June 11, 2013, Gallagher & Burk, Inc. submitted a bid protest stating that the low bidder, G. Bortolotto & Co. Inc., failed to provide information in its bid about the work to be performed by a subcontractor and the amount of the subcontract, as required by the project specifications. A copy of the bid protest letter and the City's response is attached as Attachment IV. The subcontractor in question, Rosas Brothers Construction, is the same subcontractor listed on Gallagher & Burk's submitted bid. On June 24, 2013, G. Bortolotto & Co., Inc. submitted a written response to the bid protest stating that the omissions were inconsequential deviations from the bid specifications that did not affect the bid amount. A copy of G. Bortolotto & Co., Inc.'s response is attached as Attachment V.

Staff finds the omissions by G. Bortolotto & Co. Inc. to be an irregularity that does not affect the bid amount or give G. Bortolotto & Co., Inc. an unfair advantage or benefit not allowed to other bidders. Staff also does not consider the omission to be an error that made the bid materially different than what was intended, thus providing the bidder an opportunity to withdraw the bid without forfeiting the bid bond, as is allowed by Public Contract Code section 5103. A bidder who has made a mistake in a bid that renders it materially different than what was intended may request the public agency to allow withdrawal of the bid without forfeiting the bid bond, which in this case is in an amount equal to at least 10% of the total bid. The availability of this type of relief constitutes an advantage or benefit that is not available to other bidders whose bids are free of such mistakes. However, in this case, the omissions are not mistakes that have materially changed the bid from what was originally intended.

The fact that the same subcontractor is listed on both bids is also taken into consideration. G. Bortolotto & Co., Inc., would have listed a different subcontract amount than Gallagher & Burk, Inc., since subcontractors may perform only portions of the subcontract work, but ultimately it is the total bid amount, not the subcontract amount, that determines the low bidder. Additionally, the fact that the same subcontractor was included in both bids negates the possibility of impermissible bid shopping<sup>1</sup> by the low bidder. California's public contracting laws promote the State's public policy against bid shopping.

The bid specifications for this project and Hayward Municipal Code section 2-8.06 allow the City to waive any informalities or irregularities in bids received. Therefore, staff recommends that Council waive the omissions as non-material irregularities, reject Gallagher & Burk's bid protest, and award the contract to the low bidder, G. Bortolotto & Co., Inc.

The range of bids below the Engineer's estimate have provided such advantageous unit pricing that staff recommends pavement repair of additional streets not originally included in the bid specifications. The bid specifications allow the City to control the quantity of work; consequently, staff recommends adding Oakes Drive from Warwick Place to Lancaster Road and Warwick Place

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<sup>1</sup> "Bid shopping" is the practice of divulging a subcontractor's bid to other prospective subcontractors before the award of a contract in order to secure a lower bid. Bid shopping can result in poor quality, unfair competition, and insolvencies.

from Oakes Drive to Lancaster Road. These additional streets have similar pavement conditions as those originally scheduled for rehabilitation (See Attachment II). The additional streets cover 0.6 lane miles. Therefore, the total project will repair 4.8 lane miles of the City's 659 total lane miles.

During the FY 2011 Capital Improvement Program (CIP) process, staff established an annual program to repair the pavement at the City's various municipal parking lots. Municipal Parking Lot No. 6 (Muni Lot 6), which is included in the adopted FY 2014 CIP, is the second parking lot due for treatment as part of this program. Municipal Lot No. 5 was the first parking lot to be improved and was completed last year as part of the Pavement Rehabilitation Measure B FY13 project. The Muni Lot 6 project consists of pavement repairs, overlay, concrete work, restriping of the parking lot, and tree planting. The contract discussed in this report will only cover the pavement repairs and overlay work in the parking lot. This project was originally scheduled to advertise for bids on July 23, 2013; however, in order to take advantage of the low unit prices of the Pavement Rehabilitation Measure B FY14 project, staff recommends including the Muni Lot 6 project to it as well.

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

## FISCAL IMPACT

To complete the additional streets and Muni Lot 6, staff recommends increasing the Administrative Change Order (ACO) line item amount from \$100,000 to \$443,000. This recommended \$343,000 increase to the ACO line item would adjust G. Bortolotto & Co., Inc.'s low bid from \$981,945.79 to \$1,324,945.79. The table below summarizes the allocation of expenditures between the two projects:

Original Contract	\$981,946
Additional Streets	150,000
Muni Lot 6	193,000
Revised Contract Total	<u>\$1,324,946</u>

All bid documents and licenses are in order. Staff recommends awarding the contract to the low bidder, G. Bortolotto & Co., Inc. in the amount of \$1,324,945.79.

The estimated project costs are as follows:

Construction Contract	\$1,324,946
Design and Administration	95,054
Striping and Tree Planting (City Staff)	50,000
Construction Engineering, Inspection and Testing	90,000
Total:	<u>\$1,560,000</u>

The Adopted FY 2014 Capital Improvement Program includes \$1,300,000 in the Measure B Tax Fund (Local Transportation) for the Measure B Pavement Rehabilitation FY14 project and \$260,000 in the Street System Improvements Fund for the Muni Lot 6 project.

## **PUBLIC CONTACT**

Because of the temporary inconvenience that is expected to be caused by the pavement work, immediately after the construction contract is awarded, a preliminary notice explaining the project will be posted and distributed to all residents and businesses along the affected streets. After the construction work has been scheduled, signs on barricades will be posted seventy-two hours prior to commencement of work indicating the date and time of work for each street. Residents will be advised to park their vehicles on side streets outside of the work area during the period when the streets are being treated. Separate notices will be distributed to businesses using Muni Lot 6 since construction work will take place at night to cause the least amount of interruption to businesses.

In response to the bid protest, Gallagher & Burk, Inc. and G. Bortolotto & Co., Inc. were provided written notice of the Council meeting when this item will be considered. Both parties were invited to submit written comments regarding the bid protest and were also invited to appear at the Council meeting to speak on this item.

## **SCHEDULE**

Begin Work	August 5, 2013
Complete Work	October 30, 2013

*Prepared by:* Yaw Owusu, Assistant City Engineer

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

Approved by:



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Fran David, City Manager

### Attachments:

- Attachment I: Resolution
- Attachment II: Project Location Map
- Attachment III: Bid Summary
- Attachment IV: Bid Protest Letter and City's Response
- Attachment V: Response to Bid Protest by G. Bortolotto & Co.

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION INCREASING THE ADMINISTRATIVE CHANGE ORDER AMOUNT FOR THE PAVEMENT REHABILITATION MEASURE B FY14 PROJECT, PROJECT NO. 5147, REJECTING THE BID PROTEST OF GALLAGHER & BURK, INC. AND AWARDING THE CONTRACT TO G. BORTOLOTTO & CO., INC.

WHEREAS, by resolution on May 7, 2013, the City Council approved the plans and specifications for the Pavement Rehabilitation Measure B FY14 Project, Project No. 5147, and called for bids to be received on June 4, 2013; and

WHEREAS, on June 4, 2013, ten bids were received ranging from \$981,945.79 to \$1,649,809.60; G. Bortolotto & Co., Inc. of San Carlos submitted the low bid in the amount of \$981,945.79, which is 13.5% below the Engineer's Estimate of \$1,134,916; and

WHEREAS, a written protest was received on June 11 from Gallagher & Burk, Inc., stating that the low bidder, G. Bortolotto & Co., Inc., failed to provide information in its bid about the work to be performed by a subcontractor, Rosas Brothers Construction, and the amount of the subcontract with Rosas Brothers, as required by the project specifications; and

WHEREAS, G. Bortolotto & Co., Inc. provided a written response to the bid protest on June 24, 2013; and

WHEREAS, staff has reviewed the protest by Gallagher & Burk, Inc., and determined that the omissions constitute a non-material bid irregularity and does not affect the bid amount or give G. Bortolotto & Co., Inc. any unfair advantages or benefits not allowed to other bidders; and

WHEREAS, staff does not consider the omissions to be an error that made the bid materially different than what was intended, thus providing the bidder an opportunity to withdraw the bid without forfeiting the bid bond; and

WHEREAS, the bid specifications for this project and Hayward Municipal Code section 2-8.06 allow the City to waive any informalities or irregularities in bids received; and

WHEREAS, the low bid provides an opportunity to repair additional pavement as well as Municipal Parking Lot No. 6 due to advantageous unit prices, and staff is recommending an

increase in the Administrative Change Order amount by \$343,000, to a total amount of \$443,000, to cover the extra work.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that an increase in the Administrative Change Order amount by \$343,000 to a total of \$443,000 to complete additional pavement repairs, as well as repairs to Municipal Parking Lot No. 6, is hereby authorized.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the omissions in G. Bortolotto & Co., Inc.'s bid are waived as being non-material irregularities that do not affect the bid amount or give G. Bortolotto & Co., Inc. any unfair advantages or benefits not allowed to other bidders.

BE IT FURTHER RESOLVED, by the City Council of the City of Hayward that the bid protest of Gallagher & Burk, Inc. received on June 11, 2013 is hereby rejected.

BE IT FURTHER RESOLVED, by the City Council of the City of Hayward that G. Bortolotto & Co., Inc. is hereby awarded the contract for the Pavement Rehabilitation Measure B FY14 Project, Project No. 5147, in an amount not to exceed \$1,324,945.79, in accordance with the plans and specifications adopted therefor 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 G. Bortolotto & Co., 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 \_\_\_\_\_, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

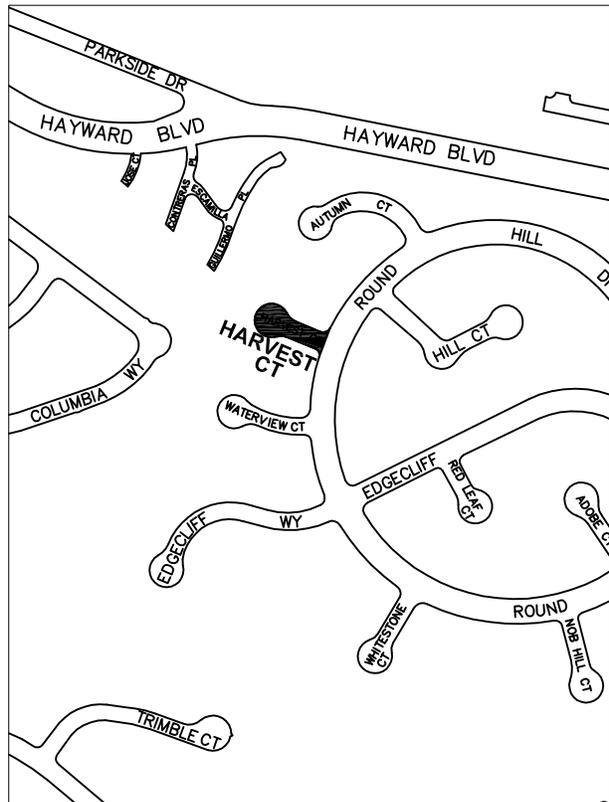
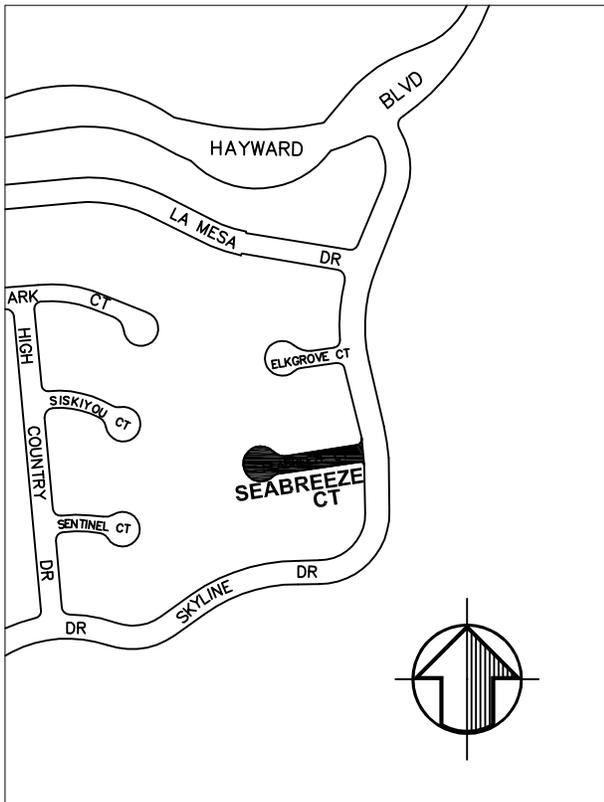
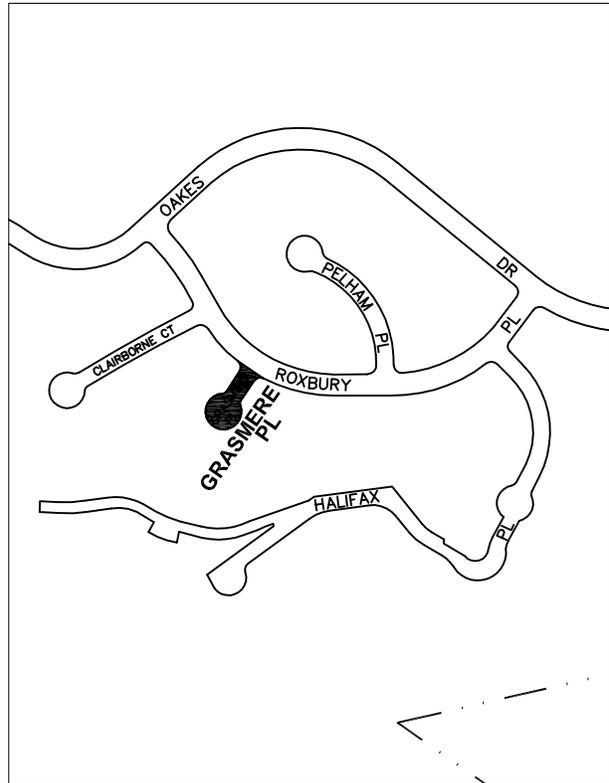
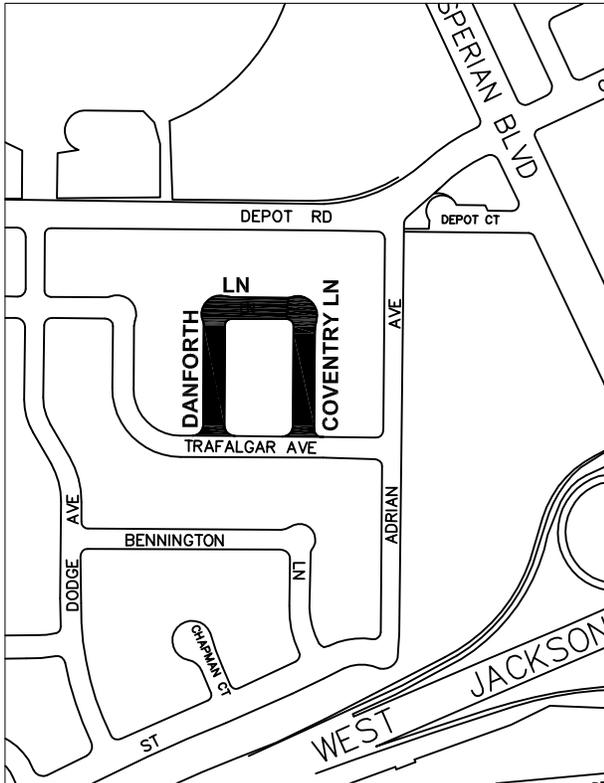
ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

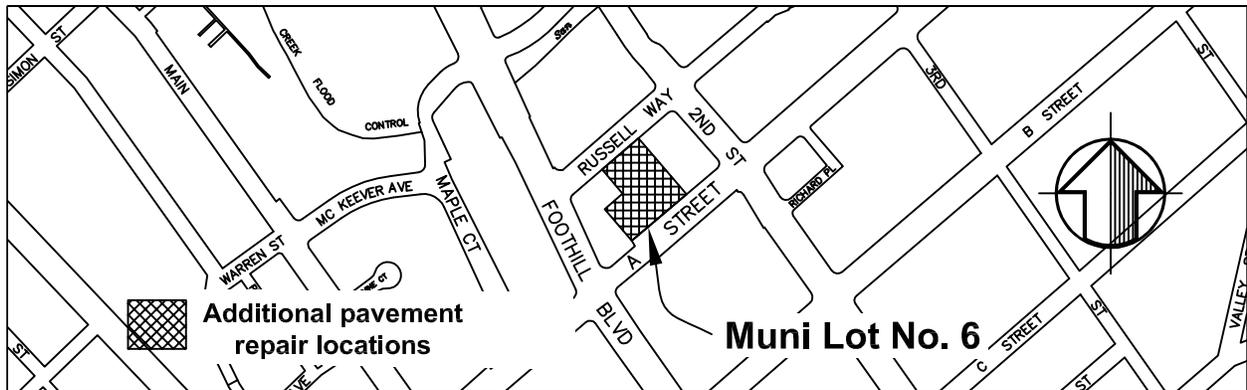
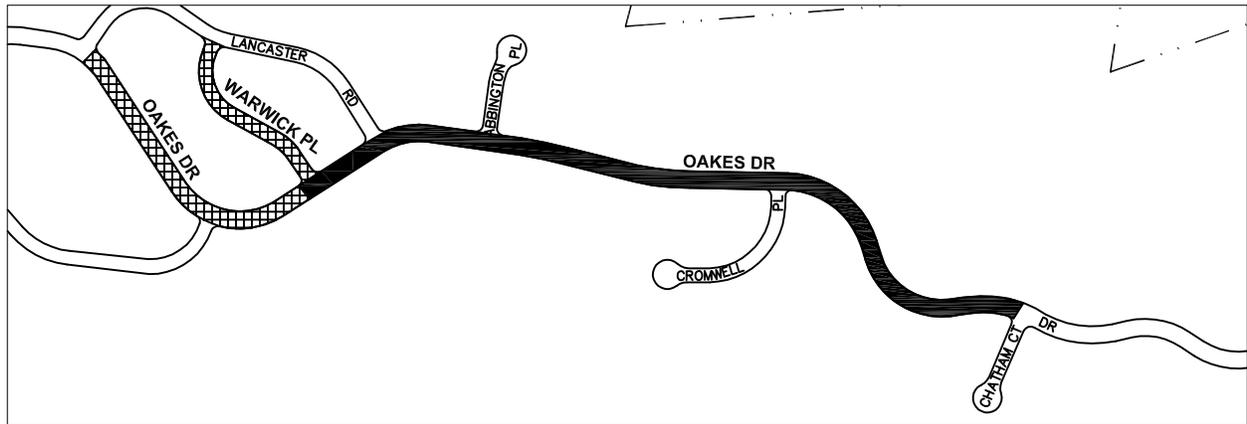
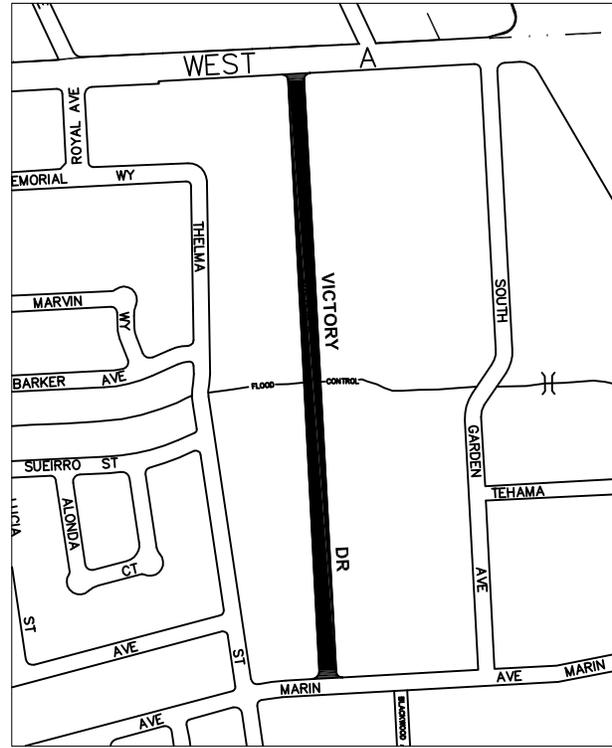
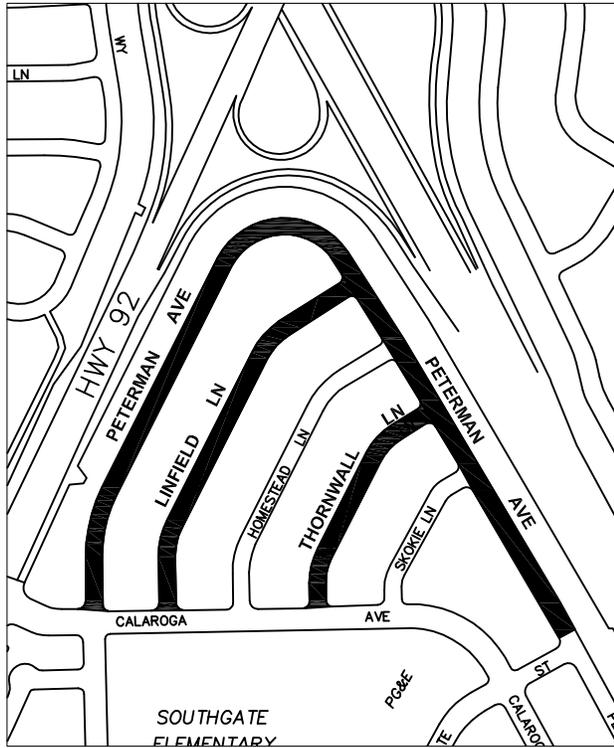
APPROVED AS TO FORM:

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City Attorney of the City of Hayward



**LOCATION MAP  
PAVEMENT REHABILITATION FY14  
PROJECT NO. 5147**



**LOCATION MAP  
PAVEMENT REHABILITATION FY14  
PROJECT NO. 5147**

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>G. Bortolotto &amp; Co., Inc.</b>		<b>Gallagher &amp; Burk, Inc.</b>	
						582 Bragato Road San Carlos, CA 94070 (650) 595-2591 (650) 595-0718 Fax		344 High Street Oakland, CA 94601 (510) 261-0466 (510) 216-0478 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	20,000.00	20,000.00	8,111.11	8,111.11	90,000.00	90,000.00
2	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	22,222.22	22,222.22	55,000.00	55,000.00
3	1	LS	CRACK SEALING	20,000.00	20,000.00	16,050.00	16,050.00	10,000.00	10,000.00
4	61,766	SF	FULL DEPTH HOT MIX ASPHALT SPOT REPAIRS (4" EXCAVATION W/4" HMA)	4.75	293,388.50	3.01	185,915.66	3.00	185,298.00
5	6,676	SY	PLANE PAVEMENT (0.17' DEPTH, FULL WIDTH)	2.75	18,359.00	1.91	12,751.16	2.00	13,352.00
6	13,587	SY	PLANE PAVEMENT (WEDGE GRINDING)	2.50	33,967.50	2.08	28,260.96	2.00	27,174.00
7	21,236	SY	PAVEMENT REINFORCING FABRIC	2.50	53,090.00	2.83	60,097.88	2.00	42,472.00
8	4,772	TN	HOT MIX ASPHALT (OVERLAY)	93.00	443,796.00	90.90	433,774.80	80.00	381,760.00
9	36	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	275.00	9,900.00	301.00	10,836.00	200.00	7,200.00
10	19	EA	ADJUST WATER VALVE BOX AND COVER TO GRADE	150.00	2,850.00	180.00	3,420.00	200.00	3,800.00
11	29	EA	REPLACE WATER VALVE BOX AND COVER AND ADJUST TO GRADE	200.00	5,800.00	212.00	6,148.00	300.00	8,700.00
12	3	EA	ADJUST SURVEY MONUMENT BOX AND COVER TO GRADE	150.00	450.00	180.00	540.00	200.00	600.00
13	22	EA	REPLACE SURVEY MONUMENT BOX AND COVER AND ADJUST TO GRADE	200.00	4,400.00	212.00	4,664.00	300.00	6,600.00
14	7	EA	ADJUST SEWER RISER TO GRADE	300.00	2,100.00	180.00	1,260.00	400.00	2,800.00
15	67	LF	REMOVE & REPLACE MINOR CONCRETE (CURB & GUTTER)	35.00	2,345.00	67.00	4,489.00	60.00	4,020.00
16	3,018	SF	MINOR CONCRETE (CURB RAMP WITH DETACTABLE WARNING SURFACE)	15.00	45,270.00	16.00	48,288.00	8.00	24,144.00
17	15	EA	RETROFIT EXISTING CURB RAMP WITH DETACTABLE WARNING SURFACE	600.00	9,000.00	600.00	9,000.00	500.00	7,500.00
18	2	EA	REMOVE/REINSTALL EXISTING RUBBERIZED SPEED LUMP	4,000.00	8,000.00	3,670.00	7,340.00	2,000.00	4,000.00

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>G. Bortolotto &amp; Co., Inc.</b>		<b>Gallagher &amp; Burk, Inc.</b>	
						582 Bragato Road San Carlos, CA 94070 (650) 595-2591 (650) 595-0718 Fax		344 High Street Oakland, CA 94601 (510) 261-0466 (510) 216-0478 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
19	2	EA	REMOVE EXISTING AC SPEED BUMP & INSTALL NEW RUBBERIZED SPEED LUMP	10,000.00	20,000.00	7,000.00	14,000.00	4,000.00	8,000.00
20	4	EA	VEHICLE DETECTOR LOOPS	300.00	1,200.00	1,000.00	4,000.00	700.00	2,800.00
21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	777.00	777.00	100.00	100.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
<b>TOTAL</b>					<b>1,134,916.00</b>		<b>981,945.79</b>		<b>985,320.00</b>

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>Granite Construction Company</b>		<b>Bay Cities Paving &amp; Grading, Inc.</b>	
						585 W Beach Street Watsonville, CA 95076 (831) 724-1011 (831) 768-4021 Fax		5029 Forni Road Concord, CA 94520 (925) 687-6666 (925) 687-2122 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	20,000.00	20,000.00	63,930.00	63,930.00	76,500.00	76,500.00
2	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	34,000.00	34,000.00	32,000.00	32,000.00
3	1	LS	CRACK SEALING	20,000.00	20,000.00	15,000.00	15,000.00	17,500.00	17,500.00
4	61,766	SF	FULL DEPTH HOT MIX ASPHALT SPOT REPAIRS (4" EXCAVATION W/4" HMA)	4.75	293,388.50	2.50	154,415.00	2.98	184,062.68
5	6,676	SY	PLANE PAVEMENT (0.17' DEPTH, FULL WIDTH)	2.75	18,359.00	2.35	15,688.60	2.44	16,289.44
6	13,587	SY	PLANE PAVEMENT (WEDGE GRINDING)	2.50	33,967.50	1.00	13,587.00	2.09	28,396.83
7	21,236	SY	PAVEMENT REINFORCING FABRIC	2.50	53,090.00	2.40	50,966.40	3.23	68,592.28
8	4,772	TN	HOT MIX ASPHALT (OVERLAY)	93.00	443,796.00	88.00	419,936.00	86.32	411,919.04
9	36	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	275.00	9,900.00	440.00	15,840.00	460.00	16,560.00
10	19	EA	ADJUST WATER VALVE BOX AND COVER TO GRADE	150.00	2,850.00	235.00	4,465.00	248.00	4,712.00
11	29	EA	REPLACE WATER VALVE BOX AND COVER AND ADJUST TO GRADE	200.00	5,800.00	300.00	8,700.00	317.00	9,193.00
12	3	EA	ADJUST SURVEY MONUMENT BOX AND COVER TO GRADE	150.00	450.00	235.00	705.00	248.00	744.00
13	22	EA	REPLACE SURVEY MONUMENT BOX AND COVER AND ADJUST TO GRADE	200.00	4,400.00	300.00	6,600.00	317.00	6,974.00
14	7	EA	ADJUST SEWER RISER TO GRADE	300.00	2,100.00	440.00	3,080.00	460.00	3,220.00
15	67	LF	REMOVE & REPLACE MINOR CONCRETE (CURB & GUTTER)	35.00	2,345.00	73.00	4,891.00	53.00	3,551.00
16	3,018	SF	MINOR CONCRETE (CURB RAMP WITH DETACTABLE WARNING SURFACE)	15.00	45,270.00	18.50	55,833.00	12.75	38,479.50
17	15	EA	RETROFIT EXISTING CURB RAMP WITH DETACTABLE WARNING SURFACE	600.00	9,000.00	500.00	7,500.00	740.00	11,100.00
18	2	EA	REMOVE/REINSTALL EXISTING RUBBERIZED SPEED LUMP	4,000.00	8,000.00	3,000.00	6,000.00	3,900.00	7,800.00

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>Granite Construction Company</b>		<b>Bay Cities Paving &amp; Grading, Inc.</b>	
						585 W Beach Street Watsonville, CA 95076 (831) 724-1011 (831) 768-4021 Fax		5029 Forni Road Concord, CA 94520 (925) 687-6666 (925) 687-2122 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
19	2	EA	REMOVE EXISTING AC SPEED BUMP & INSTALL NEW RUBBERIZED SPEED LUMP	10,000.00	20,000.00	6,000.00	12,000.00	7,400.00	14,800.00
20	4	EA	VEHICLE DETECTOR LOOPS	300.00	1,200.00	625.00	2,500.00	655.00	2,620.00
21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	800.00	800.00	700.00	700.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
<b>TOTAL</b>					<b>1,134,916.00</b>		<b>996,437.00</b>		<b>* 1,055,713.77</b>

\* Total Bid Correction

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>FMG Co., Inc.</b>		<b>C. F. Archibald Paving, Inc.</b>	
						336 E Gish Road San Jose, CA 95112 (408) 573-9364 (408) 573-8364 Fax		PO Box 37 Redwood City, CA 94064 (650) 364-3045 (650) 366-8777 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	20,000.00	20,000.00	70,500.00	70,500.00	40,000.00	40,000.00
2	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	38,400.00	38,400.00	17,000.00	17,000.00
3	1	LS	CRACK SEALING	20,000.00	20,000.00	10,431.70	10,431.70	16,050.00	16,050.00
4	61,766	SF	FULL DEPTH HOT MIX ASPHALT SPOT REPAIRS (4" EXCAVATION W/4" HMA)	4.75	293,388.50	3.25	200,739.50	3.75	231,622.50
5	6,676	SY	PLANE PAVEMENT (0.17' DEPTH, FULL WIDTH)	2.75	18,359.00	2.00	13,352.00	2.85	19,026.60
6	13,587	SY	PLANE PAVEMENT (WEDGE GRINDING)	2.50	33,967.50	2.00	27,174.00	3.00	40,761.00
7	21,236	SY	PAVEMENT REINFORCING FABRIC	2.50	53,090.00	2.30	48,842.80	3.06	64,982.16
8	4,772	TN	HOT MIX ASPHALT (OVERLAY)	93.00	443,796.00	92.50	441,410.00	92.00	439,024.00
9	36	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	275.00	9,900.00	495.00	17,820.00	400.00	14,400.00
10	19	EA	ADJUST WATER VALVE BOX AND COVER TO GRADE	150.00	2,850.00	350.00	6,650.00	250.00	4,750.00
11	29	EA	REPLACE WATER VALVE BOX AND COVER AND ADJUST TO GRADE	200.00	5,800.00	400.00	11,600.00	300.00	8,700.00
12	3	EA	ADJUST SURVEY MONUMENT BOX AND COVER TO GRADE	150.00	450.00	3.50 *	10.50	250.00	750.00
13	22	EA	REPLACE SURVEY MONUMENT BOX AND COVER AND ADJUST TO GRADE	200.00	4,400.00	400.00	8,800.00	300.00	6,600.00
14	7	EA	ADJUST SEWER RISER TO GRADE	300.00	2,100.00	350.00	2,450.00	250.00	1,750.00
15	67	LF	REMOVE & REPLACE MINOR CONCRETE (CURB & GUTTER)	35.00	2,345.00	60.00	4,020.00	72.25	4,840.75
16	3,018	SF	MINOR CONCRETE (CURB RAMP WITH DETACTABLE WARNING SURFACE)	15.00	45,270.00	14.00	42,252.00	18.50	55,833.00
17	15	EA	RETROFIT EXISTING CURB RAMP WITH DETACTABLE WARNING SURFACE	600.00	9,000.00	500.00	7,500.00	500.00	7,500.00
18	2	EA	REMOVE/REINSTALL EXISTING RUBBERIZED SPEED LUMP	4,000.00	8,000.00	3,670.00	7,340.00	1,000.00	2,000.00

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>FMG Co., Inc.</b>		<b>C. F. Archibald Paving, Inc.</b>	
						336 E Gish Road San Jose, CA 95112 (408) 573-9364 (408) 573-8364 Fax		PO Box 37 Redwood City, CA 94064 (650) 364-3045 (650) 366-8777 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
19	2	EA	REMOVE EXISTING AC SPEED BUMP & INSTALL NEW RUBBERIZED SPEED LUMP	10,000.00	20,000.00	6,995.00	13,990.00	4,500.00	9,000.00
20	4	EA	VEHICLE DETECTOR LOOPS	300.00	1,200.00	600.00	2,400.00	1,000.00	4,000.00
21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	500.00	500.00	2,500.00	2,500.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
<b>TOTAL</b>					<b>1,134,916.00</b>	**	<b>1,076,182.50</b>		<b>1,091,090.01</b>

\* Item Total Correction  
 \*\* Total Bid Correction

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>Interstate Grading &amp; Paving, Inc.</b>		<b>Ghilotti Construction Company, Inc.</b>	
						128 So. Maple Avenue So. San Francisco, CA 94080 (650) 952-7333 (650) 952-6851 Fax		246 Ghilotti Ave Santa Rosa, CA 95407 (707) 585-1221 (707) 585-1601 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	20,000.00	20,000.00	31,000.00	31,000.00	96,000.00	96,000.00
2	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	31,000.00	31,000.00	25,000.00	25,000.00
3	1	LS	CRACK SEALING	20,000.00	20,000.00	19,000.00	19,000.00	15,000.00	15,000.00
4	61,766	SF	FULL DEPTH HOT MIX ASPHALT SPOT REPAIRS (4" EXCAVATION W/4" HMA)	4.75	293,388.50	3.80	234,710.80	4.30	265,593.80
5	6,676	SY	PLANE PAVEMENT (0.17' DEPTH, FULL WIDTH)	2.75	18,359.00	5.10	34,047.60	2.75	18,359.00
6	13,587	SY	PLANE PAVEMENT (WEDGE GRINDING)	2.50	33,967.50	3.40	46,195.80	3.00	40,761.00
7	21,236	SY	PAVEMENT REINFORCING FABRIC	2.50	53,090.00	2.45	52,028.20	2.40	50,966.40
8	4,772	TN	HOT MIX ASPHALT (OVERLAY)	93.00	443,796.00	90.00	429,480.00	82.00	391,304.00
9	36	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	275.00	9,900.00	435.00	15,660.00	470.00	16,920.00
10	19	EA	ADJUST WATER VALVE BOX AND COVER TO GRADE	150.00	2,850.00	235.00	4,465.00	270.00	5,130.00
11	29	EA	REPLACE WATER VALVE BOX AND COVER AND ADJUST TO GRADE	200.00	5,800.00	300.00	8,700.00	385.00	11,165.00
12	3	EA	ADJUST SURVEY MONUMENT BOX AND COVER TO GRADE	150.00	450.00	235.00	705.00	270.00	810.00
13	22	EA	REPLACE SURVEY MONUMENT BOX AND COVER AND ADJUST TO GRADE	200.00	4,400.00	300.00	6,600.00	385.00	8,470.00
14	7	EA	ADJUST SEWER RISER TO GRADE	300.00	2,100.00	435.00	3,045.00	415.00	2,905.00
15	67	LF	REMOVE & REPLACE MINOR CONCRETE (CURB & GUTTER)	35.00	2,345.00	53.00	3,551.00	50.00	3,350.00
16	3,018	SF	MINOR CONCRETE (CURB RAMP WITH DETACTABLE WARNING SURFACE)	15.00	45,270.00	13.00	39,234.00	12.00	36,216.00
17	15	EA	RETROFIT EXISTING CURB RAMP WITH DETACTABLE WARNING SURFACE	600.00	9,000.00	750.00	11,250.00	700.00	10,500.00
18	2	EA	REMOVE/REINSTALL EXISTING RUBBERIZED SPEED LUMP	4,000.00	8,000.00	3,700.00	7,400.00	3,500.00	7,000.00

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>Interstate Grading &amp; Paving, Inc.</b>		<b>Ghilotti Construction Company, Inc.</b>	
						128 So. Maple Avenue So. San Francisco, CA 94080 (650) 952-7333 (650) 952-6851 Fax		246 Ghilotti Ave Santa Rosa, CA 95407 (707) 585-1221 (707) 585-1601 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
19	2	EA	REMOVE EXISTING AC SPEED BUMP & INSTALL NEW RUBBERIZED SPEED LUMP	10,000.00	20,000.00	7,200.00	14,400.00	6,600.00	13,200.00
20	4	EA	VEHICLE DETECTOR LOOPS	300.00	1,200.00	620.00	2,480.00	700.00	2,800.00
21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	100.00	100.00	100.00	100.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
<b>TOTAL</b>					<b>1,134,916.00</b>		<b>1,095,052.40</b>		<b>1,121,550.20</b>

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
 (NUMBER OF BIDS RECEIVED - 10)

<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>O'Grady Paving, Inc.</b> 2513 Wyandotte Street Mountain View, CA 94043 (650) 966-1926 (650) 966-1946 Fax		<b>J.A. Gonsalves &amp; Son Const., Inc.</b> 1100 Soscol Ferry Road #2 Napa, CA 94558 (707) 258-6261 (707) 258-1240 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	20,000.00	20,000.00	22,000.00	22,000.00	25,000.00	25,000.00
2	1	LS	TRAFFIC CONTROL	40,000.00	40,000.00	20,000.00	20,000.00	48,000.00	48,000.00
3	1	LS	CRACK SEALING	20,000.00	20,000.00	17,000.00	17,000.00	52,000.00	52,000.00
4	61,766	SF	FULL DEPTH HOT MIX ASPHALT SPOT REPAIRS (4" EXCAVATION W/4" HMA)	4.75	293,388.50	4.20	259,417.20	7.75 *	478,686.50
5	6,676	SY	PLANE PAVEMENT (0.17' DEPTH, FULL WIDTH)	2.75	18,359.00	4.50	30,042.00	8.40 *	56,078.40
6	13,587	SY	PLANE PAVEMENT (WEDGE GRINDING)	2.50	33,967.50	2.40	32,608.80	7.10 *	96,467.70
7	21,236	SY	PAVEMENT REINFORCING FABRIC	2.50	53,090.00	2.70	57,337.20	3.00	63,708.00
8	4,772	TN	HOT MIX ASPHALT (OVERLAY)	93.00	443,796.00	95.00	453,340.00	110.00	524,920.00
9	36	EA	ADJUST MANHOLE FRAME AND COVER TO GRADE	275.00	9,900.00	500.00	18,000.00	800.00	28,800.00
10	19	EA	ADJUST WATER VALVE BOX AND COVER TO GRADE	150.00	2,850.00	300.00	5,700.00	800.00	15,200.00
11	29	EA	REPLACE WATER VALVE BOX AND COVER AND ADJUST TO GRADE	200.00	5,800.00	350.00	10,150.00	800.00	23,200.00
12	3	EA	ADJUST SURVEY MONUMENT BOX AND COVER TO GRADE	150.00	450.00	300.00	900.00	1,000.00	3,000.00
13	22	EA	REPLACE SURVEY MONUMENT BOX AND COVER AND ADJUST TO GRADE	200.00	4,400.00	350.00	7,700.00	1,500.00	33,000.00
14	7	EA	ADJUST SEWER RISER TO GRADE	300.00	2,100.00	300.00	2,100.00	800.00	5,600.00
15	67	LF	REMOVE & REPLACE MINOR CONCRETE (CURB & GUTTER)	35.00	2,345.00	65.00	4,355.00	112.00	7,504.00
16	3,018	SF	MINOR CONCRETE (CURB RAMP WITH DETACTABLE WARNING SURFACE)	15.00	45,270.00	17.00	51,306.00	18.00	54,324.00
17	15	EA	RETROFIT EXISTING CURB RAMP WITH DETACTABLE WARNING SURFACE	600.00	9,000.00	600.00	9,000.00	1,000.00	15,000.00
18	2	EA	REMOVE/REINSTALL EXISTING RUBBERIZED SPEED LUMP	4,000.00	8,000.00	4,000.00	8,000.00	2,710.00	5,420.00

CITY OF HAYWARD  
 CONSTRUCTION OF PAVEMENT REHABILITATION MEASURE B FY14  
 PROJECT NO. 5147  
 BIDS OPENED: 6/4/13  
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<b>BID SUMMARY</b>				<b>ENGINEER'S ESTIMATE</b>		<b>O'Grady Paving, Inc.</b>		<b>J.A. Gonsalves &amp; Son Const., Inc.</b>	
						2513 Wyandotte Street Mountain View, CA 94043 (650) 966-1926 (650) 966-1946 Fax		1100 Soscol Ferry Road #2 Napa, CA 94558 (707) 258-6261 (707) 258-1240 Fax	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
19	2	EA	REMOVE EXISTING AC SPEED BUMP & INSTALL NEW RUBBERIZED SPEED LUMP	10,000.00	20,000.00	7,000.00	14,000.00	3,700.00	7,400.00
20	4	EA	VEHICLE DETECTOR LOOPS	300.00	1,200.00	1,100.00	4,400.00	1,500.00	6,000.00
21	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	1,000.00	1,000.00	500.00	500.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00	100,000.00
<b>TOTAL</b>					<b>1,134,916.00</b>		<b>1,128,356.20</b>	<b>**</b>	<b>1,649,808.60</b>

\* Item Total Correction  
 \*\* Total Bid Correction

**MICHAEL WILLCOXON, ESQ.  
LAW OFFICES OF MICHAEL WILLCOXON  
11555 DUBLIN BLVD., 1<sup>st</sup> Floor  
DUBLIN, CALIFORNIA 94568  
TELEPHONE 925.803.4277 • FACSIMILE 925.803.4270**

06/11/13 15:47 CLK

**VIA HAND DELIVERY**

June 11, 2013

City of Hayward  
Office of the City Clerk  
City Hall Building  
777 "B" Street  
Hayward, CA 94541-5007

RE: Bid Protest of Gallagher & Burk, Inc.  
Pavement Rehabilitation Measure B FY14  
City of Hayward Project No. 5147 (the "Project")

Ladies and Gentlemen:

I represent Gallagher & Burk, Inc. ("G&B"), one of the bidders for the above-referenced Project. G&B protests the bid submitted by G. Bortolotto & Co., Inc. ("Bortolotto") for the Project. Please consider this a formal bid protest. A check for the Five Hundred Dollar (\$500.00) processing fee is enclosed.

In May of 2013, the City of Hayward ("City") published its Specifications for the Construction of Pavement Rehabilitation Measure B FY14 Project No. 5147 (the "Specifications"). On June 4, 2013, the City received bids for the Project. Nine (9) bidders submitted bids to the City. Bortolotto submitted the low numerical bid of Nine Hundred Eighty-One Thousand Nine Hundred Forty-Five Dollars (\$981,945.00) and G&B submitted the second low bid of Nine Hundred Eighty-Five Thousand Three Hundred Twenty Dollars (\$985,320.00), Three Thousand Three Hundred Seventy-Five Dollars (\$3,375.00) higher than Bortolotto's bid. Bortolotto's bid must be rejected as nonresponsive because it failed to comply with the Subletting and Subcontracting Fair Practices Act and the Specifications by failing to provide information in its bid about the work to be performed by a subcontractor and the amount of the subcontract. The failure to provide that information was a material irregularity that rendered Bortolotto's bid non-responsive. As a result, G&B is the lowest responsive and responsible bidder and should be awarded the contract for the Project.

City of Hayward  
Office of the City Clerk  
June 11, 2013  
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**BORTOLOTTO'S BID IS NONRESPONSIVE BECAUSE IT  
FAILED TO COMPLY WITH STATE LAW AND THE BID  
SPECIFICATIONS.**

In the Special Provisions for this Project which are included in the Specifications, the City references Public Contract Code 4100:

"In accordance with the requirements of the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the California Public Contract Code, each bidder shall list in his proposal the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime Contractor...in an amount in excess of **one-half of one percent** of the prime Contractor's total bid. Said list shall include name and address of each subcontractor and a description of the portion of the work which will be done by each subcontractor." Special Provisions 2-1.06.

Likewise in the Proposal form itself, at P-4, the City provides instructions for listing subcontractors.

"In conformance with ...the special provisions, the bidder shall list the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime Contractor . . .in an amount in excess of one-half of 1 percent of the prime Contractor's total bid. The bidder shall list only one subcontractor for each portion as is defined by the prime Contractor in his or her bid. The bidder also shall provide information about the listed subcontractor(s) identifying: their State Contractor's license number and all classifications; the work subcontracted; and the subcontract amount.

The required information shall be reported on the "List of All Subcontractors and Suppliers" form on proposal pages P-5 and P-6. *Bidders are cautioned that nonsubmittal of required information constitutes grounds for rejection of the bid.*" (emphasis added)

Rosas Brothers submitted a bid to G&B for items 15, 16, and 17 for a total of \$59,428.50 and G&B listed Rosas Brothers on its List of All Subcontractors and Suppliers for Minor Concrete with a subcontract amount of \$59,428.00, well in excess of ½ of 1% of G&B's total bid of \$985,320.00. In the Proposal submitted by Bortolotto (copy attached), Rosas Brothers from Oakland, California, is listed on P-5, the List of All Subcontractors and Suppliers, and its phone number and license number are provided by Bortolotto. However, no information is provided by Bortolotto about the work to be subcontracted to Rosas Brothers and the amount of the subcontract to be awarded to

City of Hayward  
Office of the City Clerk  
June 11, 2013  
Page 3

Rosas Brothers. The failure to provide that information is a material irregularity that makes Bortolotto's bid nonresponsive. The Bortolotto bid must be rejected as nonresponsive since the irregularity gave Bortolotto an unfair advantage over other bidders by giving Bortolotto the opportunity to seek relief under Public Contract Code Section 5103-- it gave Bortolotto the opportunity to walk away from its bid without forfeiting its bid bond.

In *Valley Crest Landscape, Inc. v. City Council of the City of Davis (1996)* 41 Cal.App.4<sup>th</sup> 1432 [49 Cal.Prtr.2d 184] (hereafter *Valley Crest*), the court held that where a bidder makes a mistake in stating the percentage of work to be done by a subcontractor in its bid, a public entity has no choice except to reject the bid. The court reasoned, in part, as follows:

"Applying the same test here, we conclude North Bay had an unfair advantage because it could have withdrawn its bid. Misstating the correct percentage of work to be done by a subcontractor is in the nature of a typographical or arithmetical error. It makes the bid materially different and is a mistake in filling out the bid. As such, under Public Contract Code section 5103, North Bay could have sought relief by giving the City notice of the mistake within five days of the opening of the bid. That North Bay did not seek out such relief is of no moment. The key point is that such relief was available. Thus, North Bay had a benefit not available to the other bidders; it could have backed out. Its mistake, therefore, could not be corrected by waiving an "irregularity." " [*Id.* at 1442].

Similarly, in *MCM Construction, Inc. v. City and County of San Francisco (1998)* 66 Cal.App.4<sup>th</sup> 359 [78 Cal.Rptr.2d 44] (hereafter *MCM*), the Court held that the City of San Francisco was required to reject a contractor's bid because the bidder had failed to comply with a bid solicitation requirement that it state on its List of Subcontractors, the dollar amounts of work to be performed by several subcontractors, even though there was no statutory requirement in the Public Contract Code that such amounts be provided. The Court reasoned in part as follows:

The City and Myers do not contend the failure to list the dollar amount of work to be performed by each subcontractor could have affected the amount of the bid. Rather, they contend that *MCM* received an advantage or benefit not allowed other bidders in that it was given the opportunity to withdraw its bid. Several cases have concluded that "[w]aiver of an irregularity in a bid should be only allowed if it would not give the bidder an unfair advantage by allowing the bidder to withdraw its bid without forfeiting its bid bond. [Citation.]" (*Valley Crest*, *supra*, 41 Cal.App.4<sup>th</sup> at p.1442, citing *Menefee v. County of Fresno*, *supra*, 163 Cal.App.3d 1175, 1178-1181 [210 Cal.Rptr. 99.]

City of Hayward  
 Office of the City Clerk  
 June 11, 2013  
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“In *Valley Crest*, the court found the bidder had an unfair advantage where it could have withdrawn its bid under Public Contract Code section 5103. “Misstating the correct percentage of work to be done by a subcontractor is in the nature of a typographical or arithmetical error. It makes the bid materially different and is a mistake in filling out the bid. As such, under Public Contract Code section 5103, North Bay [the low bidder] could have sought relief by giving the City notice of the mistake within five days of opening the bid. That North Bay did not seek such relief is of no moment. The key point is that such relief was available. Thus, North Bay had a benefit not available to the other bidders; it could have backed out. Its mistake, therefore, could not be corrected by waiving an “irregularity. ”*Id.* at p.1442.

\*\*\*

“*Valley Crest* held that misstating the correct percentage of work to be done by a subcontractor was “In the nature of a typographical or arithmetical error. It makes the bid materially different and is a mistake in filling out the bid. “As such, the contractor could have sought relief under section 5103. Consequently, the contractor’s ability to withdraw its bid without forfeiting its bond constituted an unfair advantage and the city could not waive the irregularity. (*Valley Crest*, supra, 41 Cal.App.4th 1432, 1442). We believe *the failure to state dollar amounts of work to be performed by seven of nine subcontractors is*, like the misstatement of the correct percentage of work to be done by subcontractors in *Valley Crest*, “in the nature of a typographical or arithmetical error.” As such, *MCM* could have sought relief under the statute and had an advantage not available to other bidders. *The City was without power to waive the deviation. MCM, supra*, at 375-377. (emphasis added)

Thus, in *Valley Crest* and *MCM*, it was held that a bid must be rejected if a bidder makes mistakes on its subcontractor listing form or fails to provide the information which the public entity has stated must be included on that form. In each of these decisions, the court held that a public entity had no choice except to reject bids which did not accurately provide the information which the public entity had stated was to be included on the subcontractor listing form – even though the incorrect or missing information was not required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100, et. seq.). Our case is even stronger since some of the information not provided (i.e., the portion of work to be performed by Rosas Brothers) is required by section 4104 of the Public Contract Code. Accordingly, the City is legally required to reject Bortolotto’s bid because of the mistakes Bortolotto made on its subcontractor listing form.

City of Hayward  
Office of the City Clerk  
June 11, 2013  
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**THE IRREGULARITY IN BORTOLOTTA'S BID IS A MATERIAL MISTAKE  
THAT CANNOT BE WAIVED BY THE CITY.**

Reference is made to an email sent by Dave Hung, Associate Civil Engineer with the City to Alan McKean, G&B's Estimator (copy attached). In his email Mr. Hung states:

"G. Bortolotto has listed subcontractors which included Rosas Brothers; however, G. Bortolotto did not list the Description of Portion of Work Subcontracted or the Subcontract Amount for Rosas Brothers. The City considers this to be minor and does not affect the total bid amount. Your attention is directed to page 5 of the special provisions which states that "the Department reserves the right to waive any informalities or irregularities in bids received". As such, the City intends to award the contract to G. Bortolotto on July 9."

Notably, the Specifications include the Special Provisions, which provide that the City reserves the right to: ". . . 1. Reject any and all bids; 2. Reject a nonresponsive bid; 3. Waive any informalities or irregularities in bids received." Section 2-1.01. However, it is well settled law that even if a public agency reserves the discretion to waive informalities or irregularities, a public agency may not waive material irregularities. In *Valley Crest, (Valley Crest Landscape, Inc. v. City Council of the City of Davis, supra, 41 Cal.App.4th 1432)*., the court analyzed the difference between a waivable (minor) irregularity and a nonwaivable (material) irregularity. Citing the *Menefee* case the Court stated "[w]aiver of an irregularity in a bid should only be allowed if it would not give that bidder unfair advantage by allowing the bidder to withdraw its bid without forfeiting its bid bond. *Id.* at 1442.

The City of Davis in the *Valley Crest* case took the same position taken in Mr. Hung's email - - that a mistake that does not directly affect the bid price is waivable. That position was expressly rejected by the Court.

"The City contends the type of mistakes which gives rise to relief under Public Contract Code section 5103 are only mistakes that directly affect the bid price. The language of the statute does not support this narrow interpretation. Section 5103 does not provide the mistake must be in the price, only that it makes the bid materially different than intended and be a mistake in filling out the bid. (Pub. Contract Code, § 5103, subds. (c) and (d).) As this case shows, there can be factors other than price which are material to the bid." *Id.* at 1442.

Just as in *Valley Crest* and *MCM*, the bidder here - - Bortolotto - - made a mistake in filling out the bid and the mistake made the bid materially different than intended. In our case, the failure of a bidder to provide with its bid required information

City of Hayward  
Office of the City Clerk  
June 11, 2013  
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about the work to be performed by the subcontractor and the amount of the subcontract, is a material irregularity that may not be waived by the City.

**CONCLUSION**

Based on the foregoing, the City must reject the bid submitted by Bortolotto on the Project as nonresponsive. The City should award the contract for the Project to G&B, the lowest responsive and responsible bidder.

Please send my client and myself copies of all responses, recommendations and determinations relating to this bid protest, as well as all communications, recommendations and determinations concerning the award of the above-referenced contract, when they are received or prepared. Further, please notify me of any meetings or hearings at which this protest will be discussed or resolved by City.

If you have any questions or wish to discuss this matter further, please contact me at your earliest convenience.

Very truly yours,



Michael Willcoxon

MW:da

Enclosures

cc: G. Bortolotto & Co., Inc.  
Granite Construction  
Bay Cities  
City Attorney



## PROPOSAL TO THE CITY COUNCIL OF THE CITY OF HAYWARD

for

## Pavement Rehabilitation Measure B FY14

Coventry Ln, Danforth Ln, Grasmere Pl, Harvest Ct, Linfield Ln, Oakes Dr, Peterman Ave,  
Seabreeze Ct, Thornwall Ln and Victory Ln

Project No. 5147

Name of Bidder: G. Bertelotte & Co., Inc.

Business Address: 582 Bragato Road

City: San Carlos, Ca. Zip Code: 94070-6227

Phone No.: ( 650 ) 595-2591 Fax No.: ( 650 ) 595-0718

\*\*\*\*\*

## LOCATION

The work to be done and referenced to herein is in the City of Hayward or the adjacent vicinity, State of California, and extends over property owned or controlled by the City of Hayward, and is to be constructed in accordance with special provisions (including the payment of not less than the minimum wage rates referred to in the special provisions) and the contract annexed hereto and also in accordance with adopted Standard Specifications, Standard Plans and Standard Details of the City of Hayward, which are hereby specially referred to and by such reference made a part hereof.

The work to be done is shown upon plans entitled:

<u>Drawing No.</u>	<u>Title</u>
E-2039	Pavement Rehabilitation Measure B FY14 Coventry Ln, Danforth Ln, Grasmere Pl, Harvest Ct, Linfield Ln, Oakes Dr, Peterman Ave, Seabreeze Ct, Thornwall Ln and Victory Ln

TO THE CITY COUNCIL, CITY OF HAYWARD

The undersigned, as bidder, does hereby declare that the only persons or parties interested in this proposal are the undersigned and this proposal is made without collusion with any other person, firm, or corporation; that he has carefully examined the location of the proposed work, the annexed proposed form of contract, and the plans therein referred to; and he proposes and agrees, if this proposal is accepted, that he will contract with the City of Hayward, in the form of the copy of the contract annexed hereto, to provide all necessary machinery, tools, apparatus, and other means of construction and to do all the work and furnish all the materials specified in the contract, in the manner and the time therein prescribed, and according to the requirements of the Engineer as therein set forth, and that he will take in full payment therefor the amounts shown on the following unit price schedule, to wit:

**BID SHEET**



**CITY OF HAYWARD**  
**PROJECT TITLE: Pavement Rehabilitation Measure B FY14**  
**PROJECT NO. 5147**

ITEM NO.	SPEC. SECTION	ITEM DESCRIPTION	EST. QUANTITY	UNIT	UNIT PRICE (In Words)	UNIT PRICE (In Figures)	TOTAL (In Figures)
1	10-1.06A	Mobilization	1	LS	<del>Eight</del> <sup>Eight</sup> thousand one hundred eleven & 11/100	<del>8,111.11</del> <sup>8,111.11</sup>	<del>8,111.11</del> <sup>8,111.11</sup>
2	10-1.07 & 10-1.08	Traffic Control	1	LS	Twenty Two thousand Two hundred Twenty Two Dollars Two and 2/100	22,222. <sup>22</sup>	22,222. <sup>22</sup>
3	10-1.17	Crack Sealing	1	LS	Sixteen thousand fifty	16,050. <sup>00</sup>	16,050. <sup>00</sup>
4	10-1.18	Full Depth Hot Mix Asphalt Spot Repairs (4" Excavation w/4" HMA)	61,766	SF	Three dollars and one cent	3.01	185,915. <sup>66</sup>
5	10-1.09F	Plane Pavement (0.17' Depth, Full Width)	6,676	SY	One dollar and ninety one cent	1.91	12,751. <sup>16</sup>
6	10-1.09F	Plane Pavement (Wedge Grinding)	13,587	SY	Two dollars and eight cents	2.08	28,260. <sup>96</sup>
7	10-1.19	Pavement Reinforcing Fabric	21,236	SY	Two Dollars Eighty three cents	2.83	60,097. <sup>88</sup>
8	10-1.20 & 10-1.22	Hot Mix Asphalt (Overlay)	4,772	TON	Ninety dollars and ninety cents	90.90	433,774. <sup>80</sup>
9	10-1.09D	Adjust Manhole Frame and Cover to Grade	36	EA	Three hundred and one dollar	301. <sup>00</sup>	10,836. <sup>00</sup>
10	10-1.09D	Adjust Water Valve Box and Cover to Grade	19	EA	one hundred Eighty dollars	180. <sup>00</sup>	3,420. <sup>00</sup>
11	10-1.09D	Replace Water Valve Box and Cover and Adjust to Grade	29	EA	Two hundred Twelve Dollars	212. <sup>00</sup>	6148. <sup>00</sup>
12	10-1.09D	Adjust Survey Monument Box and Cover to Grade	3	EA	one hundred Eighty dollars	180. <sup>00</sup>	540. <sup>00</sup>
13	10-1.09D	Replace Survey Monument Box and Cover and Adjust to Grade	22	EA	Two hundred Twelve Dollars	212	4,664
14	10-1.09D	Adjust Sewer Riser to Grade	7	EA	one hundred Eighty Dollars	180. <sup>00</sup>	1,260. <sup>00</sup>

BID SHEET

CITY OF HAYWARD  
 PROJECT TITLE: Pavement Rehabilitation Measure B FY14  
 PROJECT NO. 5147

ITEM NO.	SPEC. SECTION	ITEM DESCRIPTION	EST. QUANTITY	UNIT	UNIT PRICE (In Words)	UNIT PRICE (In Figures)	TOTAL (In Figures)	
15	10-1.24	Remove & Replace Minor Concrete (Curb & Gutter)	67	LF	SIXTY SEVEN DOLLARS	67-	4,489	
16	10-1.24	Minor Concrete (Curb Ramp with Detactable Warning Surface)	3,018	SF	SIXTEEN DOLLARS	16-	48,288-	
17	10-1.24	Retrofit Existing Curb Ramp With Detactable Warning Surface	15	EA	SIX HUNDRED DOLLARS	600-	9,000-	
18	10-1.27	Remove/Reinstall Existing Rubberized Speed Lump	2	EA	THREE THOUSAND SIX HUNDRED SEVENTY DOLLARS	3,670-	7,340-	
19	10-1.27	Remove Existing AC Speed Bump & Install New Rubberized Speed Lump	2	EA	SEVEN THOUSAND DOLLARS	7,000-	14,000-	
20	10-1.26	Vehicle Detector Loops	4	EA	ONE THOUSAND DOLLARS	1,000-	4,000-	
21	10-1.12	Recycling Implementation	1	LS	SEVEN HUNDRED SEVENTY SEVEN DOLLARS	777	777-	
22	10-1.30	Administrative Change Orders	1	LS	One Hundred Thousand Dollars	100,000.00	100,000	
<b>TOTAL BID</b>								<b>981,945.79</b>

Abbreviations: See Section 10 of these Special Provisions for definitions of the unit of measure.

NOTE: Referenced sections on the Bid Sheet are intended to provide initial linkage to the work descriptions and the Special Provisions. Not all the relevant sections have been specified above and the bidder is responsible for reading the entire contract documents. The estimate of construction quantities set forth herein is approximate only, being given as a basis for the comparison of bids. The City does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to change the amount of any class or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Engineer in accordance with Section 4-1.03, "Changes", of the Standard Specifications, and as amended in these Special Provisions. All bids will be compared on the basis of the Engineer's Estimate of the quantities of the work to be done. The undersigned declares, by their signature to this Proposal, that the bidder has checked carefully all the above figures and understands that the City shall not be responsible for any errors or omissions on the part of the undersigned in making up this bid.

G. Bortolotto & Co., Inc.  
 BIDDER

June 4, 2013  
 DATE

**DIRECTIONS TO BIDDERS:**

The following are directions to bidders by the City of Hayward and this proposal is made with reference to them:

Bids are required for the entire work. The amount of the bid for comparison purposes will be the total of all items. The total of unit basis items will be determined by extension of the item price bid on the basis of the estimated quantity set forth for the item.

The bidder shall set forth for each item of work, in clearly legible figures, an item price and a total for the item in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the item price bid on the basis of the estimated quantity for the item.

In case of discrepancy between an item price in words and the price in figures, the price in words shall prevail. In case of discrepancy between the item price and the total set forth for a unit basis item, the item price shall prevail, provided, however, if the amount set forth as an item price is ambiguous, illegible or uncertain for any cause, or is omitted, or in the case of unit basis items, is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

- (1) As to lump sum items, the amount set forth in the "Total" column shall be the item price.
- (2) As to unit basis items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the item price.

All questions concerning bids are to go to the City Project Engineer designated on the cover of the Specifications, and any changes to the Contract Documents shall be made by addendum.

The bidder's attention is directed to Section 2, "Proposal Requirements and Conditions," of these special provisions regarding submittal of proposal on City furnished forms.

If this proposal shall be accepted and the undersigned shall fail to contract as aforesaid and to give the two bonds in the sums to be determined as aforesaid, with surety satisfactory to the City of Hayward, within ten (10) days, not including Sundays and legal holidays, after the bidder has received notice from the City of Hayward that the contract has been awarded, the City of Hayward may, at its option, determine that the bidder has abandoned the contract, and thereupon this proposal and the acceptance thereof shall be null and void and the forfeiture of such security accompanying this proposal shall operate and the same shall be the property of the City of Hayward.

## INSTRUCTION FOR LISTING SUBCONTRACTORS

In conformance with Section 5-1.12, "Subcontracting," of the special provisions, the bidder shall list the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime Contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime Contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime Contractor's total bid. The bidder shall list only one subcontractor for each portion as is defined by the prime Contractor in his or her bid. The bidder also shall provide information about the listed subcontractor(s) identifying: their State Contractor's license number and all classifications; the work subcontracted; and the subcontract amount.

The required information shall be reported on the "List of All Subcontractors and Suppliers" form on proposal pages P-5 and P-6. Bidders are cautioned that nonsubmittal of required information constitutes grounds for rejection of the bid. It is not required to list suppliers to the forms on pages P-5 and P-6 unless the suppliers are being listed for DBEs or WBEs purposes (See DBE and WBE information below). The DBE/WBE suppliers' participation percentage shall be calculated per instructions shown on pages P-5 and P-6.

The City of Hayward requests that any bidder who utilizes Disadvantaged Business Enterprise (DBE) and Women Business Enterprise (WBE) subcontractors also provide the DBE/WBE information in the same form on proposal pages P-5 and P-6. The requested information includes DBE/WBE amounts, the DBE/WBE ethnicity, and the resource list from which the firm is certified. Acceptable DBE/WBE resource lists are noted in Section 2-1.05, "Resource Lists for This Project," of these special provisions.

**LIST OF ALL SUBCONTRACTORS AND SUPPLIERS  
(INCLUDING BIDDER'S DBE AND WBE VOLUNTARY PARTICIPATION INFORMATION)**

CITY OF HAYWARD

PROJECT TITLE: **Pavement Rehabilitation Measure B FY14**

BID OPENING: **June 4, 2013**

BIDDER'S NAME: C. Bertolotto & Co., Inc.

BIDDER'S ADDRESS: 582 Bragato Road, San Carlos, Ca, 94070-6227

BIDDER'S DBE/WBE STATUS: (INDICATE YES OR NO) DBE: No WBE: No

PERSON COMPLETING THIS FORM John Mathew PHONE NO: (650) 595-2591

SUBCONTRACTOR/SUPPLIER (BIDDER MUST COMPLETE BOTH PAGES P-5 & P-6)	DESCRIPTION OF PORTION OF WORK SUBCONTRACTED OR SUPPLIED	SUPPLY OR SUBCONTRACT AMOUNT	DBE <sup>1</sup> DOLLAR AMOUNT CLAIMED	WBE <sup>1</sup> DOLLAR AMOUNT CLAIMED	DBE/WBE <sup>2</sup> ETHNICITY (E) RESOURCE LIST (RL)
NAME: <u>Pacific Northwest Oil</u> CITY: <u>Stockton CA</u> TEL # <u>209 463 4762</u> LIC. # <u>705296</u>	<u>PAVING FABRIC</u> Supplier - Yes No <input checked="" type="checkbox"/>	<u>57,000<sup>-</sup></u>			E RL
NAME: <u>GRAHAM CONTRACTORS</u> CITY: <u>SAN JOSE CA</u> TEL # <u>408 296 9516</u> LIC. # <u>315789 A.C-12</u>	<u>CRACK SEAL</u> Supplier - Yes No <input checked="" type="checkbox"/>	<u>16,000<sup>-</sup></u>			E RL
NAME: <u>L.F.R.</u> CITY: <u>GRANITE BAY</u> TEL # <u>916 791-4020</u> LIC. # <u>921489</u>	<u>KEEPS (TRAFFIC)</u> Supplier - Yes No <input checked="" type="checkbox"/>	<u>4,000<sup>-</sup></u>			E RL
NAME: <u>CHRISP CO</u> CITY: <u>FREMONT CA</u> TEL # <u>510 656-2840</u> LIC. # <u>374600</u>	<u>SPEED HUMP</u> Supplier - Yes No <input checked="" type="checkbox"/>	<u>20,000<sup>-</sup></u>			E RL
NAME: <u>ROSAS BROTHERS</u> CITY: <u>OAKLAND CA</u> TEL # <u>510 534-1077</u> LIC. # <u>848835</u>	Supplier - Yes No <input checked="" type="checkbox"/>				E RL
NAME: CITY: TEL # LIC. #	Supplier - Yes No				E RL

<sup>1</sup> SUPPLIERS WHO ARE NOT MANUFACTURERS WILL COUNT 60 PERCENT OF THEIR VALUE FURNISHED. TRUCK BROKERS WHO DO NOT HAVE A SIGNED CONTRACT WITH DBE AND WBE TRUCKERS WILL COUNT 60 PERCENT OF THE VALUE FURNISHED.  
<sup>2</sup> THE RESOURCE LISTS ACCEPTABLE FOR THIS PROJECT ARE NOTED IN SECTION 2-1.05, "RESOURCE LISTS FOR THIS PROJECT."

**LIST OF ALL SUBCONTRACTORS AND SUPPLIERS  
(INCLUDING BIDDER'S DBE AND WBE VOLUNTARY PARTICIPATION INFORMATION)**

SUBCONTRACTOR/SUPPLIER (BIDDER MUST COMPLETE BOTH PAGES P-5 & P-6)	DESCRIPTION OF PORTION OF WORK SUBCONTRACTED OR SUPPLIED	SUPPLY OR SUBCONTRACT AMOUNT	DBE <sup>1</sup> DOLLAR AMOUNT CLAIMED	WBE <sup>1</sup> DOLLAR AMOUNT CLAIMED	DBE/WBE <sup>2</sup> ETHNICITY (E) RESOURCE LIST (RL)
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
NAME: _____ CITY: _____ TEL. # _____ LIC. # _____	Supplier - Yes      No				E RL
<b>TOTAL DBE/WBE DOLLAR AMOUNT</b>			\$ _____	\$ _____	
<b>TOTAL BID (EXCLUDING ACO \$ 100,000)</b>			\$ _____		
<b>TOTAL DBE/WBE PERCENTAGE</b>				_____ %	_____ %

<sup>1</sup> SUPPLIERS WHO ARE NOT MANUFACTURERS WILL COUNT 60 PERCENT OF THEIR VALUE FURNISHED. TRUCK BROKERS WHO DO NOT HAVE A SIGNED CONTRACT WITH DBE AND WBE TRUCKERS WILL COUNT 60 PERCENT OF THE VALUE FURNISHED.  
<sup>2</sup> THE RESOURCE LISTS ACCEPTABLE FOR THIS PROJECT ARE NOTED IN SECTION 2-1.05, "RESOURCE LISTS FOR THIS PROJECT."

C. BORTOLATO & C. INC. ROBERTO BORTOLATO  
 BIDDER'S NAME (PRINT) SIGNATURE OF BIDDER

June 4, 2013  
 DATE

Attachment IV

The undersigned encloses herewith bidder's bond, certified check, or cashier's check No. \_\_\_\_\_ of the "Bidder's Bond" Bank, for \$ \_\_\_\_\_ which is not less than ten percent (10%) of this bid, payable to the City of Hayward, which is given as a guarantee that the undersigned will enter into the contract if awarded the work.

The undersigned hereby certifies that this bid is genuine and not a sham or collusive or made in the interest or in behalf of any person not herein named and that the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the undersigned has not in any manner sought by collusion, to secure for itself an advantage of any other bid.

Nature of firm (corporation, partnership, individual, etc.) and names of individual members of the firm, or names and titles of officers of the corporation.

G. Bortolotto & Co., Inc. - A California Corporation

Robert Bortolotto, President/Treasurer

Gary Bortolotto, Vice President/Secretary

If a corporation, organized under the laws of the State of California

Licensed in California in accordance with an act providing for the registration of Contractors, License No. 397341, Class A

ADDENDA

This Proposal is submitted with respect to the changes to the plans and specifications included in addendum number/s.

(Fill in addendum number/s if addenda have been received.)

Warning

If an addendum or addenda have been issued by the City and not noted above as being received by the bidder, this Proposal may be rejected.

Signature: [Handwritten Signature]

and Address: 582 Bragato Rd.,

San Carlos, Ca. 94070-6227

Date: June 4, 2013



**ACKNOWLEDGMENT**

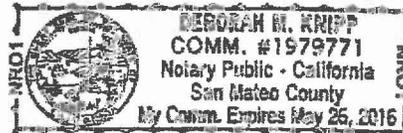
State of California  
County of San Mateo )

On May 31, 2013 before me, Deborah M. Knipp, Notary Public  
(insert name and title of the officer)

personally appeared Mary Baez  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Deborah M. Knipp (Seal)



**THE GUARANTEE**

**THE GUARANTEE COMPANY OF NORTH AMERICA USA**  
Southfield, Michigan

**POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENTS: That THE GUARANTEE COMPANY OF NORTH AMERICA USA, a corporation organized and existing under the laws of the State of Michigan, having its principal office in Southfield, Michigan, does hereby constitute and appoint

**Gregory McCartney, Steve Suissa, Mary Baez  
James E. McGovern, Inc.**

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon THE GUARANTEE COMPANY OF NORTH AMERICA USA as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of Article IX, Section 9.03 of the By-Laws adopted by the Board of Directors of THE GUARANTEE COMPANY OF NORTH AMERICA USA at a meeting held on the 31<sup>st</sup> day of December, 2003. The President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority:

1. To appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof; and
2. To revoke, at any time, any such Attorney-in-fact and revoke the authority given, except as provided below
3. In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.
4. In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted at a meeting duly called and held on the 6th day of December 2011, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.



IN WITNESS WHEREOF, THE GUARANTEE COMPANY OF NORTH AMERICA USA has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 23rd day of February, 2012.

THE GUARANTEE COMPANY OF NORTH AMERICA USA

*[Signature]*

Stephen C. Ruzchak, Vice President

*[Signature]*

Randall Musselman, Secretary

STATE OF MICHIGAN  
County of Oakland

On this 23rd day of February, 2012 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of The Guarantee Company of North America USA; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of



Cynthia A. Takai  
Notary Public, State of Michigan  
County of Oakland  
My Commission Expires February 27, 2018  
Acting in Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA offices the day and year above written.

*[Signature]*

I, Randall Musselman, Secretary of THE GUARANTEE COMPANY OF NORTH AMERICA USA, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by THE GUARANTEE COMPANY OF NORTH AMERICA USA, which is still in full force and effect.



IN WITNESS WHEREOF, I have thereunto set my hand and attached the seal of said Company this 31<sup>ST</sup> day of May 2013

*[Signature]*

Randall Musselman, Secretary

**AFFIRMATION OF NON-INVOLVEMENT IN  
DEVELOPMENT OR PRODUCTION OF NUCLEAR WEAPONS**

The respondent to a City of Hayward Request for Proposal or recipient of a City of Hayward Purchase Order/Contract hereby certifies:

- 1) That it understands that City of Hayward Ordinance No. 87-024 C.S. prohibits award of contract to, or purchase of goods or services from, "any person, which is knowingly or intentionally engaged in the development or production of nuclear weapons."
- 2) That it understands the ordinance defines "Nuclear Weapon" as "any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei."
- 3) That it understands the ordinance defines "Person" as "any person, private corporation, institution or other entity..."

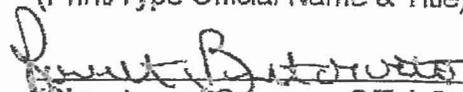
As the owner or company official of the firm identified below, I affirm that this company is not knowingly or intentionally engaged in such development or production.

G. Bortolotto & Co., Inc.  
(Print/Type Company Name)

582 Bragato Road  
(Company Address)

San Carlos, Ca. 94070-6227  
(City/State/Zip Code)

Robert Bortolotto, Pres./Treasurer  
(Print/Type Official Name & Title)

  
(Signature of Company Official)

June 4, 2013  
(Date)



**Alan McKean**

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**From:** Dave Hung <Dave.Hung@hayward-ca.gov>  
**Sent:** Wednesday, June 05, 2013 9:37 AM  
**To:** Alan McKean  
**Cc:** Yaw Owusu  
**Subject:** RE: Pavement Reconstruction FY14  
**Attachments:** G Bortolotto - Proposal.pdf

Hi Alan,

Please see attached as requested. G. Bortolotto has listed subcontractors which included Rosas Brothers; however, G. Bortolotto did not list the Description of Portion of Work Subcontracted or the Subcontract Amount for Rosas Brothers. The City considers this to be minor and does not affect the total bid amount. Your attention is directed to page 5 of the special provisions which states that "the Department reserves the right to waive any informalities or irregularities in bids received". As such, the City intends to award the contract to G. Bortolotto on July 9.

If you choose to protest the bid, bid protest must be submitted in writing no later than 5:00pm on the fifth business day following the date of the bid opening. Please refer to Section 3-1.04A Bid Protest Procedures and the conditions that apply.

Thank you.

*Dave Hung, PE  
 Associate Civil Engineer  
 Engineering & Transportation Division  
 City of Hayward*

*Phone: 510.583.4752  
 Fax: 510.583.3620  
[dave.hung@hayward-ca.gov](mailto:dave.hung@hayward-ca.gov)*

*The Hayward Downtown Loop is here.* Click here: <http://www.youtube.com/watch?v=09hSr8GIPq4>

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**From:** Alan McKean [<mailto:amckean@gallagherburk.com>]  
**Sent:** Tuesday, June 04, 2013 5:05 PM  
**To:** Dave Hung  
**Subject:** Pavement Reconstruction FY14

Hi Dave,

As we discussed, would you please send me a copy of G Bortolotto's bid for the above referenced project. In particular I would be interested in pages P-1 through P-7. Thanks.

Alan

Alan McKean  
 Gallagher & Burk, Inc.  
[amckean@gallagherburk.com](mailto:amckean@gallagherburk.com)

### PROOF OF SERVICE

I, Diane L. Arnerich, declare that I am employed with the Law Offices of Michael Willcoxon, Esq., whose address is 11555 Dublin Boulevard, 1<sup>st</sup> Floor Dublin, California, 94568; I am not a party to the within cause; I am over the age of eighteen years and am familiar with the business practices of the Law Offices of Michael Willcoxon, Esq.

I further declare that on the date hereof I served a copy of the document(s) described below, in the manner and on the following party(ies), as listed below in accordance with the ordinary business practices of the Law Offices of Michael Willcoxon, Esq:

### BID PROTEST OF GALLAGHER & BURK

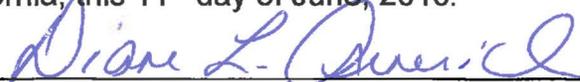
- By Mail:** I caused a copy of the document to be transmitted via first class mail by placing a true copy thereof enclosed in a sealed envelope with first class delivery fees provided for, in a box or other facility regularly maintained by The United States Postal Service or delivered to an authorized courier or driver authorized by United States Postal Service to receive documents on the same date that it is placed at the Law Offices of Michael Willcoxon, Esq. for collection.
- By Fax:** I caused a copy of the document to be transmitted via facsimile to the facsimile number of the offices of the addressee(s) as indicated below. The facsimile machine used complied with California Rule of Court §2003, and no error was reported by the facsimile machine.
- By E-Mail:** I caused a copy of the documents to be transmitted via e-mail or electronic transmission to the person(s) at the email address(es) as indicated below.
- By Hand-delivery:** I caused a copy of the documents to be hand delivered to the person(s) at the address as indicated below.

NAME	FAX NUMBER
G. Bortolotto & Co., Inc.	650.595.0718
Granite Construction	831.722.9657
Bay Cities Grading & Paving	707.829.8061

Michael Lawson, City Attorney	Hand Delivery
-------------------------------	---------------

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at Dublin, California, this 11<sup>th</sup> day of June, 2013.

  
 \_\_\_\_\_  
 Diane L. Arnerich



June 21, 2013

Michael Willcoxon, Esq.  
11555 Dublin Blvd., 1<sup>st</sup> Floor  
Dublin, CA 94568

Re: Bid Protest of Gallagher & Burk, Inc. - Pavement Rehabilitation Measure B FY14, Project No. 5147

Dear Mr. Willcoxon:

Your protest to City of Hayward Pavement Rehabilitation Measure B FY14, Project No. 5147, has been reviewed by the City. Pursuant to the specifications and instructions for this project the City reserves the right to waive any informality or irregularity not affecting the amount of the bid so long as such waiver will not give the low bidder an advantage or benefit not allowed to other bidders. The City has determined that omission of the portion of work to be performed by sub-contractor Rosas Brothers and omission of the sub-contract amount with Rosas Brothers in the bid submitted by G. Bortolotto & Co., Inc. are irregularities that did not affect the bid price, did not provide an unfair advantage to the low bidder or a benefit not allowed to other bidders. The irregularities are therefore waived, your protest is denied and the City will proceed with award of contract to the lowest responsible bidder, G. Bortolotto & Co., Inc.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Fakhrai", is written over the word "Sincerely,".

MORAD FAKHRAI, P.E.  
Director of Public Works – Engineering & Transportation

cc: Michael Lawson, City Attorney  
Yaw Owusu, Assistant City Engineer  
Dave Hung, Associate Civil Engineer  
Robert Bortolotto, President, G. Bortolotto & Co., Inc.  
Chron

**DEPARTMENT OF PUBLIC WORKS  
ENGINEERING & TRANSPORTATION**

777 B STREET, HAYWARD, CA 94541-5007  
TEL: 510/583-4730 • FAX: 510/583-3620 • TDD: 510/247-3340



**Sweeney, Mason,  
Wilson & Bosomworth**  
A Professional Law Corporation

983 University Avenue, Suite 104C  
Los Gatos, CA 95032-7637  
Telephone: (408) 356-3000  
Facsimile: (408) 354-8839

Joseph M. Sweeney, Esq.

jsweeney@smwb.com

June 24, 2013

**Via Facsimile (510) 583-3620 and US Mail**

City of Hayward  
Public Works Department – Engineering & Transportation  
**ATTN: Morad Fakhrai, Director**  
City Hall Building  
777 B Street, 2<sup>nd</sup> Floor  
Hayward, CA 94541

**RE: G. Bortolotto & Company, Inc.'s Response to Bid Protest  
Pavement Rehabilitation Measure B FY14  
City of Hayward Project No. 5147**

Dear Mr. Fakhrai:

This firm represents G. Bortolotto & Company, Inc. (“Bortolotto”) the successful low bidder on the above-referenced Payment Rehabilitation Measure B FY14 Project (“Project”). In that regard, we are in receipt of your correspondence of June 20, 2013, enclosing Gallagher & Burk, Inc.’s (“GB”) bid protest. This letter shall serve as Bortolotto’s response.

G&B protests Bortolotto’s bid because Bortolotto inadvertently omitted the description and amount of work to be performed by one of Bortolotto’s five subcontractors. Such an omission is an inconsequential deviation which the City of Hayward (“City”) may waive.

On June 4, 2013, the City opened the bids for the Project. After reviewing the bids, including bids by Bortolotto and G&B, the City determined that Bortolotto was the lowest responsible bidder with its \$981,945.00 bid. The City determined that Bortolotto’s omission of the description and amount of work to be performed by a single subcontractor was a minor technicality and did not affect the bid price. The City requested that Bortolotto provide the information for the missing information for Rosas, which Bortolotto immediately provided. The City decided to waive the minor deviation and expressed its desire to award the contract to Bortolotto. At no time did the City offer Bortolotto the option of withdrawing its bid. G&B’s bid protest followed the City’s decision. The sole basis for G&B’s protest is the missing information for a single subcontractor. Bortolotto’s deviation is minor and the City is within its discretion to waive it.

**Applicable Law**

A public entity has “discretion to waive details of the bid specifications if it determines that such a waiver will not make the bidding process unfair, i.e., if the deviation from the

specifications was inconsequential.” Menefee v. County of Fresno (1985) 163 Cal. App. 3d 1175, 1180. “It is further well established that a bid which substantially conforms to a call for bids may, though it is not strictly responsive, be accepted if the variance cannot have affected the amount of the bid or given a bidder an advantage or benefit not allowed other bidders or, in other words, if the variance is inconsequential.” Ghilotti Construction Co. v. City of Richmond (1996) 45 Cal. App. 4<sup>th</sup> 897, 904. “The test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive character is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by the other bidders.” Id. at 906. Bortolotto’s omission here does not and could not change Bortolotto’s bid price or provide it any competitive advantage.

Moreover, the City’s decision must be made in light of the public interest rather than the private interest of the private second low bidder. MCM Construction, Inc. v. City and County of San Francisco (1998) 66 Cal. App. 4<sup>th</sup> 359, 370. “It certainly would amount to a disservice to the public if a losing bidder were to be permitted to comb through the bid proposal ... of the low bidder after the fact, [and] cancel the low bid on minor technicalities with the hope of securing acceptance of his, a higher bid.” Id. (citing Ghilotti Construction Co. v. City of Richmond (1996) 45 Cal. App. 4<sup>th</sup> 897, 908, 909. For reasons discussed in detail below G&B’s bid protest should be denied because the City may and did waive a minor irregularity in Bortolotto’s bid.

#### **The City May Waive Inconsequential Deviations from the Contract Specifications**

The City’s call for bids requested that bidders supply the name, location and scope for work for each subcontractor as set forth in Public Contract Code §4104. Bortolotto provided the requested information for four of its five subcontractors. For one subcontractor, Rosas Brothers, Bortolotto inadvertently omitted some information. This is an inconsequential deviation that may be waived by the City. Indeed, the City waived the technicality when it requested the information for Rosas.

In Ghilotti Construction Co. v. City of Richmond, the First District of the Court of Appeals held that “a public entity may waive inconsequential deviations from contract specifications in a public contract bid. To be considered inconsequential, a deviation must neither give the bidder an unfair competitive advantage nor otherwise defeat the goals of insuring economy and preventing corruption in the public contracting process.” 45 Cal. App. 4<sup>th</sup> at 900.

In Ghilotti, the City of Richmond issued an invitation to bid a construction project on Cutting and Canal Boulevards. The City of Richmond specifically reserved the right to reject any or all bids or to waive any informality in the bidding. Id. The specifications also provided that the general contractor must perform contract work amounting to not less than 50% of the contract price. Id. The apparent low bidder was Ghilotti Brothers Construction, Inc. (“GBCI”), but its bid showed that that it would be subcontracting 55.44% of the work. Id. at 901. The next lowest bidder was appellant Ghilotti Construction Company (“Ghilotti Construction”). The City waived GBCT’s percentage issue on the project as it had done on previous projects. During a City Council hearing to determine the award of the contract Ghilotti Construction argued that GBCI’s bid must be rejected because it did not meet the project specification requiring that no more than 50% of the work be subcontracted. Ghilotti Construction argued that its bid would have been at least \$90,000 less if it had not complied with the 50% requirement and that GBCI received an advantage. GBCI argued that it could lower the percentage of subcontracted work, if it purchased some of its subcontractor’s materials and that such a change would have no effect.

on the bid amount. *Id.* at 902. The City Attorney recommended acceptance of GBCI's bid stating that the city council would be waiving an irregularity in the bid on the ground it was not substantial. *Id.*

Ghilotti Construction filed a writ in Contra Costa County Superior Court which was denied and the appeal followed. The *Ghilotti* court stated that the "test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive character is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by other bidders." *Id.* at 906. GBCI argued that it could meet the 50% subcontracting maximum if it purchased some of its subcontractors' materials. The court noted that Ghilotti Construction did not argue that GBCI could not meet the project specifications in this way.

The *Ghilotti* Court noted "it is significant, as the city attorney made clear immediately before the council voted on the contract award, that **the City did not waive the necessity of complying with the subcontracting limitation altogether. Instead it found the margin of GBCI's noncompliance – approximately 5.5 percent – to be insubstantial.**" *Id.* at 907 (emphasis added). It was emphasized that the bid could be brought into compliance without affecting the amount of the bid.

The present situation is similar. Bortolotto's bid contains a slight deviation from the Project specifications. Bortolotto's bid may be brought into compliance with only a slight modification – specifically, confirming the scope and amount of the work to be performed by Rosas Brothers. Such a change will have absolutely no effect on Bortolotto's bid. The change will not give Bortolotto any advantage or benefit not enjoyed by others. Bortolotto will still use the same subcontractor that it listed on its bid. Bortolotto cannot nor will it be allowed to change any material aspect of its bid.

### **G&B Has Failed to Establish that Bortollo's Deviation Was Material.**

G&B's protest relies almost exclusively on the holdings of *Valley Crest Landscape, Inc. v. City Council of the City of Davis* (1996) 41 Cal. App. 4<sup>th</sup> 1432 and *MCM Construction, Inc. v. City and County of San Francisco* (1998) 66 Cal. App. 4<sup>th</sup> 359. Both cases are clearly distinguishable from our present matter.

In *Valley Crest*, the bid request required the bidder perform at least 50 percent of the work itself and in its bid set forth the percentage of work to be performed by each subcontractor. The successful low bidder, North Bay Construction, Inc. submitted a bid which indicated that 83 percent of the work would be performed by subcontractors. *Valley Crest Landscape, Inc., supra*, at 1435. After the second low bidder, Valley Crest, objected to North Bay's bid, the City alerted North Bay to the issue. North claimed it was a mistake and submitted new percentages establishing the subcontractors would only perform 44.65% of the work. *Id.* By changing the percentages North Bay diverted over \$1.5 million of work to itself. *Id.* at 1441. The City allowed the change because it was convinced the error in stating the subcontractor percentages was an inadvertent error. *Id.* The court held "the doctrine that inconsequential irregularities may be waived does not permit *this change in the subcontractor percentages.*" *Id.* (emphasis added). *Valley Crest* is distinguishable because the North Bay's deviation in its bid was 33% over the amounts stated in the specifications. In this case, Bortolotto has failed to list some information for a single subcontractor.

In MCM, the City and County of San Francisco notified a bidding contractor, MCM Construction, Inc. ("MCM") that its bid appeared to be nonresponsive, and would be rejected because it omitted subcontract amounts for 7 out of 9 listed subcontractors. The inclusion of the subcontract amounts was a listed requirement in the City's specifications. MCM Construction, Inc., supra, 66 Cal. App. 4<sup>th</sup> at 365. The City refused to waive the deviation and MCM argued that the City was required to waive it. The MCM court found that no case required that a public entity must waive an irregularity simply because it could. Id. at 373. Moreover, the MCM court deferred to the findings of the public agency when supported by substantial evidence. Id. at 374. The MCM court held that "failure to state dollar amounts of work to be performed by seven of nine subcontractors is, like the misstatement of the correct percentage of work to be done by subcontractors in Valley Crest, 'in the nature of a typographical or arithmetical error.' As such MCM could have sought relief under the statute and had an advantage not available to other bidders. The City was without power to waive the defect." Id. at 377. The court made note that the deviation related to 7 out of 9 subcontracts. The current matter is again distinguishable give the size of the deviation, Bortolotto is missing partial information for a single subcontractor.

The Valley Crest and MCM, courts specifically held that the deviations in the bid were material because the bidder could have sought relief under Public Contract Code §5103 and that the owner gave the bidder an opportunity to withdraw its bid without forfeiture of its bid bond. In both cases the court held these facts made the deviations material.

The MCM court noted:

Subsequently, Ghilotti refused to read Valley Crest as holding that a *potential* competitive advantage precludes waiver of a bid irregularity, without the necessity of showing an *actual* advantage. 'The Valley Crest court held North Bay had an actual advantage, not only because it could have obtained relief under the Public Contract Code as a matter of law, but also because the city expressly gave North Bay the opportunity to withdraw its bids. (41 Cal. App. 4<sup>th</sup> at p. 1442 and fn.1)(Ghilotti, supra, 45 Cal. App. 4<sup>th</sup> at p. 912, fn. 6).

Here, too, MCM had an actual advantage as the City gave MCM an opportunity to withdraw its bid without forfeiting its bid bond when it informed MCM that its bid would be considered nonresponsive if it did not provide additional information."

MCM Construction, Inc., supra, at 375-376.

G&B cannot establish that Bortolotto is entitled to relief under Public Contract Code §5013. Moreover, G&B cannot demonstrate that Bortolotto has received any actual advantage. The City has stated its intention to award the contract to Bortolotto.

In order to seek relief under Public Contract Code §5103(c) and (d) a prime contractor "must establish that mistake made the bid materially different than he or she intended it to be" and "the mistake was made in filling out the bid." G&B has provided no authority for its position that the missing information for a single subcontractor renders Bortolotto's bid

materially different than intended. In MCM the bidder had omitted information for over 75% of its subcontractors. Bortolotto is not be subject to relief under the Public Contract Code.

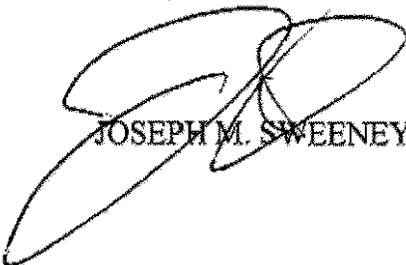
G&B's statement on page 4 that "in Valley Crest and MCM, it was held that bid must be rejected if a bidder makes mistakes on it subcontractors listing form or fails to provide the information which the public entity has stated must be included on that form" is simply not true. G&B misstates the holdings when it inaccurately declares "in each of these decisions, the court held that a public entity had no choice except to reject bids which did not accurately provide the information which the public entity had stated was to be included on the subcontractor listing form-even though the incorrect or missing information was not required by the Subletting and Subcontracting Fair Practices Act." See Page 4. Neither case stands for that proposition. Valley Crest held that irregularities could not be waived where the bidder could have obtained relief under Public Contract Code §5103 and consequently, had a competitive advantage. Valley Crest, supra, at 1442. MCM held that the failure to state dollar amounts of work to be performed by seven out of nine subcontractors was a mistake that would have afforded the bidder relief under the Public Contract Code, which prevented the City from waiving them. MCM, supra, at 377. However, the MCM court also acknowledged that "an agency has discretion to waive immaterial deviations from bid specification and may accept the bid under certain conditions." Id. at 374.

G&B has not established how a minor deviation in Bortolotto's bid is a material defect which would allow it to seek relief under Public Contract Code §5103. Bortolotto intends to utilize Rosas Brothers on the Project. Consequently, the inadvertent omission relating to Rosas Brothers is inconsequential. The purpose of the Subletting and Subcontracting Fair Practices Act is to prevent bid shopping. See Public Contract Code §4101. In this instance there is no risk that Bortolotto is bid shopping.

Dave Hung, P.E. of the City has determined that the deviation in Bortolotto's bid is minor and that City intends to award the Project to Bortolotto. G&B's protest has failed to establish that the deviation is anything other than minor. Consequently, the City is well within its discretion to waive Bortolotto's minor deviation.

Very truly yours,

**SWEENEY, MASON, WILSON &  
BOSOMWORTH**

  
JOSEPH M. SWEENEY, ESQ.

JMS:KEG  
c: Client

**DATE:** July 9, 2013  
**TO:** Mayor and City Council  
**FROM:** Director of Public Works – Utilities & Environmental Services  
**SUBJECT:** Authorization for an Exclusive Negotiating Period with Waste Management of Alameda County

### **RECOMMENDATION**

That Council adopts the attached resolution authorizing the City Manager to enter into a period of exclusive negotiations with Waste Management of Alameda County, the City's current solid waste and recycling service franchisee.

### **BACKGROUND**

Waste Management of Alameda County (WMAC) has been the City's solid waste and recycling services franchisee since at least the mid-seventies. WMAC provided the service under a different business name initially (Oakland Scavenger Company) and has, in the past twenty years, subcontracted with Tri-CED Community Recycling for residential recycling services.

The City entered into the most recent franchise agreement with WMAC in 2006, for services effective June 1, 2007, for an initial period of seven years. The initial period expires on May 31, 2014. The City has the option of extending the contract for three one-year terms, with the same terms and conditions as the current contract, so the current franchise can be extended through May 31, 2017, if necessary.

The City has wide discretion with respect to awarding franchises. The Charter, Sec. 1503, allows for non-competitive negotiations with a single provider if Council determines it is in the City's best interests. Consistent with the Charter, Municipal Code Sec. 11-1.12 authorizes the Council to exercise broad discretion in awarding franchises, including engaging in exclusive negotiations with an existing franchisee.

### **DISCUSSION**

The Council has two main options: The first is to consider a negotiated agreement with WMAC, the current service provider, in order to continue the current franchise agreement beyond its initial and eventual expiration date. The second option is to prepare and issue an RFP at this time, before any discussions with WMAC, and call for new proposals from any qualified and interested service provider, including WMAC.

In order to preserve and protect the City Council's prerogative to either enter into exclusive negotiations with WMAC for an extension of the current franchise agreement or to prepare and issue a request for proposals (RFP) to secure a new contract, either with WMAC or new service provider(s), staff is recommending entering into a limited-period of negotiations with WMAC. This will provide more information to staff and to Council as to whether it is in the City's best interests to continue with WMAC through the extension period(s) or to issue a Request for Proposals at this time.

Regardless of which option the Council chooses, an overarching goal of any new agreement is to preserve and enhance the services that the community is currently receiving under the franchise agreement. Staff is aware and has kept track of the expressed desires of Council and community members, both residents and businesses, and those service enhancements would be considered for any future franchise. Staff will also evaluate the impact of providing these services on the City's infrastructure and would require the new franchisee to mitigate such impacts, as appropriate.

The advantages and disadvantages of each option are listed below:

***Enter into an initial period of negotiations with current franchisee:***

Advantages include:

- A new franchise agreement with enhanced services to the community can be in place and commence much more quickly;
- WMAC has historically provided the City with reasonable rates; staff expects rates to remain reasonable under any extension of the current franchise;
- WMAC has been providing reasonably good service and has been responsive to City needs when they are asked to respond; staff expects this to continue in the future;
- WMAC has served the City for decades and knows the City well; there is no learning curve;
- WMAC is, and has always been, a union shop;
- In the past twenty-five years, WMAC has been affected by only one employee action work stoppage; the company worked very hard to reduce the impact to Hayward residents and businesses;
- WMAC has worked well with Tri-CED, its subcontractor for residential recycling services;
- WMAC has a decades-long track record of good service to the City;

- Consistent with the City priorities, WMAC has incorporated several green practices in its operation, including extracting bio-gas from its landfill to fuel a fleet of its collection trucks;
- WMAC has a regional transfer station, which is located only eight miles from downtown Hayward, and which has adequate capacity to meet its current needs and plans for substantial improvements in the future;
- WMAC owns and operates an in-County disposal site at Altamont Landfill with sufficient capacity for the next several decades;
- Incidentally, Measure D “recycling” funds are more easily assessed, collected, and remitted to the City since waste is disposed at an in-County landfill.

Disadvantages include:

- There is no objective way of knowing the rates that other service providers might propose for the same service levels;
- Given the opportunity, other service providers might be able to offer services, including customer service, that are more innovative, effective, and efficient than those provided by WMAC.

***Direct staff to prepare an RFP for Council to issue:***

Advantages include:

- This will provide a level playing field for other service providers to submit proposals;
- City may get a lower-cost proposal through such a process;
- As a general rule, it is sometimes a good idea to contract with new service providers as a tool to discourage complacency and encourage innovation and competition.

Disadvantages include:

- Most items that are enumerated as “Advantages” under negotiating with WMAC;
- While there is sufficient time before the expiration of the initial terms, and the three one-year extensions of the current contract, issuing a request for proposals and selecting a contractor can be a lengthy and labor intensive process;
- There is a possibility that the City may not obtain a lower-cost proposal compared with a negotiated extension of the current franchise;

- In the event that the City is unsuccessful in reaching an agreement with another service provider, there could be a potential loss of goodwill in negotiating an extension of the franchise with WMAC;
- In the event that the City enters into a contract with a new franchisee, every garbage and recycling cart and bin in Hayward, which are all owned by WMAC, would need to be replaced, resulting in a significant expenditure of resources;
- While it is not possible to predict what could happen in the future, a new service provider offering services at untested rates might not be able to keep its commitments and remain financially viable, resulting in unexpected rate hike requests, or the prospect of financial insolvency.

Staff believes that there is a solution that could be palatable to all parties, which is for Council to authorize staff to begin negotiating with WMAC for a defined period of 120 days. After this time, staff would return to Council and report the progress of negotiations. At that time, Council and staff would have more information to more completely inform Council's decision to direct staff to either extend the current contract or issue an open Request for Proposals.

## **ECONOMIC IMPACT**

Potentially higher solid waste and recycling service fees and possible lower service levels would have negative impacts on the community, including the residential and business sectors. To the contrary, maintaining or improving service fees and service levels would have a positive impact on the entire community. Assuring that solid waste and recycling fees are market competitive, service levels are comparable or higher, and waste stream reduction continues measurable progress to zero is essential to keeping Hayward competitive in both residential and industrial market places.

## **FISCAL IMPACT**

Higher fees will not adversely impact the General Fund as solid waste and recycling services to City facilities are provided free of charge as part of the current franchise agreement. Staff expects this to continue under any future franchise agreement. A new (or extended) franchise agreement would allow the City to consider assessing the new service provider more fully for cost impacts on City infrastructure, such as impacts to City streets and staff time. If a RFP is prepared, staff would need to consider retaining a consultant to assist in the preparation and evaluation of proposals. The City's Solid Waste Manager would provide support during negotiations with WMAC and manage the consultant's contract if Council directs staff to release a RFP.

## **PUBLIC CONTACT**

No public contact has been conducted at this point. Whether the Council decides to allow an initial negotiations period or issue a RFP, staff will plan and conduct extensive public outreach and make community and business contacts in order to hear first-hand, and be better informed and educated about, the community needs and wants related to these services. Such desires, to

the extent that they are reasonable, with willingness of the public to pay the cost, would be incorporated in the new services.

## **SCHEDULE**

The estimated schedule for completing this is summarized as follows:

### *Negotiated Agreement Successful:*

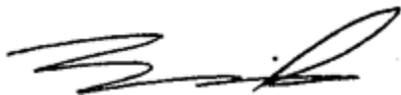
Begin Negotiating Period	July 15, 2013
End Negotiating Period and Report to Council	November 15, 2013
Complete Negotiations and Schedule Council Action	By May 2014

### *Negotiated Agreement Unsuccessful:*

Begin Initial Negotiating Period	July 15, 2013
Conclude Initial Negotiating Period	November 15, 2013
Schedule Council Action for Next Steps	December 2013
Prepare RFP for Consultant Services for Selecting the Franchisee	January 2014
Schedule Council Action for Entering into an Agreement with Selected Consultant	February 2014
Prepare RFP (with consultant's help) for Council issuance	June 15, 2013
Receive Proposals	August 2014
Select a Franchisee and Negotiate a Contract	October 2014
Council Approval of New Franchise Agreement	December 2014
New Service Provider to Order Carts, Bins, Vehicles, etc.	December 2014
Receive equipment and distribute new collection carts	March 2016
Begin New Service	June 1, 2016

*Prepared and Recommended by:* Alex Ameri, Director of Public Works - Utilities & Environmental Services

Approved by:



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Fran David, City Manager

Attachment:

Attachment I - Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO EXCLUSIVE NEGOTIATIONS WITH WASTE MANAGEMENT OF ALAMEDA COUNTY TO EXTEND THE SOLID WASTE AND RECYLING FRANCHISE AGREEMENT.

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to enter into exclusive negotiations with Waste Management of Alameda County to extend the solid waste and recycling franchise agreement for a period of 120 days.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2013

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:** July 9, 2013  
**TO:** Mayor and City Council  
**FROM:** City Clerk  
**SUBJECT:** Consideration of Converting the Format of City Council Minutes to Action Minutes

## **RECOMMENDATION**

That the City Council adopts Action Minutes as the official record for City Council meetings.

## **BACKGROUND**

California Government Code [Sections 36814](#) and [40801](#) require the City Clerk to keep a record of proceedings of City Council meetings; however, the Code does not specify in what form or style the minutes must be as long as actions are recorded.

The minutes of Council meetings are the official and permanent record and provide a historical record of all Council's decisions and actions. The minutes must be kept to furnish evidence that the Council complied with applicable law. The minutes are also used to keep the public informed of a decision and could be used as a follow-up tool to generate a future agenda.

Minutes can be prepared in several different formats, including action, summary, and verbatim. Action minutes contain motions and votes, with minimum, if any, narrative included. Summary minutes contain the information in action minutes and Council, staff, and public narrative. Verbatim minutes are a word-for-word transcript of the proceedings.

## **DISCUSSION**

Alice Sturges, in "The Standard Code of Parliamentary Procedure" 4<sup>th</sup> Edition, states "In general, minutes are a record of all actions and proceedings but not a record of discussion." Hayward City Clerks have traditionally prepared a combination of action and summary minutes, including comments and discussion by the Council, staff, and the public. The preparation of these minutes is laborious and the determination of what and how the information is summarized is subjective. Additionally, this type of minute-taking presents a challenge when filtering a lengthy discussion while providing the appropriate, objective context.

Most City Clerks in Alameda County produce action minutes: San Leandro, Berkeley, Oakland, Union City, and Fremont among others. Based on surveys conducted via the City Clerks Listserve

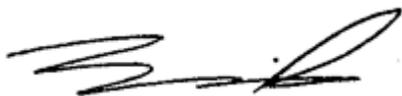
facilitated by the League of California Cities, there is preference for producing action minutes because many cities now webcast their meetings.

A webcast video of each Council meeting is archived and made available to the public on the City's website for online viewing. The [webcast](#), available for PC and MAC users, of Council meetings provides the best method for capturing the nuances of the meeting and assessing legislative intent. The City also keeps audio recordings of the meetings that could be used as evidence in a court of law. The public computer in the Office of the City Clerk could be made available to constituents who need to access a webcast of a Council meeting.

By accepting action minutes as the official record for Council meetings, the City would have access to a complete and objective account of the meeting proceedings, and most importantly, the staff time savings allocated to producing summary minutes could be deployed to fostering civic engagement and using social media to inform the public about Council meetings. As a policy, a Council member could request that his/her remarks be included in the minutes when voting opposite to the majority of an action.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:



---

Fran David, City Manager

Attachment:

Attachment I Resolution adopting the use of Action Minutes as the official record for City Council meetings.

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Council Member \_\_\_\_\_

RESOLUTION ADOPTING THE USE OF ACTION MINUTES AS THE OFFICIAL AND PERMANENT RECORD FOR CITY COUNCIL MEETINGS

WHEREAS, California Government Code Section 36814 and 40801 requires the City Clerk to keep a record of proceedings of City Council meetings,

WHEREAS, the California Government Code does not specify in what form or style the minutes must be as long as actions are recorded,

WHEREAS, minutes can be prepared in several different formats, including action, summary, and verbatim. Action minutes contain motions and votes, with minimum, if any, narrative included,

WHEREAS, a webcast video of each Council meeting is archived and made available to the public on the City’s website for online viewing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby adopts the use of action minutes as the official and permanent record for City Council meetings.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2013.

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: July 9, 2013

TO: Mayor and City Council

FROM: Director of Public Works- Utilities & Environmental Services

SUBJECT: Proposed FY2014 and FY2015 Water and Sewer Rates

## **RECOMMENDATION**

That the City Council adopts the attached resolution approving the proposed water and sewer rates, amending the Master Fee Schedule, and extending an interim methodology for calculating sewer connection fees.

## **BACKGROUND**

At its May 7, 2013 worksession, the City Council reviewed the proposed water and sewer service rates for FY 2014 and FY 2015. The agenda report and attachments for the worksession are included with this report for reference. (Note: Some of the rate comparisons with other agencies have been updated to reflect more recent information.) The worksession report describes in detail the proposed water and sewer service rates, as well as the proposed methodology for calculating multi-family water usage charges. The following serves as a brief summary of the issues and discussion provided in the worksession report and attachments.

## **DISCUSSION**

### *Water and Sewer Rates*

The recommended water rate adjustments for single-family residential customers, based on average water consumption, would result in average 6% increases in each year. Comparable increases are proposed for non-residential customers. The water rate increases are primarily related to a significant escalation in the cost of wholesale water that the City must pay to San Francisco Public Utilities Commission. This cost has nearly tripled over the past ten years and in FY 2015 will comprise fully two-thirds of the Water Enterprise annual budget. For FY 2014 and FY 2015, SFPUC is projecting an overall 21.5% rate increase. Staff is also recommending a change to the method by which multi-family customers are billed for water service to more equitably distribute residential water service costs between single-family and multi-family customers, and to better define the relationship between per-dwelling unit water use and the water usage charge. The proposed change will result in varied overall impacts depending on water usage and meter size, as shown in Attachment II of the worksession report. Some customers, including mobile home parks, will see decreases in the range of 2% to 7%, while others will either see no change or modest increases.

Staff is proposing that no sewer service rate adjustment be implemented in FY2014 and that an increase of 3% for residential customers be approved for FY2015, raising the monthly cost for a single-family residential customer from \$27.27 to \$28.09. Similar percent increases are proposed for multi-family and mobile home community customers, as well as for the two lower rates, known as economy and lifeline rates. Non-residential customers would see increases in FY2015 ranging from 0% to 6%, depending on the characteristics of their wastewater discharge.

Analysis of water facilities (or connection) and sewer connection fees indicate that no changes are needed at this time. Sewer connection fees are paid by those who wish to connect to the public sewer system or increase discharge from an existing connection. Connection fees help defray the expenses paid by existing customers over the years to develop and improve the system, and also cover an incremental portion of the cost for future improvements needed to accommodate new development. Non-residential fees are calculated individually, based on anticipated volume of wastewater discharge, and waste strength in the form of suspended solids (SS) and carbonaceous biochemical oxygen demand (CBOD). The City recognizes that, although the fees are necessary and appropriate, they can represent a significant expense for businesses wishing to locate in Hayward, particularly those with high wastewater strength such as food processing facilities and restaurants.

The Master Fee Schedule currently includes a temporary provision that reduces the cost of sewer connection fees for some commercial and industrial businesses. Staff recommends that this provision, first approved in 2009, to reduce SS and CBOD concentrations by 70% for the purpose of calculating non-residential fees be extended for another two years. The volume component would continue to be charged at 100% because water usage can be better controlled, and may encourage investment in water conservation.

Staff also recommends that the adjustment be limited to businesses that discharge less than 50,000 gallons per day. Discharge quantities that exceed 50,000 gallons daily are typically generated by very large businesses and usually require the City to invest in significant capital intensive collection and treatment system improvements.

The Wastewater System Improvement Fund, which is the recipient of sewer connection fees, while impacted by the economic downturn, can withstand the impact of the decreased revenue for a period of time. Staff recommends reassessing the reduced connection fee provision no later than October 1, 2015 to either retain, amend or repeal it.

### Proposition 218 Compliance

Staff implemented noticing requirements of Proposition 218, which mandates that written notice of proposed service rate increases be mailed to all affected property owners. While not legally required, notices were also mailed to bill payers of record (which resulted in some property owners receiving two notices). The notice, a copy of which is attached (Attachment III), listed the current and proposed rates, and described the process for protesting the proposed rates.

The language in Proposition 218 specified that the Council may not take action on the proposed rates if a majority of property owners, or about 18,000, submit written protests. The City Clerk will tabulate

the final number of protests at the end of the public hearing and certify the results. As of July 5, 2013, a total of 15 written protests had been received by the City Clerk's Office.

### **ECONOMIC IMPACT**

The economic impact of the proposed rate adjustments is discussed fully in the previous sections and examples provided on Attachment II of the worksession report. While staff recognizes that the rate adjustments will affect customers, it is critical that the City maintain reliable and robust utilities systems in the interest of economic viability and quality of life for its residents and businesses. As noted in the worksession report, staff is recommending judicious use of fund balances to keep the rate adjustments at a minimal level.

The proposed extension of the reduction in sewer connections fees will continue to make establishment of businesses in Hayward more economically viable. Staff from Utilities will continue to work with the Economic Development Manager to identify any ways in which the impact of these fees can be mitigated on new or desirable-sector businesses in the future.

### **FISCAL IMPACT**

The fiscal impacts of the proposed rate adjustments are also fully discussed in the worksession report. To summarize, the proposed rates will result in a reduction in the working capital balances of both the Water and Sewer Funds. However, based on estimated future costs and assumptions about future rate increases, staff believes that the funds can sustain the reduction and remain viable and recover lost ground in the future.

### **PUBLIC CONTACT**

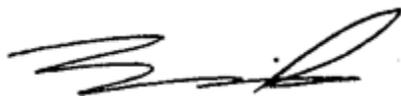
As noted in the discussion, staff mailed written notices regarding the proposed water and sewer rates to all property owners and bill payers of record forty-five days before the public hearing. In addition to the written notices, the notice of public hearing was published in the *Daily Review* on June 22 and June 29. The proposed fees were also posted on the City's website.

### **NEXT STEPS**

If approved, the new rates would be effective on October 1, 2013 and October 1, 2014. Prior to these dates, staff will include notices in utility bills to inform customers about the rate adjustments. The City's website will be updated with all of the approved rates.

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

Approved by:



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Fran David, City Manager

- Attachment I: Resolution
- Attachment II: Worksession Staff Report of May 7, 2013 with attachments
- Attachment III: Public Hearing Notice – Water and Sewer Rates (Proposition 218 Notice)

HAYWARD CITY COUNCIL  
RESOLUTION NO. \_\_\_\_\_  
Introduced by Council Member \_\_\_\_\_

RESOLUTION AMENDING THE MASTER FEE SCHEDULE AND  
APPROVING WATER AND SEWER RATES

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, or
4. Obtaining funds for capital projects necessary to maintain service within existing service areas.

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 amends the Master Fee Schedule and approves the following water and sewer rates of the City of Hayward, a copy of which is on file in the Office of the City Clerk. The approved water and sewer rates shall be effective on October 1, 2013 and October 1, 2014, as shown.

Water Usage Charges

The water usage charge, based on the number of cubic feet supplied during each billing period, shall be as follows:

Single-Family Residential Rates (including duplex, triplex, and fourplex accounts)

<u>Usage</u>	<u>Oct. 1, 2013</u>	<u>Oct. 1, 2014</u>
0 - 8 hundred cubic feet (ccf)	\$4.40 per ccf	\$4.75 per ccf
9 - 25 ccf	\$5.35 per ccf	\$5.70 per ccf
26 - 60 ccf	\$6.60 per ccf	\$6.95 per ccf
Over 60 ccf	\$7.15 per ccf	\$7.50 per ccf

Multi-Family Residential Rates (five or more dwelling units per account). Per dwelling unit, based on average usage per dwelling unit

<u>Usage</u>	<u>Oct. 1, 2013</u>	<u>Oct. 1, 2014</u>
1-8 hundred cubic feet (ccf)	\$5.60 per ccf	\$5.60 per ccf
9-16 ccf	\$5.75 per ccf	\$5.75 per ccf
17-20 ccf	\$5.90 per ccf	\$5.90 per ccf
Over 20 ccf	\$6.40 per ccf	\$6.40 per ccf

## Non-Residential Rates

<u>Usage</u>	<u>Oct. 1, 2013</u>	<u>Oct. 1, 2014</u>
1-200 hundred cubic feet (ccf)	\$5.45 per ccf	\$5.75 per ccf
Over 200 ccf	\$6.45 per ccf	\$6.85 per ccf

Sewer Service Charges

<b>Residential Service</b>	<b>Monthly Charge Oct. 1, 2013</b>	<b>Monthly Charge Oct. 1, 2014</b>
Standard Residential Unit	\$27.27	\$28.09
Duplex, Triplex, Fourplex (per unit)	\$27.27	\$28.09
Multi-Family (per unit)	\$24.27	\$25.00
Mobile Home Unit	\$19.09	\$19.66
Economy	\$15.97	\$16.45
Lifeline	\$7.98	\$8.22

<b>Non-Residential Service – Coded Users</b>				
Customer Classification	Sewer Service Charge Per 100 cubic feet (with irrigation meter)		Sewer Service Charge Per 100 cubic feet (without irrigation meter)	
	Oct. 1, 2013	Oct. 1, 2014	Oct. 1, 2013	Oct. 1, 2014
Commercial/Government	\$4.36	\$4.78	\$3.92	\$4.30
Restaurant (w/grease interceptor)	\$7.01	\$7.04	\$6.31	\$6.33
Restaurant (w/o grease interceptor)	\$9.20	\$9.19	\$8.28	\$8.27
Commercial Laundries	\$5.22	5.28	\$4.70	\$4.75
Industrial Laundries	\$8.37	\$8.22	\$7.54	\$7.40
Bakeries	\$9.20	\$9.19	\$8.28	\$8.27
Beverage Bottling	\$5.27	\$5.43	\$4.74	\$4.89
Food Manufacturing	\$20.73	\$20.85	\$18.66	\$18.77
Meat Products	\$10.28	\$10.52	\$9.25	\$9.47
Slaughterhouse	\$12.05	\$11.45	\$10.84	\$10.30
Dairy Product Processors	\$8.43	\$8.57	\$7.59	\$7.71
Canning and Packing	\$5.90	\$5.94	\$5.31	\$5.35
Grain Mills	\$7.96	\$7.68	\$7.16	\$6.92
Fats and Oils	\$5.59	\$5.57	\$5.03	\$5.01
Pulp and Paper Mfg	\$6.93	\$6.71	\$6.24	\$6.04
Inorganic Chemicals	\$9.87	\$9.11	\$8.88	\$8.20
Paint Manufacturing	\$15.44	\$15.08	\$13.90	\$13.58





DATE: May 7, 2013

TO: Mayor and City Council

FROM: Director of Public Works- Utilities & Environmental Services

SUBJECT: Recommended FY2014 and FY2015 Water and Sewer Service Rates

### **RECOMMENDATION**

That the City Council reads and comments on this report.

### **SUMMARY**

Staff has prepared cost of service analyses for providing water and sewer service to Hayward residents and businesses in order to calculate appropriate water rates and sewer service charges for FY2014 and FY2015. This report provides an overview of cost of service issues, revenue requirements, and recommended FY2014 and FY2015 water and sewer rate adjustments. Staff is bringing the proposed rates to Council at this time in order to obtain direction and to implement appropriate public noticing procedures prior to a public hearing, currently scheduled for July 9. The recommended adjustments would take effect on October 1, 2013.

The recommended water rate increase for single-family residential customers, based on average water consumption, would result in an overall 6% water bill increase each year, with comparable increases proposed for non-residential customers. Increases would be in the water usage rates only, which are variable based on the amount of metered water use. No changes to the fixed service fees are recommended. While every effort was made to minimize the increase, the proposed adjustments are necessary to pay for anticipated adjustments in the cost of purchasing water from San Francisco Public Utilities Commission (SFPUC), effective July 1, 2013 and 2014 respectively. Staff is also proposing to change the method by which water use charges are calculated for multi-family accounts, including mobile home communities, in order to make the costs more equitable to all residential customers. This change would typically result in a reduction in water costs for these customers.

The recommended residential sewer charge adjustment is 3% in FY2015 only, with average non-residential increases in the 1% to 6% range, depending on the nature of the wastewater discharge. No sewer service charge adjustment is proposed for FY2014.

### **BACKGROUND**

Water rates are established to pay for the costs of delivering water to customers and are determined through an assessment of revenue requirements and anticipated water purchase volumes. Bimonthly water billings consist of two parts: (1) the fixed service fee, which pays for costs that do not vary with

the volume of water purchased, such as meter reading; and (2) the water usage fee, which pays for costs associated with consumption, such as the purchase of water from SFPUC. The City Council approved water usage rate adjustments in July 2011 for FY2012 and FY2013, which resulted in average increases of 20% in each year. The second of these adjustments went into effect on October 1, 2012. The fixed service fee increased in October 2011, when the bimonthly fee for a 5/8" meter (standard for most single-family residential homes) increased from \$9 to \$12. Similar percent increases were implemented for other meter sizes.

Sewer service rate calculations follow guidelines developed by the State Water Resources Control Board, by which costs of providing service are equitably distributed among customer classes based on their use of the sewer system. Sewer service charges are billed as standard fixed amounts for residential customers and as a cost per hundred cubic feet (ccf) of water consumed for non-residential customers, based on the nature and strength of the discharged wastewater. The City Council last adopted sewer service adjustments in July 2011 for FY2012 and FY2013. The second of these was effective October 1, 2012. Customers experienced an average 3% increase in each of the two years.

## DISCUSSION

### Water Rates

Staff is recommending water rate adjustments in FY2014 and FY2015 that will result in average increases of 6% in each year for most City water customers. Only increases in the water usage rates (variable component) are recommended, with no adjustment to the fixed service fees. Water usage charges are based on the amount of water delivered to the customer, as measured by a water meter, and pay for the City's costs that vary with the quantity delivered, such as the wholesale cost of purchasing water, utilities costs, and distribution system maintenance and replacement. The proposed water usage fee increases are impacted by:

- A two-year, overall increase in the cost of purchasing water from San Francisco Public Utilities Commission (SFPUC), which for the first time will include a surcharge for the prepayment of capital costs;
- Generally lower water consumption trends; and
- Normal operating, maintenance and replacement costs

The requested increases would have been higher if not for the use of the Water Fund working capital fund balance. Staff is recommending that a portion of the fund balance be used in FY2015 in order to keep the rate increases at a moderate level without unduly risking the fund's solvency. Without use of fund balance, the rate increases would have been approximately 11-12% annually instead of 6%.

### *Wholesale Water Rates*

The current cost of purchasing water from SFPUC, which provides 100% of Hayward's water supply, is \$2.93 per hundred cubic feet (ccf), or approximately 750 gallons. SFPUC had projected a 7.2% increase in FY2014, followed by a 16.6% adjustment in FY2015, bringing the rates in those years to \$3.14 and \$3.66 respectively. These projections were a key factor in staff's earlier assumption that increases in Hayward's rates would need to be in the range of 14% in each of the next two years in order to maintain a reasonable fund balance. With recent actions to prepay existing capital debt and in

recognition of the fact that the City will make a separate lump sum annual payment of approximately \$2.7 million for capital debt, SFPUC has recalculated the rates going forward, and now anticipates a 16.4% decrease in the rate to \$2.45 per ccf (excluding the debt service surcharge), effective July 1, 2013. However, SFPUC anticipates that this rate decrease will be followed by a 32% increase in FY2015, bringing the rate to \$3.23.

The net effect of this recalculation is that the SFPUC wholesale rate will increase by 10% over two years. However, the City also needs to factor into its water purchase costs the nearly \$2.7 million debt service surcharge that resulted from the capital debt prepayment. Thus, in total, the cost of purchasing water is expected to increase by more than 24% over the next two years. Looking to the future, the most current information from SFPUC is that the percentage increases will continue to vary from year to year, with an expected wholesale rate of \$4.57 by FY2020. The \$2.7 million surcharge for debt service will continue through 2034.

The following table summarizes the cost of purchasing water in this current year and the next two years, including \$200,000 in fixed service fees charged by SFPUC. The table illustrates that the total wholesale increase for purchasing water over the next two years is about \$5.7 million, or 24%. While the percent increase is higher than the proposed adjustments, it is staff's belief that the lower rate adjustments can be accommodated through judicious use of fund balance reserves, as discussed further in this report.

**Wholesale Water Purchase Costs  
FY2014 and FY2015**

Rate Assumptions	Quantity (ccf)	SFPUC Purchase Cost	Service Fee	BAWSCA Debt Surcharge*	Total
Current FY2013	7,700,000	\$23,100,000	\$200,000	\$0	\$23,300,000
Proposed FY2014 (includes debt prepayment)	7,900,000	\$19,300,000	\$200,000	\$2,700,000	\$22,200,000
Anticipated FY2015 (includes debt prepayment)	8,100,000	\$26,100,000	\$200,000	\$2,700,000	\$29,000,000

\*This surcharge is more than offset by a decrease in the SFPUC purchase cost.

As a reminder, the rising SFPUC rates are largely attributed to implementation of the \$4.6 billion Hetch Hetchy Water System Improvement Program, which is well underway, with the attendant costs associated with project construction, coupled with lower-than-anticipated water consumption. Regional water systems, including Hayward, have supported SFPUC's efforts to improve the reliability and structural integrity of the regional water system, with the understanding that the costs would be reflected in the wholesale rates.

#### *Water Consumption*

- a) Future water consumption is a key component of the City's water usage fee calculation. If less water is purchased, due to conservation or less business activity, the unit cost of water increases

because most of the water transmission and distribution costs are fixed costs and do not change with the volume consumed. Consumption is difficult to forecast with certainty because it is impacted by unknowable factors, such as weather conditions and business activity, as well as by water cost. Hayward, like other area water purveyors, experienced an 8% reduction in water consumption in FY2012, and, to date in FY2013, has seen a further reduction of about 3%. Therefore, staff has been cautious in its estimates for the next two years, assuming that consumption will increase by a modest 2% per year as the economy continues to recover and residential development proceeds. While the City needs to account for water consumption in determining appropriate water rates, it is also important to note that reduced usage has a positive aspect as well, in that using less water means that customers are purchasing and paying for less water.

#### *Operating, Maintenance and Replacement Costs*

Staff has implemented operating efficiencies to keep expenses low, and additional measures are taken to reduce costs whenever possible. For example, requests for overtime work typically require prior management approval. Vacant positions are carefully reviewed to determine their criticality before making a decision as to whether to fill them. Additionally, employee concessions play a significant role in lowering the staff costs and thereby the overall cost and rate impacts on customers. Staff also continues to implement, to the degree possible, strategies to reduce energy usage and other cost reduction methods. At the same time, it is important to ensure that the water system remains robust, and well maintained, and capable of delivering water when and where it is needed. It is critical that the system be able to continue to deliver water during major emergencies. As a self-sufficient enterprise, the Water Fund is also obligated to meet its employee cost commitments. Overall, the estimates are that operating, maintenance, and replacement costs, excluding the cost of water purchases, will increase by less than 3% in FY2014 and remain fairly unchanged in FY2015, based on the information available at this time.

#### *Use of Fund Balance Reserves*

Fund balances have several purposes including emergency reserves, cash flow funds, and, as importantly, a mechanism to smooth out, at times, otherwise huge spikes in rates. SFPUC's wholesale rate fluctuations do not take into account the impact on retail customers. The fund balance reserve is used at the local level to smooth out such variances. In the past, financial consultants have indicated that reserves equal to 50% of annual expenditures are appropriate for a water system of Hayward's size. With Council's support for rate adjustments in past years and implementation of cost efficiencies, the Water Operating Fund ended FY2012 with a fund balance of \$16.6 million. As it was, in part, designed to do, the balance enables the Fund to bear some of the impact of upcoming wholesale rate adjustments and operating cost increases. The Fund balance is discussed more fully in the Fiscal Impact section of this report.

#### *Proposed Single-Family Residential and Non-Residential Water Rates*

The following tables summarize the proposed water rates for FY2014 and FY2015 for single-family residential and non-residential customers. (Note that water usage is charged on a per ccf basis. One ccf is about 750 gallons, or the equivalent of average consumption for three and a half days in a single-family Hayward home.)

**Recommended Single-Family Residential Water Usage Rates  
(Includes 2-4 Unit Properties)  
Per Two-Month Billing Period**

Tier	Current	Proposed FY 2014	Proposed FY 2015
1 – 8 ccf	\$4.05	\$4.40	\$4.75
9 – 25 ccf	\$5.05	\$5.35	\$5.70
26 – 60 ccf	\$6.25	\$6.60	\$6.95
Over 60 ccf	\$6.80	\$7.15	\$7.50

**Recommended Non-Residential Water Usage Rates  
Per Two-Month Billing Period**

Tier	Current	Proposed FY 2014	Proposed FY 2015
1 – 200 ccf	\$5.15	\$5.45	\$5.75
Over 200 ccf	\$6.10	\$6.45	\$6.85

Attachment I provides examples of typical rate increases for both single-family residential and non-residential customers. The proposed rates were calculated such that customers would see an annual average increase in the range of 6% in each year. (Actual dollar amounts on each bill will vary over the course of a year, depending on outdoor use, seasonal usage by business, and other factors.) The City-wide average water use for a number of years has been 18 ccf (225 gallons per day), and staff has used this average for the purposes of comparing current and proposed rates. Residential customers who use this amount on an annual average basis would see a 6% increase from the current average billing of \$94.90 to \$100.70 in their bi-monthly water bills in FY2014, with a further 6% increase to \$107.00 in FY2015. Non-residential customers would likewise see 6% average rate increases.

*Proposed Changes to Multi-Family Residential Rate Structure*

The City currently treats multi-family residential accounts, including mobile home park communities, as commercial entities, subject to the two-tier rate structure in which the first 200 ccf of water is charged at the lower rate and the remaining usage is charged at the higher rate. The service fees for all accounts are based on the meter size. While the methodology for multi-family properties is not unique to Hayward, it can result in inequitable per-dwelling unit costs for multi-family customers, particularly those in large complexes where most of the water is charged at the higher tier. A random sampling indicates that most multi-family properties pay more for water on a per-dwelling-unit basis, than those in single family homes using the same amount of water. This fact prompted staff to investigate an alternative methodology that would more equitably distribute costs between multi-family and single-family users and define a better relationship between water consumed within a multi-family dwelling unit and the cost of purchasing the water. While, given the complexities, there are no perfect solutions that would result in equity in every case, the proposed methodology is an improvement over current practices.

The proposed structure, which would be implemented effective October 1, 2013, involves four basic steps to calculate bimonthly billings for multi-family properties (five or more dwelling units on a single meter) and mobile home parks:

1. Divide total metered consumption by the number of dwelling units.
2. Apply a four-tier multi-family rate structure to the per-dwelling-unit usage to determine the water usage fee per unit.
3. Multiply the water usage cost by the number of dwelling units.
4. Add the service fee to the water usage fee to determine the total water bill.

As an example, a mobile home park with 198 dwelling units uses an average of 2,600ccf of water during a two-month billing period or about 32,400 gallons per day, through a 4-inch meter. Under the current method and rates, the bill for this volume would be \$16,146, including the fixed service fee, or \$81.54 per dwelling unit. Under the proposed method, the bill would be calculated as follows:

1. Divide 2,600ccf of water by 198 dwelling units: 13 ccf per dwelling unit
2. Apply the proposed multi-family rates to 13 ccf to calculate the per-dwelling-unit water usage charge: \$73.55 per dwelling unit
3. Multiply the per-dwelling-unit water usage charge by the number of dwelling units: \$14,562
4. Add the service fee of \$476 to the water usage charge to determine the total bill: \$15,039

In this particular example, the per dwelling-unit cost would be \$75.95, a decrease of about 7%.

Staff's goal in developing the multi-family rate structure and the individual tier rates was to make the per-dwelling unit fee for water service more commensurate with the fee that single-family customers incur for water service. The challenge in this effort was the fact that almost all single-family customers pay a bimonthly service fee of \$12 for a standard 5/8-inch meter, while most multi-family properties have a larger shared meter. While the total fees for larger meters are higher, the service fees for multi-family accounts tend to be significantly less on a per-dwelling units basis, in the range of \$1 to \$4, depending on the service size. On average, multi-family residents use about 14 ccf, or 175 gallons per day, in a two-month billing period, while single-family use averages 18 ccf or 225 gallons per day. To compensate, staff developed a block rate structure that factors in the two key differences between single-family and multi-family water service: 1) the lower per-dwelling-unit service fee; and 2) the expected lower water use in multi-family housing units.

Like the single-family residential rate structure, the proposed structure for multi-family dwelling units incorporates four tiers; however, given the expected lower water usage at multi-family developments and mobile home park homes, the tiers are more compressed than those for single-family accounts (i.e., there are fewer units within some of the tiers) and the fee associated with each tier is higher. The table below lists the recommended tiers and rates. In addition to adopting the multi-family rate structure, staff further recommends that the proposed multi-family rates be in effect for two years, without a second increase in FY2015. With this structure, more equity can be achieved between these two residential customer groups within two years. The proposed rate structure would apply only to accounts that provide domestic water service; irrigation accounts would continue to be billed as commercial services.

**Recommended Multi-Family Residential Water Usage Rates**  
**(Properties with Five or More Dwelling Units, including Mobile Home Parks)**  
**Per Two-Month Billing Period**

Tier	Current	Proposed FY2014	Proposed FY2015
1 – 8ccf		\$5.60	\$5.60
9 – 16ccf	Billed as non-residential accounts	\$5.75	\$5.75
17 – 20ccf		\$5.90	\$5.90
Over 20ccf		\$6.40	\$6.40

Council will note that the block rates for each tier are noticeably higher than the rates for single-family accounts. While this appears to give an unfair advantage to single-family households, it is important to consider the rates in the context of the overall billing for comparable service, including the fixed service fee. Because single-family properties are individually metered and thus receive individual service fees, a greater portion of a single-family bill is attributed to the fixed fee, on average about 12%. Rather than one large entity, under the proposed FY 2014 rate structure, a MFR complex will be considered as the sum of many individual residential units, each with consumption equivalent to an equal share of the total consumption at the complex. Simply applying the existing single-family rate structure to multi-family dwelling units can result in a multi-family unit paying substantially less for the same quantity of water because of much lower service fee costs, which tend to be in the range of 2% of the total cost. The recommended multi-family rates are structured to bring parity to the residential rates.

The table in Attachment II illustrates the impact of the proposed multi-family rate structure on various property sizes and average water use. The table compares current average bimonthly water bills to average billings under the proposed multi-family rate structure and tier rates. It also includes the cost for a single-family customer to purchase the same quantity in order to illustrate how these costs become more evenly aligned over two years between single-family and multi-family customers.

As can be seen from Attachment II, the initial impact of the proposed structure on multi-family accounts is varied and depends on factors such as water usage and meter size. In general, larger properties with low per-dwelling-unit water use will see an immediate decrease in their water bills, while some smaller properties with water use tending towards the high side or with meters larger than typically needed to serve their property, may see increases. For example, a mobile home park with about 460 units would see an initial decrease in their water bill of about 10%, while a small property with six units and higher-than-average water use could experience an initial increase of 10%. In general, mobile home parks would see decreases in the 2 to 7% range. While this disparity is not desirable, it is a necessary step towards an ultimately more equitable system and an indication that some multi-family properties have paid a higher-than-reasonable share of water costs in the past. The City's water conservation staff will identify and work with apartment owners that have higher-than-average usage to try to reduce consumption through measures such as toilet replacements, installation of high efficiency showerheads, and other means.

#### *Comparisons with Other Water Agencies*

Attachment III shows how Hayward's current and proposed water rates compare to other nearby agencies. While this comparison is provided in keeping with long-standing practice and the Council's desire to see how the City's rates compare with neighboring agencies, some factors should be kept in

mind in considering this information. First and foremost, none of the other agencies in this immediate vicinity are completely reliant on SFPUC (HetchHetchy) water and, therefore, are not subject to the significant wholesale water rate increases that have been and will continue to be implemented by SFPUC. For example, EBMUD does not have to pay a commodity charge, per se, for raw water, and Alameda County Water District (ACWD) receives only 30% of its supply from the more expensive SFPUC system. This factor will cause the gap between Hayward's water rates and those of these two neighboring water agencies to widen even further over the next few years.

System size also plays a role in rate setting. EBMUD is eight times larger than the Hayward Water System, and ACWD is two and a half times Hayward's size. Therefore, both agencies should and do enjoy economies of scale on many factors resulting in lower per capita expenses.

It is also important to note that some of the agencies are likely to consider rate adjustments for next year, but have not yet published their proposed increases, so in a sense staff is comparing Hayward's future rates to other agencies' currently existing rates. EBMUD, for example, typically increases rates in July. Staff will update the comparisons as the public hearing date gets closer.

Last but not least, a water agency's rate should be considered in light of the system's performance, its operational robustness, and its flexibility to operate in both normal and emergency situations. The significant investment that Hayward has made in upgrading, maintaining, and making the system ready for emergencies is, to some extent, reflected in the rates. Hayward's rates, which are in the mid to upper range of rates in the area, should be viewed in this perspective.

### Sewer Rates

#### *Proposed Residential and Non-Residential Sewer Rates*

Staff is proposing that no sewer service rate adjustment be implemented in FY2014 and that an increase of 3% for residential customers be approved for FY2015, raising the monthly cost for a single-family residential customer from \$27.27 to \$28.09. Similar percent increases are proposed for multi-family and mobile home community customers, as well as for the two lower rates, known as economy and lifeline rates. The two reduced rates, which make the single-family sewer charges commensurate with water use, are intended to encourage water conservation and reward customers who use low amounts of water. The rates are automatically applied to bills for single-family residential customer whose water usage during a billing period is 0 – 5 ccf (lifeline) or 6 – 10 ccf (economy).

Non-residential customers would see increases in FY2015 ranging from 0% to 6%, depending on the characteristics of their wastewater discharge. As discussed further in this section, the proposed sewer rates are impacted in part by the anticipated start-up of and significant discharge from Calpine's Russell City Energy Center, which will cause some of the City's costs to be shifted from existing customers to the new entity. Staff uses actual and anticipated sampling data to measure the impact of significant industrial users of the sanitary sewer system and calculates appropriate rates based on their contribution to the system. Appropriate fees for other business customers, such as restaurants, are based on water consumption and standard waste strength factors.

The following table summarizes the current and proposed monthly residential and non-residential sewer service rates during the next two years.

**Recommended Monthly Residential and Non-Residential Sewer Service Fees**

	Current	Proposed FY 2014	% Change	Proposed FY 2015	% Change
<b>Residential Fees</b>					
Single-Family (per dwelling unit)	\$27.27	\$27.27	0%	\$28.09	3%
Multiple-Family (per dwelling unit)	\$24.27	\$24.27	0%	\$25.00	3%
Mobile Home (per dwelling unit)	\$19.09	\$19.09	0%	\$19.66	3%
Economy (per dwelling unit)	\$15.97	\$15.97	0%	\$16.45	3%
Lifeline (per dwelling unit)	\$7.98	\$7.98	0%	\$8.22	3%
<b>Non-Residential Fees</b>					
Volume (per 100 cubic feet of water)	\$2.25662	\$2.25662	0%	\$2.23596	3%
Carbonaceous Biochemical Oxygen Demand (per pound)	\$0.60565	\$0.60565	0%	\$0.64920	7%
Suspended Solids (per pound)	\$0.84229	\$0.84229	0%	\$0.74470	-12%
<b>Examples of Non-Residential Fees (per 100 cubic feet of water)</b>					
Restaurant (w/out grease interceptor)	\$8.28	\$8.28	0%	\$8.27	0%
Restaurant (larger establishment w/grease interceptor)	\$6.31	\$6.31	0%	\$6.33	0%
Commercial Laundry	\$4.70	\$4.70	0%	\$4.75	1%
Beverage Bottling	\$4.74	\$4.74	0%	\$4.89	3%

*Factors Affecting Sewer Rates*

The sewer service rate adjustments result primarily from the rising costs of providing wastewater collection and treatment services. The allocated costs on which the recommended FY2015 rates are based are 4% higher than the costs incorporated into the current rates, mainly associated with employee services.

Another critical factor that affects sewer rates, especially for non-residential customers, are ongoing changes in the industrial wastewater characteristics and volume. On one hand, several major industries have made changes to their pretreatment processes in recent years, which result in a decline in revenue from this sector. Large businesses, such as Berkeley Farms, Azuma Foods, and Discovery Foods are discharging less to the system due to water conservation and improved pretreatment efforts. Given that most of the costs are fixed costs and not affected by flows, the unit cost of collection, treatment and disposal increases as volume decreases. This has the effect of shifting more of the costs to other customers in order to achieve the overall revenue target. On the other hand, the proposed FY2015 sewer rate calculations also account for discharge from the Russell City Energy Center (RCEC), which is expected to initiate operations later this year. The RCEC staff was conservative in its estimates regarding discharge from this facility, as there will be some uncertainty about the volume and strength until the RCES is fully operational. Even so, the rate implications are noteworthy, especially for some non-residential customers, as the RCEC will be assuming a significant share of the revenue requirements.

### *Comparisons with Other Wastewater Agencies*

Attachment IV provides comparisons of Hayward's current and proposed residential sewer rates to other nearby agencies. Many of the caveats discussed in the water rate comparisons would apply to the sewer rates as well, without of course, the discussion of commodity costs.

### **ECONOMIC IMPACT**

The economic impact to customers has been discussed in the previous sections and examples provided on Attachment II. While staff recognizes that the rate adjustments will affect customers, it is critical that the City maintain reliable and robust utilities systems in the interest of economic viability and quality of life for its residents and businesses. As noted earlier, staff is recommending that judicious use of fund balances be used to keep the rate adjustments at a minimal level and in line with the surrounding business market.

### **FISCAL IMPACT**

The Water and Wastewater Operating Funds maintain a working capital balance, or fund balance, in order to manage emergencies, maintain positive cash flow, and smooth out, at times, needed rate adjustments so that customers are not significantly impacted in a single year. The City has been informed by various financial consultants that reserves equal to 50% of annual expenditures are appropriate. While that level of reserve provides a good target, it is not always practical, particularly when using a portion of the fund balance to offset the need for higher rate adjustments. While current and projected working capital balances do not always meet the 50% goal, staff believes that the balances are sufficient to maintain reliable utilities operations.

#### *Water Fund*

Using current water use projections, staff expects the recommended rates to generate about \$40.3 million in total revenue (water use and service fees) in FY2014 and result in a year-end fund balance of \$16.5million, an increase of just over \$1.8 million. In FY2015, the revenue is expected to total \$43.3 million, and the fund balance at the end of year is projected at \$14.2 million, a reduction of just over \$2 million. Even with the proposed rate adjustments, the Water Fund will be in a structural deficit position in FYs 2015 and 2016, with an anticipated \$3.9 million needed from the working capital balance to meet expenditures. The ten-year plan includes 6% annual rate adjustments through FY2019, after which it may be possible to reduce the percentage increase or hold rates at the same level for a period of time. Attachment V illustrates year-end working capital balances in the recent past and projected through FY2017.

#### *Wastewater Fund*

The proposed rates are expected to generate about \$18.2 million in revenue in FY 2014 and about \$18.6 million in FY 2015. Even with the increase in FY 2015, staff anticipates a \$2 million revenue shortfall over the next two years. However, as with the Water Fund, the balance was built up strategically over the past few years to minimize or alleviate the need for sewer rate adjustments at a time when water rates would need to be increased. The Wastewater Fund ended FY2012with a working capital balance

of \$13.9 million, and as with the Water Fund, staff is proposing to cover the deficit over the two years by using a portion of the fund balance. The ten-year plan includes rate adjustments in the 1% to 3% range, every other year. The Fund is expected to remain in a structural deficit situation through FY2018 meaning the expenses will exceed the revenues every year; however, the fund balance will remain at a sufficient level to manage cash flow and emergency spending requirements. Attachment VI illustrates year-end working capital balances in the recent past and projected through FY2017.

## **PUBLIC CONTACT**

With Council's input and consent on the proposed rates, staff will implement the noticing requirements of Proposition 218, which mandates a written notice of the proposed service rates to all affected property owners at least forty-five days before the public hearing. In instances where a party other than the property owner of record receives the bill for the water/sewer services, notice will also be sent to that party. The notice will describe the proposed increases and list current and proposed rates. The notice also discusses the property owners' right to protest the rates increases. Council may not take action on the rate if a majority of affected parcels file written protests. Staff will also post the information on the City's website.

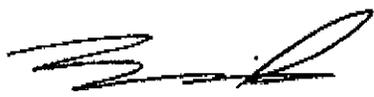
## **NEXT STEPS**

Council is scheduled to consider the rate adjustments during a public hearing on July 9. If adopted, the rates would be effective on October 1, 2013 and 2014.

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

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

Approved by:



Fran David, City Manager

- Attachment I: Proposed Water Rates and Sample Billings
- Attachment II: Proposed Multi-Family Sample Billings
- Attachment III: Proposed FY2014 Water Rate Comparisons with Nearby Agencies
- Attachment IV: Proposed FY2014 and FY2015 Wastewater Rate Comparisons with Nearby Agencies
- Attachment V: Water Fund Working Capital Balances
- Attachment VI: Wastewater Fund Working Capital Balances

**ATTACHMENT I**  
**Proposed FY 2014 and FY 2015 Water Rates and Sample Billings**

**Current (FY 2013) Water Rates**

Single Family Residential		Commercial and Multi-Family Residential		Service Fees (All Users)	
1-8 ccf	\$4.05 /ccf	1-200 ccf	\$5.15 /ccf	5/8 inch	\$12.00
9-25 ccf	\$5.05 /ccf	>200 ccf	\$6.10 /ccf	3/4 inch	\$16.30
26-60 ccf	\$6.25 /ccf			1 inch	\$24.70
>60 ccf	\$6.80 /ccf			1.5 inch	\$54.10
				2 inch	\$95.20
				3 inch	\$240.30
				4 inch	\$476.00
				6 inch	\$839.70
				8 inch	\$1,162.40
				10 inch	\$1,400.00

**Proposed FY 2014 Water Rates**

Single Family Residential		Multi-Family Residential	Commercial	Service Fees (All Users)		
1-8 ccf	\$4.40 /ccf	1-8 ccf	\$5.60 /ccf	1-200 ccf	\$5.45 /ccf	No Changes Proposed
9-25 ccf	\$5.35 /ccf	8-16 ccf	\$5.75 /ccf	>200 ccf	\$6.45 /ccf	
26-60 ccf	\$6.60 /ccf	16 - 20 ccf	\$5.90 /ccf			
>60 ccf	\$7.15 /ccf	>20 ccf	\$6.40 /ccf			

**Proposed FY 2015 Water Rates**

Single Family Residential		Multi-Family Residential	Commercial	Service Fees (All Users)		
1-8 ccf	\$4.75 /ccf	1-8 ccf	\$5.60 /ccf	1-200 ccf	\$5.75 /ccf	No changes proposed
9-25 ccf	\$5.70 /ccf	8-16 ccf	\$5.75 /ccf	>200 ccf	\$6.85 /ccf	
26-60 ccf	\$6.95 /ccf	16 - 20 ccf	\$5.90 /ccf			
>60 ccf	\$7.50 /ccf	>20 ccf	\$6.40 /ccf			

**Sample Bimonthly Water Billing Increases (including fixed service charge)**

Single Family Residential Bimonthly Billings			FY 2014			FY 2015		
Consumption	Current	Proposed	Cost	\$ Change	% Change	Proposed	\$ Change	% Change
	Cost							
Low Use Customer	8 ccf	\$44.40	\$47.20	\$2.80	6%	\$50.00	\$2.80	6%
Avg Use Customer	18 ccf	\$94.90	\$100.70	\$5.80	6%	\$107.00	\$6.30	6%
High Use Customer	60 ccf	\$349.00	\$369.15	\$20.15	6%	\$390.15	\$21.00	6%

Non-Residential Bimonthly Billings			FY 2014			FY 2015		
Consumption	Current	Proposed	Cost	\$ Change	% Change	Proposed	\$ Change	% Change
	Cost							
Restaurant	80 ccf	\$424	\$448	\$24	6%	\$473	\$25	6%
Supermarket	600 ccf	\$3,565	\$3,765	\$200	6%	\$3,985	\$220	6%
Food Processor	1400 ccf	\$8,445	\$8,925	\$480	6%	\$9,465	\$540	6%

Attachment II  
Sample Multi-Family Billings and Comparisons with Single-Family Billings

Description	Property Details			Current FY13 Structure/Rates			Recommended FY14 Structure/Rates			Percent Chg	Single Family Equivalent		
	Dwelling Units	Average Usage (ccf)	Usage per Dwelling Unit (ccf)	Avg Bimonthly Bill		Cost/ Dwelling Unit	Avg Bimonthly Bill		Cost Unit		FY13 Curr Rate	FY14 Rec Rate	FY15 Rec Rate
				Total Billing	Dwelling Unit		Total Billing	Dwelling Unit					
Mobile Home Park	462	6200	13	\$476	\$38,106	\$82	\$34,456	\$75	-10%	\$70	\$74	\$79	
Mobile Home Park	265	3500	13	\$95	\$21,255	\$80	\$19,586	\$74	-8%	\$70	\$74	\$79	
Large Apartment	200	1500	8	\$476	\$9,436	\$47	\$9,436	\$47	0%	\$44	\$47	\$50	
Medium Apartment	98	1500	15	\$476	\$9,436	\$96	\$8,811	\$90	-7%	\$80	\$85	\$90	
Medium Apartment	50	540	11	\$95	\$3,199	\$64	\$3,198	\$64	0%	\$60	\$63	\$67	
Small Apartment	25	250	10	\$25	\$1,360	\$54	\$1,433	\$57	5%	\$55	\$58	\$61	
Small Apartment	6	115	19	\$25	\$617	\$103	\$676	\$113	10%	\$100	\$106	\$113	

**Attachment III**  
**Water Rate Comparisons with Nearby Agencies**  
**Based on Consumption of 18 Ccf of Water through 5/8" Meter**

(Revised 6-14-13)

Agency	Bimonthly Billing
City of Redwood City	\$108.40
City of Mountain View (1) (2)	\$105.90
<b>City of Hayward – Proposed</b>	<b>\$100.70</b>
<b>City of Hayward – Current</b>	<b>\$94.90</b>
Contra Costa Water District (3) (Concord, Walnut Creek)	\$90.48
Dublin San Ramon Services District (3) (Dublin, San Ramon)	\$87.55
Alameda County Water District (2) (Fremont, Union City, Newark)	\$86.60
City of Daly City (2)	\$82.24
East Bay Municipal Utility District (3) (Oakland, Castro Valley, Unincorporated Alameda County)	\$79.74

- (1) FY 2014 rate increases are unknown at this time
- (2) Multiple sources of water
- (3) Not an SFPUC wholesale customer

Updated 6-14-13

**ATTACHMENT IV  
SEWER RATE COMPARISONS WITH NEARBY AGENCIES  
(Standard Residential Rate)**

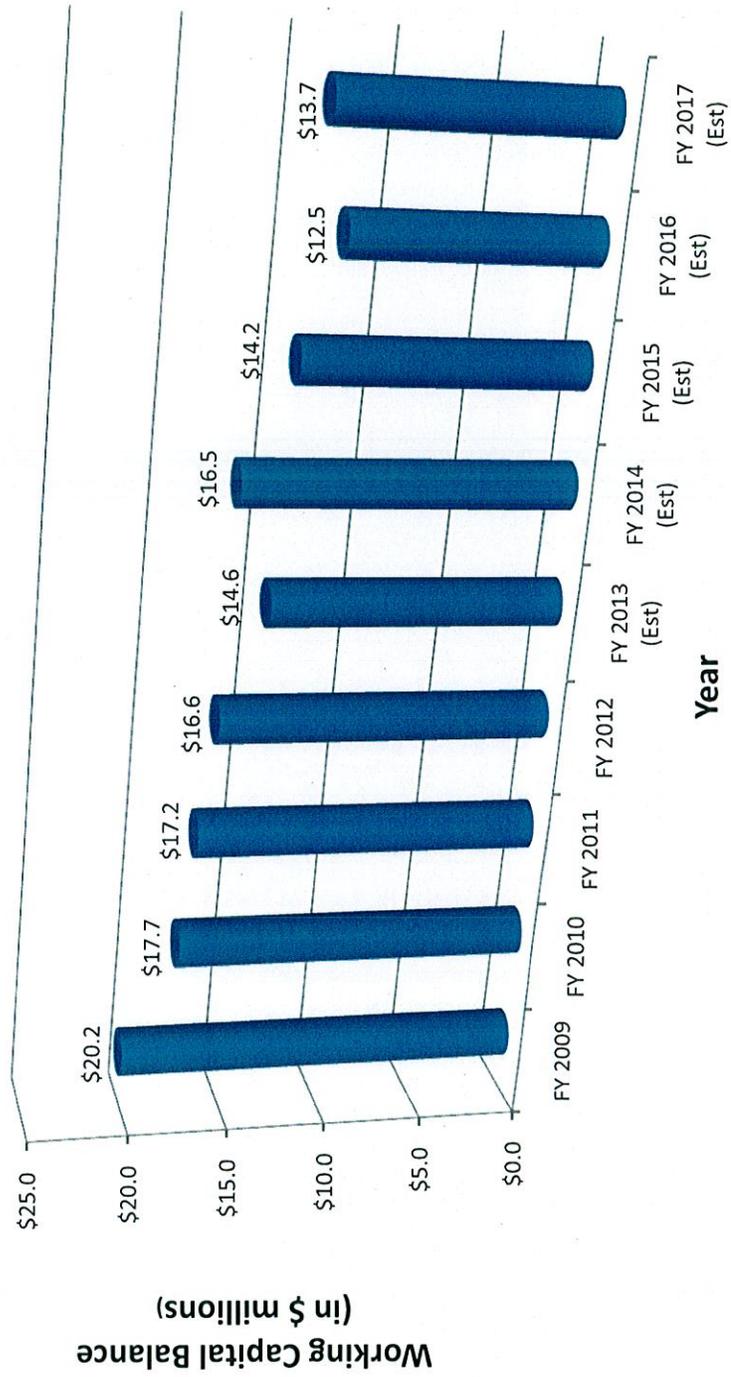
(Revised 6-14-13)

Agency	Monthly Rate
City of Livermore	\$40.75
Central Contra Costa Sanitary District (1) (Concord, Walnut Creek, Martinez)	\$33.75
City of San Leandro	\$31.18
Dublin San Ramon Services District (Dublin and San Ramon)	\$29.62
Union Sanitary District (Fremont, Union City, Newark)	\$28.14
<b>City of Hayward (Proposed FY 2015)</b>	<b>\$28.08</b>
<b>City of Hayward (Current and Proposed FY 2014)</b>	<b>\$27.27</b>
Castro Valley Sanitary District	\$23.41
Oro Loma Sanitary District (Unincorporated Alameda Co.)	\$16.25

(1) Proposed FY 2014 rate

Updated 6-14-13

### Attachment V Water Fund Working Capital Balances





**NOTICE OF PROPOSED WATER AND SEWER RATE CHANGES**  
**May 22, 2013**

TO: Water and Sewer Ratepayers and Parcel Owners in the City of Hayward Service Area (please forward this notice to the ratepayer)

The City of Hayward is proposing increases in water rates, effective October 1, 2013 and October 1, 2014, and sewer service charges, effective October 1, 2014. The City is also proposing changes in the method by which water use charges are calculated for multi-family residential customers, including mobile home parks. A public hearing will be held by the Hayward City Council regarding the proposed rate adjustments on **Tuesday, July 9, 2013, at 7:00 p.m.**, at the Hayward City Hall, 777 B Street. **Rates and charges, which will be adopted at the conclusion of the public hearing, will not exceed the proposed rates presented in this notice.**

Despite the City taking actions to reduce expenses, including employee concessions, implementation of service efficiency measures, and energy reduction strategies, rate increases are necessary to continue delivery of high quality water and wastewater services. This notice will explain the reasons for the increases and impacts on your water and sewer bill.

Este aviso contiene información importante sobre el costo de servicio de agua y del sistema de alcantarilla de la Ciudad de Hayward. Para obtener esta información en español, por favor llame a la Ciudad de Hayward al (510) 583-4700.

**WATER RATES**

Water bills are comprised of water service fees and water use charges. Water service fees, which are based on meter size, pay for fixed costs of providing service, such as meter reading, billing, customer service and debt service obligations, and do not vary with the quantity of water purchased. No increases to the service fees are proposed in the next two years. Water usage charges pay for the costs of purchasing and delivering water, and are based on the quantity of water used in your home or business as measured by your water meter. Water rates were last adjusted in October 2012. Projected increases in the wholesale cost of purchasing water from the San Francisco Public Utilities Commission, Hayward's sole water supplier, plus modest general operating cost increases, have resulted in the need to adjust water usage rates.

*Multi-Family Water Rates*

Hayward currently calculates water costs for multi-family residential properties and mobile home park communities using the same two-tier rate structure used for calculating the water cost for commercial accounts. A new rate structure and calculation methodology is proposed that would link the water usage fee more closely to average water use by residents. To obtain the average-per-dwelling-unit usage, the total units of water utilized in a billing period would be divided by the number of dwelling units. The proposed rate structure, shown below, would be applied to the average per-dwelling-unit usage. This amount would be multiplied by the number of dwelling units to calculate the water usage charge. The service fee will then be added. Although the cost impact of this proposal varies widely, depending upon water usage and service fees, in general, overall increases would be less than that of single-family homes and commercial accounts, with some multi-family customers seeing a small decrease in their water bills. This change applies to standard water services only; irrigation accounts will continue to be billed as commercial entities.

As an example, a 100-unit multi-family complex or mobile home park community with a 1,300 units of water usage every two months, which currently pays \$7,835 in water costs every two months, would have seen these charges increased to \$8,280 and \$8,780 over two years, or about 6% increase per year. However, under the proposed method, the charges would be \$7,450 per year for each of the next two years, or in this particular example a 5% decrease compared to existing rates.

*Proposed Water Rates*

**CURRENT AND PROPOSED WATER USAGE RATES**

	Usage	Current Rate/Unit	Rate/Unit (Oct 1, 2013)	Rate/Unit (Oct 1, 2014)
<b>Single-Family Residential Rates</b> (including duplex, triplex, and fourplex accounts)	1 – 8 units	\$4.05	\$4.40	\$4.75
	9 – 25 units	\$5.05	\$5.35	\$5.70
	26 – 60 units	\$6.25	\$6.60	\$6.95
	Over 60 units	\$6.80	\$7.15	\$7.50
<b>Multi-Family Residential Rates</b> (five or more dwelling units per account) Per dwelling unit, based on average usage	Usage	Current Rate/Unit	Rate/Unit (Oct 1, 2013)	Rate/Unit (Oct 1, 2014)
	1-8 units	N/A	\$5.60	No change
	9 -16 units	N/A	\$5.75	No change
	17- 20 units	N/A	\$5.90	No change
	Over 20 units	N/A	\$6.40	No change
<b>Non-Residential Rates</b>	Usage	Current Rate/Unit	Rate/Unit (Oct 1, 2013)	Rate/Unit (Oct 1, 2014)
	1 – 200 units	\$5.15	\$5.45	\$5.75
	Over 200 units	\$6.10	\$6.45	\$6.85

Note: One unit of water equals 748 gallons. Charges are based on metered water consumption in each two-month billing period.

The typical single-family residential customer uses an annual average of 18 units of water per two-month billing period, or about 220 gallons per day. Based on this level of usage, residential customers will see an average increase of \$5.80 in their bi-monthly billing in the first year (from \$94.90 to \$100.70) and \$6.30 in the second year (from \$100.70 to \$107.00), including the service fee.

#### SEWER SERVICE CHARGES

Sewer service charges pay for the collection, treatment and disposal of wastewater from residences and businesses and is based on the type and volume of wastewater disposed. The charges were last adjusted in October 2012. No adjustment is proposed for this coming year. However, continued increases in the costs of providing these services have resulted in the need for a rate adjustment effective October 1, 2014.

##### Residential Sewer Rates

The standard residential rate is proposed to increase by 3% from the current monthly charge of \$27.27 to \$28.08 on October 1, 2014. Lower monthly rates, called Economy and Lifeline rates, are automatically applied to billings where metered water consumption is lower than the standard usage, as shown below. The following table lists the current and proposed residential sewer service charges.

	Current	Proposed (Oct 1, 2013)	Proposed (Oct 1, 2014)
Standard Residential (single-family unit)	\$27.27	\$27.27	\$28.09
Duplex, Triplex, Fourplex (per unit)	\$27.27	\$27.27	\$28.09
Multi-Family (per unit)	\$24.27	\$24.27	\$25.00
Mobile Home (per unit)	\$19.09	\$19.09	\$19.66
Economy (6 to 10 units of metered water usage)	\$15.97	\$15.97	\$16.45
Lifeline (0 to 5 units of metered water usage)	\$7.98	\$7.98	\$8.22

##### Non-Residential Sewer Rates

Non-residential customers are classified as either coded or critical users. Most non-residential customers are in the first category and are classified by the type of businesses that most closely resembles the nature of wastewater generated. The coded sewer rates also take into account whether customers have separate irrigation meters. Critical users are billed according to actual measured wastewater strength and volume. The following table lists non-residential sewer service charges for the most common businesses and for critical users. A complete list of charges can be found at [www.hayward-ca.gov](http://www.hayward-ca.gov) or you can call (510) 583-4700 to request a copy by mail.

	With Separate Irrigation Meter			Without Separate Irrigation Meter		
	Current	Proposed (Oct1, 2013)	Proposed (Oct 1, 2014)	Current	Proposed (Oct 1, 2013)	Proposed (Oct 1, 2014)
Commercial/Government	\$4.36	\$4.36	\$4.78	\$3.92	\$3.92	\$4.30
Restaurant w/ Grease Interceptor	\$7.01	\$7.01	\$7.04	\$6.31	\$6.31	\$6.33
Restaurant w/o Grease Interceptor	\$9.20	\$9.20	\$9.20	\$8.28	\$8.28	\$8.28
Commercial Laundry	\$5.22	\$5.22	\$5.28	\$4.70	\$4.70	\$4.75
Bakery	\$9.20	\$9.20	\$9.20	\$8.28	\$8.28	\$8.28
Beverage Bottling	\$5.27	\$5.27	\$5.43	\$4.74	\$4.74	\$4.89

	Current	Proposed (Oct 1, 2013)	Proposed (Oct 1, 2014)
Flow – Cost per 100 cubic feet of wastewater	\$2.266	\$2.266	\$2.336
Carbonaceous Biochemical Oxygen Demand – Cost per pound	\$0.606	\$0.606	\$0.649
Suspended Solids – Cost per pound	\$0.842	\$0.842	\$0.745

\*Calculated based on formula and not straight 3% increase.

Non-residential bills are generally expected to increase in October 2014 by about 1% to 6%. If you need assistance in calculating the impact of the proposed rate adjustments, please contact the Department of Public Works, Utilities Administration at (510) 583-4723 or by e-mail at [utilities.administration@hayward-ca.gov](mailto:utilities.administration@hayward-ca.gov).

The proposed rate changes will not take effect if written protests are received from a majority of affected property owners and tenants responsible for paying utility bills. If you wish to protest the proposed service rate increases, the City must receive your written protest by mail or hand delivery before the close of the **public hearing on July 9, 2013**. Mail or deliver written protests to: City of Hayward, 777 B Street, Hayward, CA 94541, Attention: City Clerk. For your protest to be counted, it must indicate your name, and either the address(es) or water/sewer account number(s) of your property or properties.

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 accommodations at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.

**DATE:** July 9, 2013  
**TO:** Mayor and City Council  
**FROM:** City Manager  
**SUBJECT:** Downtown Business Improvement Area Consideration of Annual Levy

### **RECOMMENDATION**

That the City Council holds a public hearing to take testimony regarding the proposed 2014 levy, and subsequently adopts the attached resolution (Attachment I) authorizing the levy and collection of assessments within the Downtown Business Improvement Area (DBIA) for Calendar Year 2014.

### **BACKGROUND**

The DBIA exists for the purpose of undertaking improvements and activities designed to promote the business environment in downtown Hayward. Most retail, service, professional, and financial institutions within the boundaries of the DBIA are assessed an annual levy, which is collected by the City's Finance Department. The levy amount, as shown in Attachment II, varies by business license category and by the zone in which the business is located. A small minority of non-profit business license holders located within the DBIA are exempt from the levy.

In accordance with State law, the levy may be approved each year by City Council only after the adoption of an annual report submitted by the DBIA Advisory Board, and after holding a public hearing regarding the proposed levy. On June 18, 2013, the City Council accepted the DBIA [Annual Report and FY 2014 budget recommendations](#) submitted by the DBIA Advisory Board.

### **DISCUSSION**

The DBIA's Annual Report recommended no changes to DBIA district boundaries, benefit zones, method, or assessment amounts of the levy at this time. The DBIA levy was last modified in June 2001. Given the unstable economic climate, the Advisory Board does not recommend an increase in membership assessments in 2014.

Business Improvement Districts exist to help create the conditions that support a robust downtown economy. The DBIA mission/vision statement is: "To create a safe, clean, and inviting downtown environment that supports existing businesses, attracts new businesses, and increases the number of downtown visitors."

The DBIA levy is collected from downtown businesses in conjunction with the annual invoicing for the City's business licenses. Staffing for the DBIA is provided by the City. The elimination of the Redevelopment Agency decreased the DBIA budget by fifty percent. This loss has severely impacted the level of services offered in the DBIA assessment area. Over the past year, the DBIA Advisory Board evaluated the most strategic use of limited funds, and how to use the budget reserve to achieve their vision and goals of maintaining a clean, safe, and inviting downtown environment. The Board decided to place greater emphasis on marketing, increasing the marketing budget from \$5,500 to \$33,000, and less emphasis on events, eliminating funding for the December holiday event and one of the summer street parties. The Advisory Board has proposed to use money from the budget reserve in FY 2014 for one-time expenses to purchase banner hardware and develop new marketing strategies.

### **FISCAL IMPACT**

The DBIA approved FY 2014 budget is \$90,000, as shown in Attachment III. Revenue from assessment fees is expected to remain static or increase slightly from the previous year, at around \$55,000. As stated above, the Advisory Board has proposed to use \$35,000 of the budget reserve in FY 2014 to purchase banner hardware and develop new marketing strategies. The DBIA's budget reserve fund has grown to an estimated balance of \$120,000, before the use of the \$35,000. The budget reserve accumulated in years when actual revenues received were greater than the budgeted revenues. These funds have been set aside for one-time expenditures based on priorities determined by the Board.

### **PUBLIC CONTACT**

The DBIA Advisory Board met nine times on the following dates: August 29, 2012; September 27, 2012; October 3, 2012; November 7, 2012; January 9, 2012; January 23, 2013; March 6, 2013; April 3, 2013; and June 5, 2013. A special all-member meeting was held on October 2, 2012, which was advertised in advance in a mailing to all members. Feedback was collected through an interactive exercise on each service area, spending priorities, and ideas for future action items. On April 3, 2013, a quorum of the DBIA Advisory Board adopted a motion approving the proposed FY 2014 budget. The City Council approved the Annual Report and FY 2014 budget recommendations on June 18, 2013.

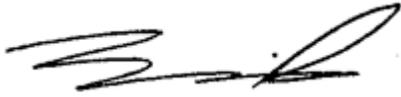
### **NEXT STEPS/SCHEDULE**

Notice for the July 9, 2013 public hearing was published by the City Clerk on June 29, 2013, more than seven days prior to the public hearing. If the levy is adopted, the City will issue the billing in January 2014.

*Prepared by:* Mary Thomas, Analyst

*Recommended by:* Lori Taylor, Economic Development Manager  
Kelly McAdoo, Assistant City Manager

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: Resolution

Attachment II: Downtown Business Improvement Area Zones and Fee Structure

Attachment II: DBIA FY 2014 Adopted Budget

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION CONFIRMING THE ANNUAL REPORT AND  
AUTHORIZING THE DOWNTOWN BUSINESS  
IMPROVEMENT AREA (DBIA) LEVY FOR CALENDAR  
YEAR 2014

WHEREAS, on June 18 2013, the City Council accepted the FY 2014 DBIA  
Annual report; and

WHEREAS, the Council established July 9, 2013, as the date for the public  
hearing on the levy and provided for oral and written protests at that hearing; and

WHEREAS, the DBIA Advisory Board recommended no changes to the DBIA  
district boundaries, benefit zones or the method of the levy.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of  
Hayward finds as follows:

1. The resolution of intention was appropriately adopted and the required  
notice of the assessment hearing given.
2. The hearing has been held and all oral and written protests considered.
3. There has not been a majority protest to the levy.
4. All properties in the district will derive benefit from the levy in proportion  
to the levy amounts.

BE IT FURTHER RESOLVED that the Council hereby confirms the DBIA  
Annual Report and levies the assessments contained in the report.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES:           COUNCIL MEMBERS:  
                          MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

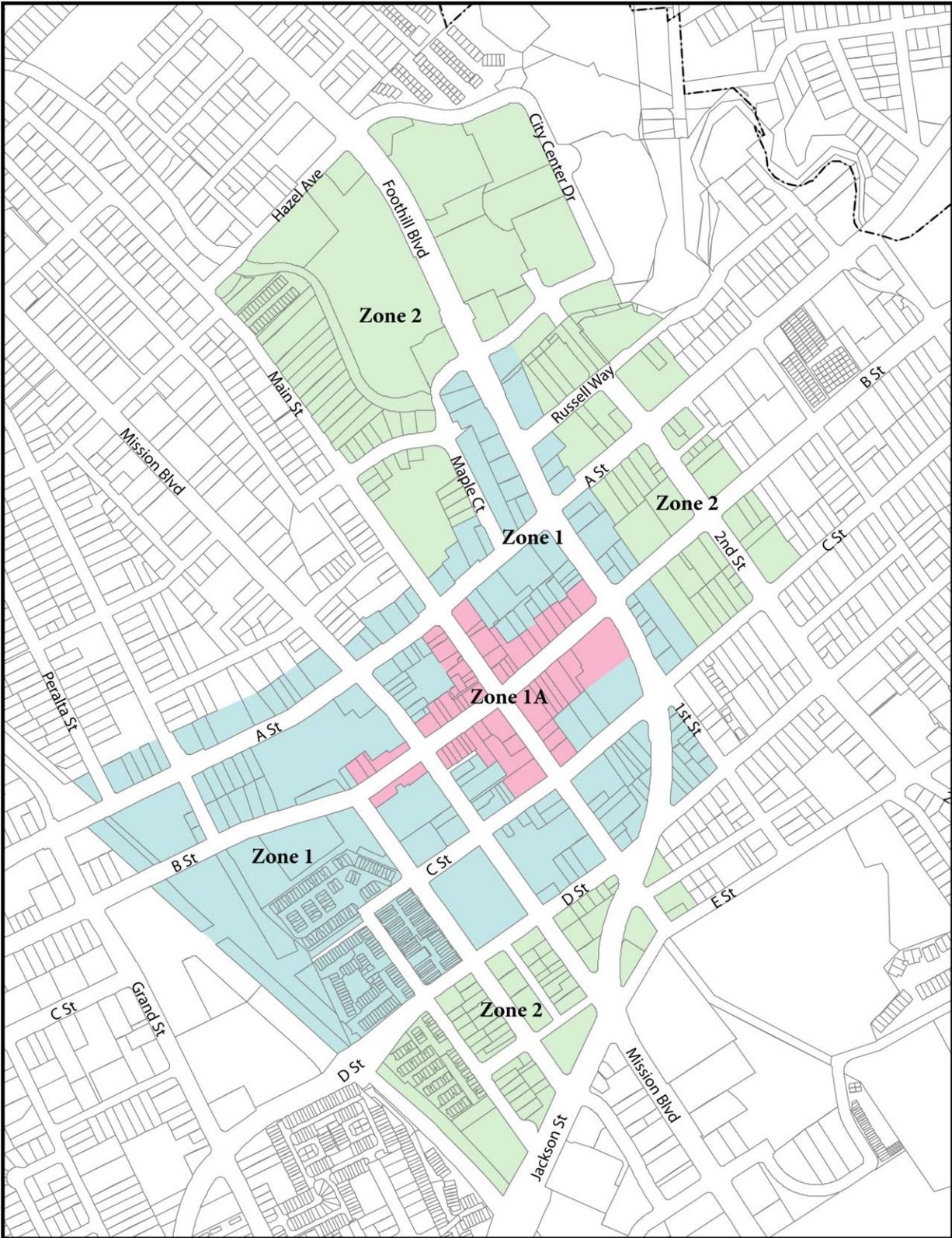
ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

# Downtown Business Improvement Area Zones



**Business Improvement Area Zones**



## DBIA FEE STRUCTURE

All businesses classified as PROFESSIONAL SERVICE AND MISCELLANEOUS NON-RETAIL which are located in **Zone 1A** shall pay a flat fee of \$125.00 per year. **Zone 1** is a flat fee of \$75.00 per year.

All businesses classified as FINANCIAL which are located in **Zone 1A** shall pay a flat fee of \$325.00 per year. **Zone 1** is a flat fee of \$200.00 per year.

All businesses classified as PROFESSIONAL SERVICE AND MISCELLANEOUS NON-RETAIL which are located in **Zone 2** shall pay a flat fee of \$75.00 per year.

All businesses classified as FINANCIAL which are located in **Zone 2** shall pay a flat fee of \$200.00 per year.

All businesses classified as RETAIL shall pay an assessment based on the following gross receipts schedule:

<b>GROSS RECEIPTS</b>	<b>ZONE 1A</b>	<b>ZONE 1</b>	<b>ZONE 2</b>
Less than \$100,000	\$145.00	\$120.00	\$90.00
\$100,001 - \$150,000	\$175.00	\$150.00	\$115.00
\$150,001 - \$200,000	\$205.00	\$180.00	\$135.00
\$200,001 - \$300,000	\$255.00	\$230.00	\$175.00
\$300,001 - \$400,000	\$305.00	\$280.00	\$210.00
\$400,001 - \$500,000	\$355.00	\$330.00	\$250.00
\$500,001 - \$750,000	\$425.00	\$400.00	\$300.00
\$750,001 - \$1,000,000	\$495.00	\$400.00	\$300.00
\$1,000,001 and up	\$525.00	\$400.00	\$300.00

**Hayward Downtown Business Improvement Area  
FY 2014 Budget**

<b>REVENUES</b>	
DBIA Assessments	\$ 55,000
DBIA Budget Reserve	\$ 35,000
<b>Total Revenues</b>	<b>\$ 90,000</b>
<b>EXPENSE ITEMS</b>	
Summer Street Parties (1)	
June 2013	\$ 7,500
July 2013	\$ 7,500
August 2013	\$ 7,500
Item Subtotal:	\$ 22,500
Banners	
One Banner Rotation	\$ 3,400
Banner Storage	\$ 500
Hardware	\$ 15,000
Item Subtotal:	\$ 18,900
Marketing, Promotions & Communications	
Marketing Strategies (Could include banners)	\$ 33,000
Item Subtotal:	\$ 33,000
Sidewalk Cleaning Contract	
Sidewalk Cleaning Entire BIA 2 x Year	\$ 15,600
Item Subtotal:	\$ 15,600
<b>Total Budget</b>	<b>\$ 90,000</b>

**DATE:** July 9, 2013  
**TO:** Mayor and City Council  
**FROM:** City Manager  
**SUBJECT:** Designation of Voting Delegates and Alternates for the League of California Cities 2013 Annual Conference

**RECOMMENDATION**

That the City Council designates a voting delegate and two alternate voting delegates as Hayward’s representatives to the League of California Cities 2013 Annual Conference and adopts the attached Resolution with the designees identified; and authorizes the City Manager to complete and submit the “2013 Annual Conference Voting Delegate/Alternate Form” along with Council’s adopted Resolution.

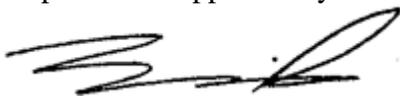
**DISCUSSION**

The League of California Cities requires that voting delegates and alternates be designated by formal Resolution of the Council, and can no longer be accomplished by individual action of the Mayor or City Manager. Voting delegates and alternates may be any City official, elected or appointed.

The voting delegate or alternate must be registered to attend the conference, which is scheduled for September 18-20, 2013, in Sacramento, CA. The voting card may be transferred freely between the delegate and the alternates, providing that each is registered at the conference. Council Members Salinas, Halliday, and Mendall have expressed interest in attending the League’s Annual Conference and have registered to do so.

The League’s correspondence on this matter, the Annual Conference Voting Procedures, and the Voting Delegate/Alternate form are attached for Council’s reference. The completed form is due back to the League offices no later than August 23, 2013.

Prepared and Approved by:



\_\_\_\_\_  
Fran David, City Manager

Attachments:

Attachment I - Resolution Designating a Voting Delegate and Two Alternate Voting

Delegates as Hayward's Representatives to the LCC 2013 Annual Conference

Attachment II - Letter from LCC requesting Designation of Voting Delegate and Alternates to the LCC 2013 Annual Conference

HAYWARD CITY COUNCIL

RESOLUTION NO \_\_\_\_\_

Introduced by \_\_\_\_\_

A RESOLUTION DESIGNATING A VOTING DELEGATE AND TWO ALTERNATE VOTING DELEGATES AS HAYWARD'S REPRESENTATIVES TO THE LEAGUE OF CALIFORNIA CITIES 2013 ANNUAL CONFERENCE

WHEREAS, the City of Hayward is a member of the League of California Cities and the League's Annual Conference is scheduled for September 18-20, 2013, in Sacramento, CA; and

WHEREAS, during the annual conference, the League membership considers and takes action on resolutions that establish League policy; and

WHEREAS, in order to vote on behalf of the City of Hayward at the League's Annual Business Meeting, it is necessary to designate voting delegates and alternates prior to the Annual Conference in accordance with the League's By-Laws; and

WHEREAS, Council Members Salinas, Halliday, and Mendall have expressed interest in attending the League's Annual Conference and have registered to do so.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Council Member Mark Salinas is hereby designated as the City's voting delegate and Council Members Barbara Halliday, and Al Mendall are hereby designated as the City's alternate voting delegates to the League of California Cities 2013 Annual Conference.

IN COUNCIL, HAYWARD, CALIFORNIA, \_\_\_\_\_, 2013

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

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



1400 K Street, Suite 400 • Sacramento, California 95814  
 Phone: 916.658.8200 Fax: 916.658.8240  
[www.cacities.org](http://www.cacities.org)

**RECEIVED**

**MAY 07 2013**

**Council Action Advised by August 2, 2013.**

**OFFICE OF MAYOR**

**PLEASE NOTE:** You are receiving this letter and form earlier than usual because hotel space near the Sacramento Convention Center for the Annual Conference will be especially tight this year. As a result, we want to encourage you to make your hotel reservations early.

April 26, 2013

**TO: Mayors, City Managers and City Clerks**

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
 League of California Cities Annual Conference – September 18 - 20, Sacramento**

The League's 2013 Annual Conference is scheduled for September 18 - 20 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (*at the General Assembly*), scheduled for noon on Friday, September 20, at the Sacramento Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 23, 2013. This will allow us time to establish voting delegate/alternates' records prior to the conference.**

Please note the following procedures that are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: [www.cacities.org](http://www.cacities.org). In order to cast a vote, at least one person must be present at the

- Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.
- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.
- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 18, 9:00 a.m. – 6:30 p.m.; Thursday, September 19, 7:00 a.m. – 4:00 p.m.; and September 20, 7:30–10:00 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but not during a roll call vote, should one be undertaken.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League office by Friday, August 23. If you have questions, please call Mary McCullough at (916) 658-8247.

Attachments:

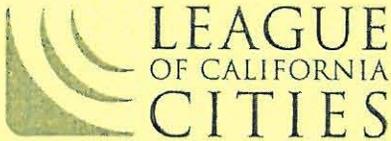
- 2013 Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



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## Annual Conference Voting Procedures 2013 Annual Conference

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: \_\_\_\_\_

2013 ANNUAL CONFERENCE  
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, **August 23, 2013**. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

**Please note:** Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

**1. VOTING DELEGATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**2. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**3. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.**

**OR**

**ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).**

Name: \_\_\_\_\_ E-mail \_\_\_\_\_

Mayor or City Clerk \_\_\_\_\_ Phone: \_\_\_\_\_  
(circle one) (signature)

Date: \_\_\_\_\_

**Please complete and return by Friday, August 23, 2013**

League of California Cities  
**ATTN: Mary McCullough**  
1400 K Street  
Sacramento, CA 95814

**FAX: (916) 658-8240**  
E-mail: [mmccullough@cacities.org](mailto:mmccullough@cacities.org)  
(916) 658-8247