



CITY OF  
**HAYWARD**  
HEART OF THE BAY

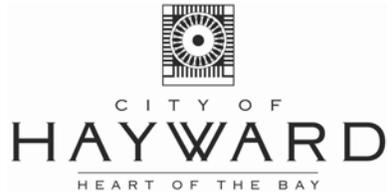
**SPECIAL CITY COUNCIL AGENDA**  
**APRIL 14, 2015**

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**MAYOR BARBARA HALLIDAY**  
**MAYOR PRO TEMPORE GREG JONES**  
**COUNCIL MEMBER FRANCISCO ZERMEÑO**  
**COUNCIL MEMBER MARVIN PEIXOTO**  
**COUNCIL MEMBER AL MENDALL**  
**COUNCIL MEMBER SARA LAMNIN**  
**COUNCIL MEMBER ELISA MÁRQUEZ**

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SPECIAL CITY COUNCIL MEETING FOR APRIL 14, 2015  
777 B STREET, HAYWARD, CA 94541  
[WWW.HAYWARD-CA.GOV](http://WWW.HAYWARD-CA.GOV)

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**SPECIAL CITY COUNCIL MEETING**  
**Council Chambers – 7:00 PM**

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

**ROLL CALL**

**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 Information 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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**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 any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

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

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

**LEGISLATIVE BUSINESS**

1. Consideration of a Community Workforce Agreement with the Building and Construction Trades Council of Alameda County for the New Library and Community Learning Center Project(Report from Assistant City Manager McAdoo)  
[Staff Report](#)  
[Attachment I Resolution](#)

[Attachment II CWA Terms Sheet](#)  
[Attachment III Proposed Side Letter](#)  
[Attachment IV Project Scope](#)

2. Downtown Parking Study – Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement and Appropriation of Funds (Report from Public Works - Engineering and Transportation Director Fakhrai)

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

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*Information items are presented as general information for Council and the public. Should Council wish to take action on any of the “information” items, they will direct the City Manager to bring them back on a future Council agenda as an Action Item.*

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## **INFORMATION ITEMS**

None

## **CITY MANAGER’S COMMENTS**

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

## **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 SPECIAL MEETING - COUNCIL RETREAT - Saturday, April 18, 2015, 9:00 a.m.  
Hayward Executive Airport, 20301 Skywest Drive, Hayward, CA 94541**

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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.*

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April 14, 2015



**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:**



**DATE:** April 14, 2015

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

**SUBJECT:** Consideration of a Community Workforce Agreement with the Building and Construction Trades Council of Alameda County for the New Library and Community Learning Center Project

### **RECOMMENDATION**

That Council considers and takes appropriate action related to a potential Community Workforce Agreement (CWA) with the Building and Construction Trades Council of Alameda County (“Building Trades Council”) for the New Library and Community Learning Center Project.

1. If Council chooses to proceed with the CWA, staff has attached a resolution that would authorize the City Manager to negotiate and execute an agreement with the Building Trades Council and affiliated parties (Attachment I) based on the terms outlined on Attachment II.
2. If the Council chooses to proceed with the CWA, that the Council approves the completion and concurrent execution of the side letter contained in Attachment III. This side letter would preserve the Council’s right and authority to reject all bids for the Library project and rebid the project without the CWA for any reason deemed appropriate by the City Council, including bids significantly in excess of the engineer’s estimate, too few qualified bids received for the project, or other reasons. Implementation of the rebid provisions contained in the side letter would require subsequent action by the City Council.

### **SUMMARY**

The Building and Construction Trades Council of Alameda County (“Building Trades Council”) and the City of Hayward have been discussing and working on a Community Workforce Agreement (CWA) for about two years. Over the past month, the Building Trades Council reinvigorated these discussions with staff’s support to develop terms for a CWA specific to the new Library and Community Learning Center project, which will be advertised for construction bids in May 2015.

Staff has been working diligently with representatives from the Building Trades Council since mid-March to negotiate the various terms and conditions of a potential CWA that would be applicable to

the new Library project should Council wish to consider one for adoption. Attachment II outlines the terms of the proposed CWA as they have currently been negotiated. Staff and the Building Trades Council have drafted a good portion of the language for the agreement and stand poised to expeditiously negotiate the remaining terms and execute the agreement based on Council direction. This would need to occur quickly in order to allow the terms of the agreement to be incorporated into the bid documents for the Library project, currently scheduled to be approved by the City Council on May 26, 2015 and advertised shortly thereafter.

There is consensus on all terms of the agreement with the exception of language proposed in the side letter to the agreement (Attachment III). The intent of the side letter is to preserve the Council's right and authority to reject all bids for the Library project and rebid the project with or without the CWA for any reason deemed appropriate by the City Council, including bids significantly in excess of the engineer's estimate, too few qualified bids received for the project, or others. Implementation of the rebid provisions contained in the side letter, should that become desirable, would require separate action by the City Council at that time.

Staff recommends that the Council first provide direction on whether the City wishes to enter into a CWA with the terms and conditions generally outlined in Attachment II. If yes, then staff also requests Council direction on whether to complete negotiations on and to concurrently execute the outstanding side letter.

## **BACKGROUND**

CWA agreements were entirely prohibited on federal and federally funded construction projects from 2001 to 2009 pursuant to Executive Order. In 2009, a new Executive Order was issued that encouraged Project Labor Agreements (PLAs) on large-scale construction projects where the total cost to the Federal Government is \$25 million or more. These types of agreements have been historically used on larger scale construction projects until recently when some cities have negotiated agreements to apply more broadly to smaller public works projects on a citywide basis.

Very often, municipal policy bodies and their communities want to support various policy positions or deeply held principles through their actions targeted at specific objectives or service to unique segments of the population. Hayward has long been a solid supporter of labor rights, fair wages, and the creation of quality jobs within the community. Many actions taken by Council over time are in support of these values. For instance, Hayward has long required payment of prevailing wages on construction projects whether or not such was required by state or federal regulations. Hayward has had a Living Wage Ordinance in place for many years. And, the creation of quality jobs is a core value of the Economic Development Strategic Plan.

While California General Law cities are constrained by the elements of the Public Contract Code when bidding construction projects, charter cities, like Hayward, have much more latitude to establish local bidding criteria to address other legitimate municipal concerns, such as to promote the hiring of local residents or the support of local business where possible. Some charter cities have chosen to simply adopt local hire ordinances or require the payment of prevailing wages, while others have gone a step further to adopt CWAs, or PLAs, to govern either individual, large scale construction projects, or to more generally include public works projects in a community.

As noted above, Hayward already requires the payment of prevailing wages on its public works projects. Based on staff evaluation of construction projects for the past three years, more than 90% of those projects were performed by contractors that already belong to a local labor union (i.e., “union contractors”). However, Council has over the last few years expressed interest in being more proactive regarding assuring quality wages on all City construction projects, supporting and procuring from local businesses, and protecting and increasing quality jobs for local residents.

## **DISCUSSION**

Over the years, CWAs/PLAs have been utilized in the construction industry to assure well-managed labor issues related to major construction projects and to accomplish some local goals. They are a type of collective pre-hire bargaining agreement between project managers or owners and organized labor that outline a variety of employment and other working conditions with the express purpose of providing peaceful settlement of labor disputes and grievances without strikes or lockouts; thereby allowing for the timely and cost-effective completion of projects. Typically, these types of agreements include the following types of provisions:

- 1) Requirements that contractors on a project use local union hiring halls to hire trades workers for the projects;
- 2) Requirements that all hired workers pay union dues and other benefit trust fund contributions;
- 3) Management rights regarding employment procedures, including hiring, discipline, etc;
- 4) Grievance and arbitration procedures to allow for timely resolution of disputes;
- 5) Standardized work rules and regulations; and
- 6) Provisions governing requirements around apprenticeships.

CWAs also typically include a “local hire” provision, which is intended to be a community benefit of these types of agreements. Local hire typically means that provisions are included in the agreement that require or encourage contractors to hire local residents for construction projects covered by the agreement. For communities with significant portions of their populations employed in the building and construction trades, this can create local jobs if implemented and administered correctly and effectively in a supportive economy. As previously noted, local hire can also be implemented independently of CWAs, typically through adoption of an ordinance.

### *Potential Contributors to Higher Costs*

- A. There has been significant debate over the years regarding the effectiveness of these types of agreements and the impact of these agreements on project costs. This is related to three components of CWAs:
  1. Less Competition: One of the fundamental characteristics of a CWA is that the agreements typically require all workers on a construction project to agree to union representation, thereby clearly identifying a bargaining representative. This raises a key concern with these types of agreements, namely that the number of contractors bidding on jobs will be reduced because non-union contractors will have a more difficult time meeting the requirements of the CWA in a cost-competitive manner. CWAs do not preclude non-union contractors from bidding on projects, but it does require them to

consent to the terms and conditions spelled out in the agreement. Again, it should be noted that with or without a CWA, and whether or not a contractor uses union labor, almost all work in Hayward requires the payment of at least prevailing wage. However, in addition to prevailing wage rates that are consistent for projects with or without CWA, a project with CWA will require the contractors to pay into established vacation, pension or other forms of deferred compensation plans, apprenticeship programs, and health benefits, just to name a few. These added labor costs will certainly increase the overall cost of the project. Some studies have indicated that reduced competition and added labor costs can contribute to potential cost increases of between 10-13%. However, this is an issue that has been analyzed and debated on both sides with no clear and definitive conclusions.

2. **Local Hire Requirement:** In the past, one of the significant community benefits of a CWA was intended to be a mandatory minimum percent of local hires. In other words, a certain number of hires in each trade were required to be from the local hiring hall with the intention that they also be residents of the community covered by the CWA. This, of course, requires significant monitoring efforts by the agency partner (the City) to the CWA, which does increase administrative costs.

In a “hot” labor/construction market such as the one we are currently in, achieving the desired percentage of “local hires” in each trade becomes a difficult challenge for both contractors and labor: good trades folks from the community are already working. Therefore, if the local hire provision is stringently required, it has the potential of causing contractors to take on less than qualified employees, over-hire to meet the requirement, or shift employees from one job to another. All of which have the potential to increase costs on the project.

3. **Increased Administrative Costs:** The monitoring and record-keeping required to assure a well-run CWA on any project is viewed by many as being a cost driver. The monitoring of the complex local hire and apprenticeship requirements contained in the attached draft agreement and described below demonstrate the clear potential for increasing administrative costs both for City staff and the contractor.

- B. The current construction climate also has implications for the successful implementation of a CWA. In the current Bay Area construction market, there is a construction boom, which reduces the number of qualified employees seeking construction jobs. It also results in contractors becoming more selective about the construction jobs they choose to bid on. There is some anecdotal evidence that, in a tight construction climate, contractors will not bid on jobs or will significantly escalate their bids and prices where there are additional or unique requirements, including CWAs. Given the very tight budget currently proposed for the Library and Community Learning Center and the project cost estimate provided to the voters during the Measure C election, staff has concerns about the implications a CWA might have for both the number of bids received for the project if it includes the CWA and also whether the bids received will exceed the current project cost estimate.

### Local Examples

The Hayward Unified School District adopted such an agreement in June 2009 to apply specifically to five school construction and modernization projects funded by Measure I bond funds. This agreement has been held up as a successful example that has met the key objectives of the agreement, including exceeding the 40% local hire goal as established in the agreement. Another local agreement that applies more broadly to Citywide public works contracts is the agreement adopted by the City of Berkeley in January 2011. The Berkeley agreement applies to City public works projects exceeding \$1 million for a term of three years. The Berkeley agreement includes a side letter that indicates the agreement will be reviewed after one year based on certain criteria and that the project cost threshold for application of the CWA could be lowered to \$250,000. The Berkeley agreement also requires contractors to make contributions to fund the implementation and management of the local hire program based on the number of hours worked on a project, allowing the City to recapture a portion of the administrative costs required to implement these types of agreements.

The Berkeley City Council completed their one year review of the CWA in mid-2012 and decided to extend the \$1 million threshold for another year because the local hire goals in the agreement were not met during the initial evaluation period. Staff has previously discussed the successes and challenges of both the HUSD and Berkeley agreements with staff from both agencies. These two agreements have largely formed the basis for the negotiations Hayward staff has undertaken with the Building Trades Council over the past month.

### Current Negotiations and Draft Agreement

Staff has been working diligently with representatives from the Building Trades Council to negotiate the various terms and conditions of a potential CWA for the City of Hayward Library and Community Learning Center Project should Council wish to consider one for adoption. Attachment II outlines the most recent terms of the proposed CWA that have been negotiated. Staff and the Building Trades Council have drafted a good portion of the language for the agreement and stand poised to expeditiously execute the agreement based on Council direction.

There is consensus on all terms of the agreement with the exception of language proposed in the side letter to the agreement. The intent of the side letter is to preserve the City Council's right to reject all bids on the Library project and to rebid the project without the CWA for any reason deemed appropriate by the City Council, including bids significantly in excess of the engineer's estimate, too few qualified bids received for the project, or others. Implementation of the rebid provisions contained in the side letter would require subsequent action by the City Council. Staff recommends that the Council first provide direction on whether they wish to enter into a CWA with the terms and conditions generally outlined in Attachment II. If yes, then staff requests direction on the side letter.

### General CWA Terms and Conditions as Currently Negotiated:

Term: The agreement that runs concurrently with the life of the Library and Community Learning Center project construction.

Scope of the Library and Community Learning Center Project Subject to the CWA: The entire scope of the Library and Community Learning Center Project, including the construction of the plaza on the former library site and narrowing of C Street, would be subject to the terms of the CWA. Attachment IV to the report shows the current site plan and project scope that staff plans to include in the bid documents being prepared. The overall project includes:

- Construction of a state-of-the-art library and learning center facility
- Restoration and preservation of the historic Heritage Plaza/Arboretum
- Pedestrian-friendly streetscape improvements to C Street
- Accessibility upgrades to the downtown parking garage
- Rainwater catchment and storage system capable of saving 400,000 gallons of rainwater per year
- Photovoltaic (PV) solar panel array capable of meeting all of the new library's electricity needs with free energy from the sun.

The scope also includes on-site construction, demolition, site preparation and construction trucking work. Off-site fabrication and other specialty work will be covered by the CWA if this work is covered under an existing master labor agreement between the trade unions and contractor representatives. The CWA will only apply to the Library and Community Learning Center Project and the City retains the right under the CWA to award the contract to the lowest responsible bidder.

No Work Stoppages, Job Actions, etc: By entering into this agreement, the Unions agree that there will be no strikes, sympathy strikes, work stoppages, slowdowns of any kind, picketing, hand billing or other methods of advising the public that there is a labor dispute at a job site or other City facility because of a dispute on the project. There is an exception to this that allows the Unions to withhold labor from the project if a contractor fails to pay contributions to Union trust funds.

Union Hiring Hall: Contractors working on projects covered by this agreement must agree to abide by the requirements and referral systems of the respective Union hiring hall when filling jobs on a project. Contractors retain the right to reject any applicant referred to them and, if the Union referral facilities are unable to fill the requirements of the contractor within seventy-two hours of a request being made, the contractor can obtain employees from other sources. In addition, the contractor can utilize a certain number of its "core" construction employees (capped at five per contractor or subcontractor) on projects, provided that the contractor utilizes one employee from the Union referral system for each "core" employee hired up to the cap, and subject to availability as described above.

Local Hire: There is a goal in the agreement that 30% of the hours worked on a project be performed by Hayward residents and/or HUSD graduates, through good faith efforts of the contractor. As this becomes the most challenging provision of the CWA for most contractors to meet and may add to project costs as a result, staff proposes that the local hire provision be a goal only without strict enforcement or penalty mechanisms. The local hire provisions are one of the key value adds of the agreement to the Hayward community so the softening of this provision calls into question the overall value of the agreement to the community.

Contractors are also required to hire ten Hayward residents or HUSD graduates as a “first period apprentices” for the project (capped at two per craft). The contractor must make good faith efforts to retain the required apprentices and agree to hire them for a minimum of 1,000 hours or a time period of six months on the project. As described below, a Joint Administrative Committee would be responsible for monitoring and enforcing the local hire provisions.

In addition, the Building Trades Council agrees to make a good faith effort to enroll at least an additional ten Hayward residents or HUSD graduates in a paid classroom apprenticeship program during the life of the construction of the Library project. This would be a much stronger component if the performance measure focused on graduating and placing ten rather than focusing just on the initial selection and hiring.

Joint Administrative Committee: The CWA will be implemented by a five-member Joint Administrative Committee comprised of two union representatives, two City representatives, and a General Contractor representative. The Committee will meet quarterly to review CWA and project compliance.

Substance Abuse Policy: Pursuant to the requirements of SB 922, there must be a substance abuse policy adopted in conjunction with any CWA. This proposed CWA requires Unions to abide by the testing policies established in their respective master labor agreements. If no such policy exists, then the City’s policy (as attached to the agreement) would be implemented. If the General Contractor selected for the project has a substance abuse policy that meets or exceeds the terms of the policy contained within the CWA, the General Contractor will be allowed to use their policy instead.

#### Side letter and Library Project Bidding Requirements

Throughout the negotiations, staff has been mindful of numerous concerns related to the CWA, both real and perceived. These concerns include, among others: administrative burden on City project managers related to implementation and monitoring of the CWA; effectiveness of the local hire provisions; and potential impacts on number of bidders per contract and increased costs for projects. There are a couple of possible options to allow the Council to address these concerns.

1. If the Council directs staff to proceed with the CWA, staff strongly recommends that the Council adopt the side letter contained in Attachment III to this report to be executed concurrently with the CWA. The intent of the side letter is to preserve the City Council’s right to reject all bids on the Library project and to rebid the project without the CWA for any reason deemed appropriate by the City Council, including bids significantly in excess of the engineer’s estimate, too few qualified bids received for the project, or others. Implementation of the rebid provisions contained in the side letter would require subsequent action by the City Council.

Preserving the Council’s right to make policy choices regarding the continued implementation of the CWA once the bids for the Library project are received is a prudent and responsible policy decision for the Council. For example, if the project

bids come back and exceed the engineer's estimate by 30%, the Council needs to preserve any and all options for reducing project costs, up to and including elimination of the terms of the CWA from the project. Failing to protect these rights gives up the Council's authority to make decisions they deem appropriate on behalf of the community. Staff believes that implementation of the rebid provisions contained in the side letter would only occur in extraordinary circumstances. Rebidding the project would be a last resort from the staff perspective as it would cause significant time delays and additional associated cost implications. However, preserving this option is critical for a project of this magnitude and cost.

2. Another option for the Council to consider as a way to more fully understand the cost implications associated with the CWA is not recommended by staff. However, Council could direct staff to bid the project both with and without the terms of the CWA. In essence, the contractor would submit two cost estimates for the project. This could be problematic for a variety of reasons. First, it might encourage contractors to play games with their cost estimates, artificially inflating the CWA project costs. Second, requiring two separate cost estimates creates more work for contractors bidding on the project and many contractors may simply choose not to bid on the project due to the complexity associated with submitting two cost packages. This causes concerns in the current construction climate where staff is already concerned about receiving an adequate number of quality contractors bidding on this project.

### Summary of Council Decisions

1. The first decision point for the Council associated with this report is whether to enter into a CWA pursuant to the terms outlined in Attachment II to this report.
2. If the Council approves the CWA, staff strongly recommends that Council adopt the side letter in Attachment III to be executed concurrently with the CWA.

### **ECONOMIC AND FISCAL IMPACT**

There has been much debate over the years regarding the fiscal impacts of CWAs/PLAs. There are academic studies on both sides of the issue indicating that the application of CWAs does or does not add costs to construction projects. Staff's primary concern related to the CWA is the administrative burden on City project managers for implementing and monitoring the agreement. In addition, the tight construction market in the Bay Area may result in significantly fewer contractors bidding on the Library project because they have other project options and don't want to deal with the real or perceived complications of the CWA on the Library project. These same perceived or real complications may also significantly increase the costs of the bids being received for the project.

### **NEXT STEPS**

If the Council so directs, staff will proceed to finalize negotiations on the CWA based on the direction provided by Council and the City Manager will execute the agreement and Side Letter.

Once the documents are executed, Public Works staff will include the elements of the CWA into the bid documents for the Library project. The timeline for this project is already extremely tight for a project of this magnitude and complexity, even without the CWA requirements.

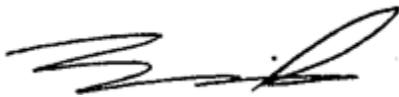
The Bay Area is experiencing a construction boom that is expected to last at least the next two years. Major projects are underway or in the immediate pipeline in San Francisco and Silicon Valley that have the potential to suck up the remaining construction resources in the area. Staff is extremely concerned that if we are not able to meet the timeline defined below, these labor market conditions and weather will combine to both delay the project significantly and drive costs up even more.

The current schedule follows:

|                         |  |
|-------------------------|--|
| April 14, 2015          | CWA decision by Council  |
| Prior to April 17, 2015 | If approved, CWA and Side Letter executed by all parties   |
| April 24, 2015          | 100% plans / specifications completed (including provisions of CWA)  |
| May 26, 2015            | Plans / Specs Approval by City Council and Advertise for Bids  |
| June 30, 2015           | Bid Opening  |
| July 21, 2015           | Contract Award (last Council meeting before summer recess; next scheduled Council meeting will likely be 9/15/15; if need to schedule a special meeting for contract award, would need to be either 7/28/15 or 8/3/15) |
| August 18, 2015         | Notice to Proceed to Contractor (based on 7/21/15 award date)  |
| September/October 2015  | Construction begins  |
| Spring 2017             | Library Construction Completion  |
| Fall 2017               | Plaza Construction Completion  |

*Prepared by:* Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution
- Attachment II: Potential CWA term sheet
- Attachment III: Side letter regarding Council rebid authority
- Attachment IV: Site Plan and Scope of Library and Community Learning Center Project

HAYWARD CITY COUNCIL  
RESOLUTION NO.  
Introduced by Council Member

RESOLUTION AUTHORIZING THE CITY MANAGER TO  
NEGOTIATE AND EXECUTE A COMMUNITY  
WORKFORCE AGREEMENT WITH THE  
BUILDING AND CONSTRUCTION TRADES COUNCIL of ALAMEDA COUNTY,  
LOCAL UNIONS AND CONTRACTORS

WHEREAS, the successful completion of the City’s Library and Community Learning Center construction project is of utmost concern to the City Council; and

WHEREAS, the interests of the public, the City, contractors and the Building and Construction Trades Council of Alameda County and its affiliated unions (collectively the “Building Trades Council”) are best served when construction proceeds in an orderly manner without disruption by strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interference with work; and

WHEREAS, it is in the best interest of the City and its residents to provide stability on said project and employment and training opportunities for Hayward residents; and

WHEREAS, a Community Workforce Agreement is designed to accomplish these goals; and

WHEREAS, under the proposed Community Workforce Agreement, the City has the absolute right to award its public works contracts to the lowest responsive and responsible bidder; and

WHEREAS, State law authorizes the use of project labor agreements, such as the proposed Community Workforce Agreement, provided that the agreement includes specific taxpayer protections, which provisions have been incorporated into the proposed Community Workforce Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to negotiate and execute a Community Workforce Agreement with the Building and Construction Trades Council of Alameda County, and its affiliated unions and the contractor and subcontractors who are awarded the contract for the Library and Community Learning Center Project that meet the thresholds and recommendations set forth in the accompanying staff report as directed at this meeting, for life of this project, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA, 2015

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

**ATTACHMENT II**  
**COMMUNITY WORKFORCE AGREEMENT (CWA) – KEY DEAL POINTS**  
City of Hayward (Working Document)  
April 5, 2015

| <b>CWA Subject Areas<sup>1</sup></b> | <b>City of Hayward Proposal</b>  |
|--------------------------------------|--|
| <i>Projects Covered by the CWA</i>   | <p>New Library and Community Learning Center project only</p> <p>On-site construction, demolition, site preparation, construction trucking work (e.g., delivery of ready-mix, asphalt, etc.) covered.</p> <p>Repair and maintenance of City facilities not included.</p> <p>Off-site fabrication included if this work is legally covered in existing Master Agreements on the day the CWA is signed.</p> <p>Specialty work included, e.g, software, traffic signal controllers, if this work is legally covered in Existing Master Agreements on the day the CWA is signed.</p> <p>City retains right to award to lowest responsible bidder.</p> <p>Only applies to projects awarded by City.</p> |
| <i>Parties Bound by CWA</i>          | All signatory unions and all contractors and their subcontractors bound by the terms of CWA.   |
| <i>Work Stoppages</i>                | <p>No work stoppages, strikes, sympathy strikes, slowdowns or lockouts during term of CWA.</p> <p>Union can withhold labor (but not picket) for contractor nonpayment of union trust fund contributions.</p>   |
| <i>Arbitration</i>                   | All disputes/grievances subject to arbitration by pre-selected arbitrators.  |

<sup>1</sup> A side letter to this Agreement, if approved by Council, allows the City to retain the right to reject all bids and rebid the project with or without the CWA for any reasons deemed appropriate by Council.

**ATTACHMENT II**  
**COMMUNITY WORKFORCE AGREEMENT (CWA) – KEY DEAL POINTS**  
City of Hayward (Working Document)  
April 5, 2015

| <b>CWA Subject Areas<sup>1</sup></b>   | <b>City of Hayward Proposal</b>   |
|--|---|
| <i>Arbitration (con't)</i>             | <p>Expedited arbitration and liquidated damages for disputes over strikes, lockouts, nonpayment of trust fund contributions.</p> <p>All other disputes/grievances subject to meet and confer process followed by arbitration.</p>   |
| <i>Work Force/ Core Employees</i>      | <p>Except for contractors' core employees, all workers shall be provided by through unions' referral hall process. Contractor has right to reject an individual referral.</p> <p>Employees referred through unions must pay union dues, fees, pension-fund type benefits; not required to join union.</p> <p>Contractors can use their own management, administrative staff, and "core employees" as defined in CWA.</p> <p>Number of core employees per contractor and subcontractor is five each with no residency requirements for core employees.</p>   |
| <i>Local Hire/<br/>Apprenticeships</i> | <p>30% of hours worked on a CWA project shall be performed by Hayward residents and/or HUSD graduates, through good faith efforts.</p> <p>Trades agree to enroll at least ten Hayward residents or HUSD graduates in a paid classroom apprentice program during the life of the construction project and place them on a job site.</p> <p>Contractor required to hire ten Hayward residents or HUSD graduates as "first period apprentices" for the project (capped at two per craft). Apprentices must be hired for a minimum of 6 months or 1,000 hours. Good faith efforts to retain the apprentices required.</p> |

**ATTACHMENT II**  
**COMMUNITY WORKFORCE AGREEMENT (CWA) – KEY DEAL POINTS**  
City of Hayward (Working Document)  
April 5, 2015

| <b>CWA Subject Areas<sup>1</sup></b>           | <b>City of Hayward Proposal</b>  |
|--|--|
| <i>Local Hire/<br/>Apprenticeships (con't)</i> | Enforcement of this provision shall be subject to the grievance procedure outlined in Section x.x of the Agreement.  |
| <i>Term</i>                                    | Life of the Library and Learning Center Construction project   |
| <i>Implementation of CWA</i>                   | CWA implemented by five-member Joint Administrative Committee comprising union representatives, contractor representatives & City representatives; meet quarterly to review CWA and project compliance.<br><br>Five members include: 2 City reps; 2 Union reps; and 1 General Contractor rep   |
| <i>Wages/Benefits</i>                          | Established by unions and prevailing wages.  |
| <i>Substance Abuse Prevention</i>              | Required by state law. Unions will be required to abide by testing policies established by their respective Master Agreements. If there is no drug policy in the Master Agreement, the CWA drug policy would go into effect. If the General Contractor's program meets or exceeds the CWA policy, then the General Contractor may use their program. |

Letter Agreement

April 14, 2015

Building and Construction Trades Council of Alameda County  
Re: Letter of Agreement for Community Workforce Agreement

Dear \_\_\_\_\_:

Over the past month, representatives of the City of Hayward and the Building and Construction Trades Council of Alameda (collectively the “Parties”) met to negotiate the terms of a Community Workforce Agreement (“CWA”) for the Library and Community Learning Center Project. This Side Letter is executed to set forth the Parties’ agreement regarding the implementation of the certain terms of the CWA.

The Parties agree:

1. City staff reserves the right to seek approval from the City Council to reject all bids received for the Library and Community Learning Center Project for any and all legal and appropriate reasons.
2. That the City Council reserves the right to rebid the project with or without the CWA for any number of factors, including the CWA, bids significantly in excess of the engineer’s estimate, too few qualified bids received for the project, or any other reason deemed appropriate and that any rebid would be subject to Council approval.

21<sup>st</sup> CENTURY LIBRARY AND COMMUNITY LEARNING CENTER  
PROJECT SCOPE, FISCAL IMPACT, AND SITE PLAN

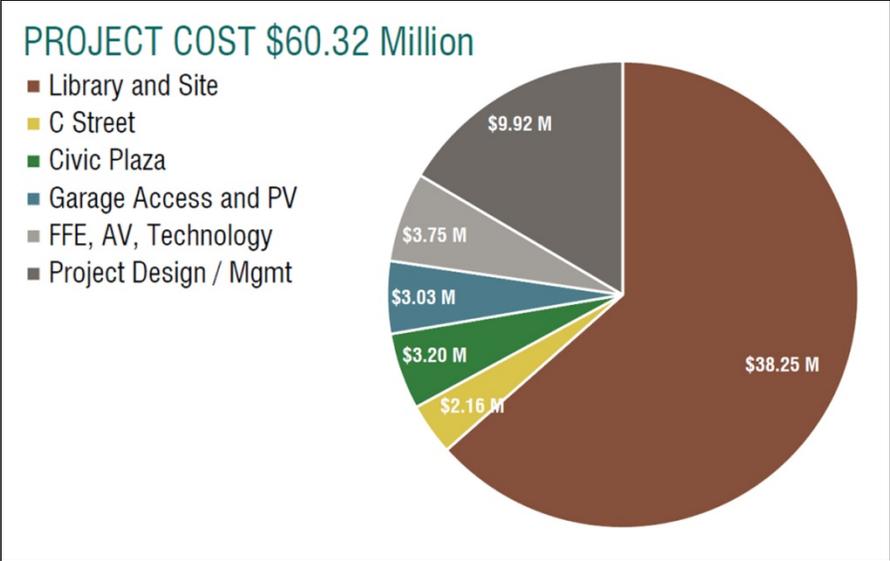
*Excerpted from City Council report and presentation of 11/18/2014*

The 21st Century Library project is a major downtown revitalization project designed to update Hayward’s aging infrastructure to meet the community’s needs for the next 100 years. The overall project includes:

- Construction of a state-of-the-art library and learning center facility
- Restoration and preservation of the historic Heritage Plaza/Arboretum
- Pedestrian-friendly streetscape improvements to C Street
- Accessibility upgrades to the downtown parking garage
- Rainwater catchment and storage system capable of saving 400,000 gallons of rainwater per year
- Photovoltaic (PV) solar panel array capable of meeting all of the new library’s electricity needs with free energy from the sun.

City staff and the architect have updated the estimate of the project’s total cost with input from sub-consultant Davis-Langdon, a global construction consulting firm. The total project cost is currently estimated at \$60.32 million (Figure 1.).

*Figure 1. Overall Project Cost Estimate.*

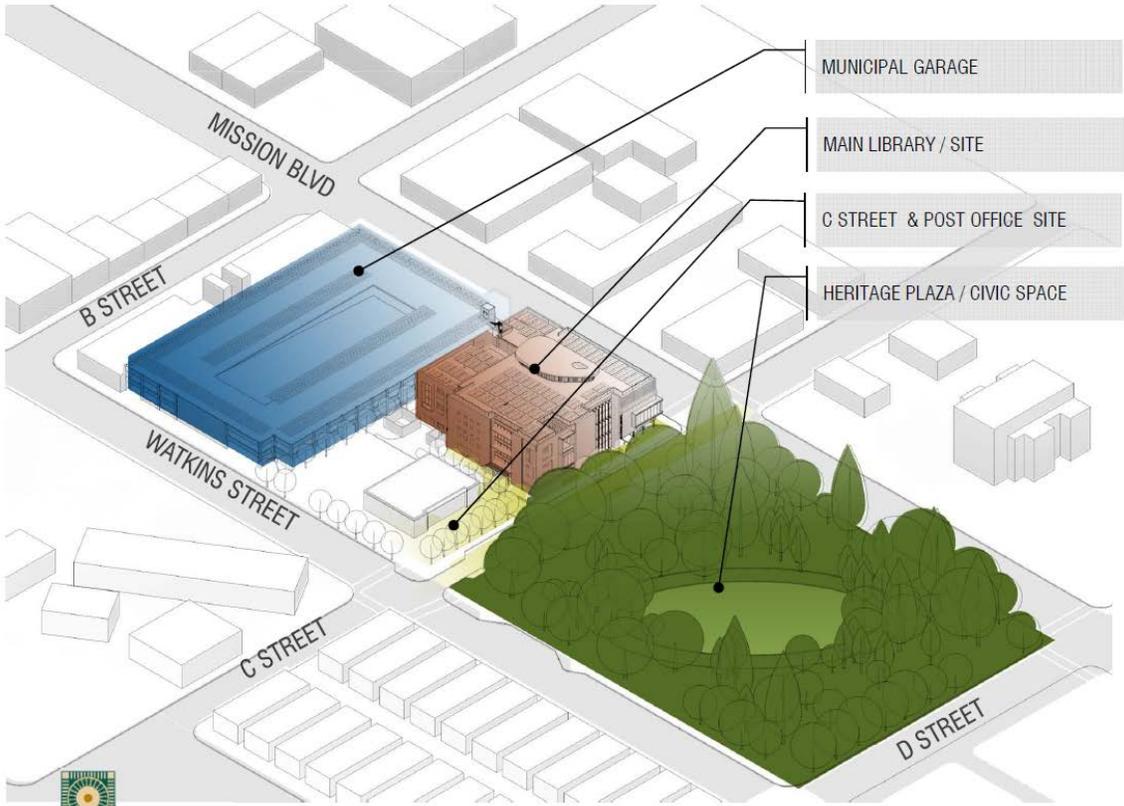


This updated cost estimate is a “turnkey” estimate that includes all currently known and anticipated construction-related project-related costs from start to finish. The estimate assumes an August 2015 construction start, and reflects rapidly rising costs in the construction market.

The timing of the 21<sup>st</sup> Century Library and Community Learning Center and Heritage Plaza/ Arboretum project, particularly the timing of when it goes out to construction bid, will have an appreciable impact on the overall project cost.

For example, if the project begins construction in August 2016 as opposed to August 2015, staff estimates that rising construction costs will increase the overall project cost by approximately \$1.6 million.

SITE PLAN



HAYWARD LIBRARY & COMMUNITY LEARNING CENTER  
HERITAGE PLAZA PROJECT SCOPE

| noll&tam | 18 November 2014

**DATE:** April 14, 2015

**TO:** Mayor and City Council

**FROM:** Director of Public Works – Engineering & Transportation

**SUBJECT:** Downtown Parking Study – Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement and Appropriation of Funds

### **RECOMMENDATION**

That Council adopts the resolutions (Attachments I and II):

1. Authorizing the City Manager to negotiate and execute a professional services agreement with CDM Smith, Inc. to undertake the Downtown Parking Study (Study) in an amount not to exceed \$85,000; and
2. Appropriating \$110,000 for this Study in the Capital Projects (Governmental) Fund.

### **BACKGROUND**

The Metropolitan Transportation Commission (MTC) recently began a two-year regional initiative made possible by a grant from the Federal Highway Administration (FHWA) through the Value Pricing Pilot (VPP) Parking Program. This Study will analyze regional parking policy approaches and develop and demonstrate local parking strategies, both using a new regional parking database.

The Study is intended to:

1. Create a new regional parking database framework and populate it with existing and new data;
2. Analyze regional parking pricing policies using the regional land use and transportation models, incorporating the new parking database;
3. Conduct workshops for local jurisdictions demonstrating local parking analyses tools and exploring case studies, using the new parking database and tools; and
4. Perform expert review, produce a final report, and present findings, recommendations, and next steps to a broad audience.

The City of Hayward was one of twenty-five cities in the nine-county MTC planning area to be selected as part of this comprehensive evaluation of parking pricing and policy. As part of the pilot program, MTC began collecting existing parking data (supply, utilization, policies such as requirements, pricing and use restrictions, turnover, etc. from cities and parking managers). Staff

envisioned utilizing this regional effort as a mechanism to jump start a more focused assessment of downtown parking needs.

Last fall, Hayward staff was notified that BART would commence with implementation of paid parking at the Hayward BART station. In response to the BART policy change, City staff directed the MTC consultant team, CDM Smith (CDM) to conduct a preliminary analysis of existing parking conditions in order to anticipate potential changes in demand within the on- and off-street parking supply adjacent to the Hayward BART station. This preliminary analysis would document parking conditions before August 2014 and immediately after the BART parking fee implementation, in February 2015. Attachment III contains select content from the preliminary analysis. This data will be helpful in identifying any changes in parking usage in the downtown area and help assess the impact of the “interim” strategies put in place to address potential impacts.

## **DISCUSSION**

Apart from the interim strategies that were implemented, long term comprehensive parking policies will be critical to the growth and development of the downtown area. In order to identify these strategies and to make the best use of available resources, City staff recommends hiring the consultant group, CDM Smith (CDM) to conduct the required parking studies. MTC selected CDM for the regional VPP Pilot Study. Additionally, in September 2014, CDM was selected to conduct a preliminary “before and after” analysis of BART parking fee implementation focusing on Downtown Hayward, since they had already prepared some of that work for the MTC-commissioned study.

In the interest of cost and time efficiencies, staff selected CDM to conduct the analysis. CDM is a regional leader in the parking management/policy arena. With CDM’s involvement in the ongoing MTC’s regional parking pilot program as well as conducting the preliminary study for Downtown Hayward, the proposed authorization provides significant cost savings in this next phase of the comprehensive parking assessment. Staff has evaluated the cost proposal from CDM and has found it to be reasonable with respect to their scope of work and to reflect the expected savings from this approach..

CDM will be tasked to conduct a more focused analysis of parking supply and demand in Downtown Hayward, which will result in the development of long term strategies and policies. Based on this focused study, a final report detailing a set of comprehensive parking strategies and policies will be presented to Council for consideration later this year.

1. The proposed parking study will present parking conditions before and after BART station parking changes and evaluate the “interim” City regulatory changes. More specifically, the study will look at downtown parking demand and management, focusing on time restrictions, pricing as a tool for demand management, residential permits, and off-street business permits.
2. A re-parking and turnover analysis highlighting areas where individuals are parking for longer periods of time as well as where individuals are re-parking to avoid time limit regulations.

3. A survey to gather input and feedback from community members and businesses as well as presentation at one public meeting that addresses parking issues and educates residents and businesses about parking management tools and how they could be used to benefit the community.
4. Strategies for using both residential and business permits for parking demand management in the Downtown and BART Station Area as well as an outline for implementing each permit type.
5. An overall review to identify and evaluate permit, enforcement, and payment parking technologies that would create a more efficient parking management system for downtown visitors and employees.

Community input will be essential to identify the parking issues and develop a plan that meets the downtown community’s needs. The outreach strategy will include online and paper surveys, public meetings and direct engagement with the City’s business associations. The public outreach process will inform residents and gather feedback on business concerns about availability of parking for both customers and employees.

The overall goal will be to present best practices in parking management and determine based on the analysis, what policies to adopt which address existing and future parking needs. This will include but will not be limited to: 1) enforcement capabilities; 2) potential revenue streams; 3) capital investments; and 4) parking pricing strategies.

This Study and subsequent Council recommendations will be incorporated into the Downtown Specific Plan as guiding principles to future parking management decisions.

### **FISCAL & ECONOMIC IMPACT**

The Adopted FY 2015 Capital Improvement Program includes \$20,000 for the Downtown Parking Study in the Capital Projects (Governmental) Fund. However, an additional appropriation of \$110,000 is needed to complete the Study. As referenced in Attachment II, staff recommends Council approve the resolution appropriating \$110,000 from the Capital Projects (Governmental) Fund to complete this Study. The Capital Projects (Governmental) Fund contains adequate fund balance to accommodate this additional appropriation. The estimated Study costs are as follows:

|   |                  |
|---|------------------|
| Consultant Services                               | \$85,000         |
| Administration – City Staff                       | 20,000           |
| <i>Consultant Services (Previously Completed)</i> | <i>25,000</i>    |
| <b>Total</b>                                      | <b>\$130,000</b> |

### **PUBLIC CONTACT**

Staff presented results of the preliminary parking analysis to the Council Economic Development Committee (CEDC) on April 6, 2015. CEDC commented on the need to balance the needs of

downtown merchants, employees, and patrons, while providing flexibility to meet parking needs. Included in those suggestions was the possibility of unbundling parking requirements from new developments, considering the need for increasing downtown parking supply and enacting stricter parking limits for heavily impacted areas where parking demand is high (such as B & Main streets). CEDC also commented that if parking fees were implemented, the primary goal of the fees should be to manage supply and demand, and to cover the cost of enforcement.

As noted above, there will be a significant community outreach as part of this study's scope of work. The objective of the community outreach effort is to include the residents, employees, and business owners in Downtown Hayward's parking management process. Their input will be essential to identifying the parking issues and providing feedback on draft parking strategies so that the plan developed is one that meets the downtown community's needs.

A key element of the outreach strategy will include working with residents and business owners to identify key issues. Surveys and meetings will be utilized to gather input about existing concerns, gauge reaction to potential new approaches to pricing and parking management, and communicate parking information to users.

## **SCHEDULE**

|                          |                |
|--------------------------|----------------|
| Project Kick-off Meeting | April 2015     |
| Community Outreach       | June/July 2015 |
| Draft Report to Council  | October 2015   |
| Final Report             | November 2015  |

*Prepared by:* Fred Kelley, Transportation Manager

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

Approved by:



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Fran David, City Manager

Attachments:

- Attachment I: Resolution – Authorization for the City Manager to Execute Agreement
- Attachment II: Resolution – Appropriation of Funds
- Attachment III: Preliminary Parking Analysis

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-\_\_\_\_\_

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

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CDM SMITH, INC. FOR PROFESSIONAL SERVICES FOR THE DOWNTOWN PARKING STUDY PROJECT, PROJECT NO. 06909

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute an agreement with CDM Smith, Inc. for professional services for the Downtown Parking Study, in an amount not to exceed \$85,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-\_\_\_\_\_

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

RESOLUTION AMENDING RESOLUTION 14-098, AS AMENDED, THE BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2015, RELATING TO AN APPROPRIATION OF FUNDS FROM THE CAPITAL PROJECTS (GOVERNMENTAL) FUND (FUND 405) TO THE DOWNTOWN PARKING STUDY PROJECT, PROJECT NO. 06909

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 14-098, as amended, the Budget Resolution for Capital Projects for Fiscal Year 2015, is hereby amended by approving an appropriation of \$110,000 from the Capital Projects (Governmental) Fund (Fund 405) to the Downtown Parking Study Project, Project No. 06909.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

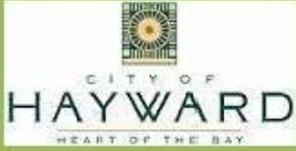
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

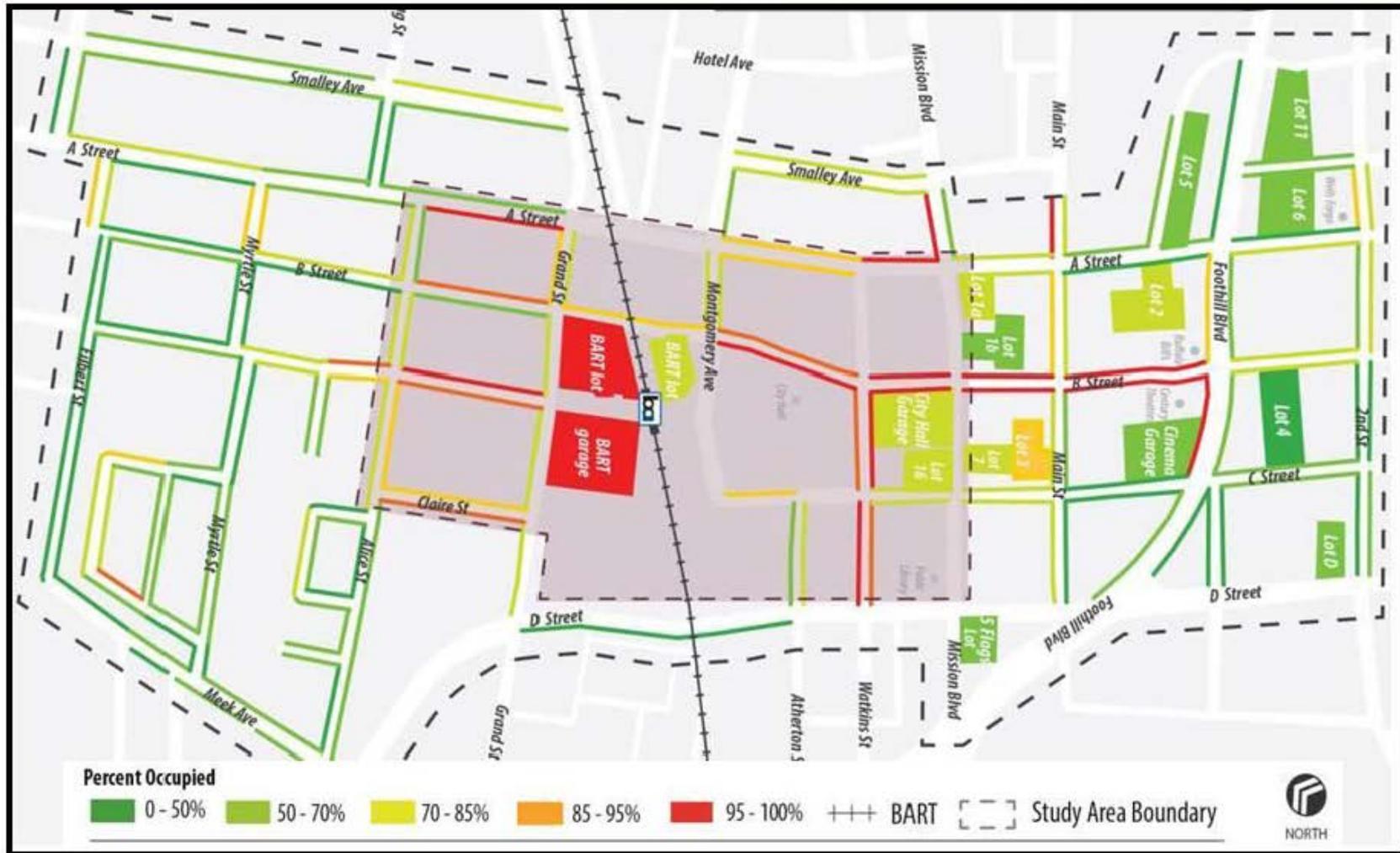
ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

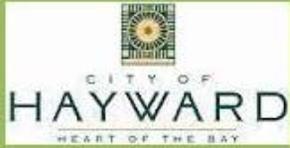
APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward



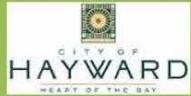
# Preliminary Results Typical Weekday, 12PM - (August 2014)





# Preliminary Results Typical Weekday, 12PM - (Feb, 2015)





# Preliminary Results

## Occupancy of Municipal Parking Facilities – Feb, 2015

| Facility                                 | AM  | Midday | Early PM | Evening |
|--|-----|--------|----------|---------|
| LOT 1a - Mission Blvd & A Street         | 6%  | 81%    | 31%      | 88%     |
| LOT 1b - Mission Blvd                    | 25% | 54%    | 55%      | 48%     |
| LOT 2 - A Street btwn Foothill & Main St | 34% | 62%    | 78%      | 81%     |
| LOT 3 - Main St btwn B and C Sts         | 92% | 68%    | 42%      | 68%     |
| LOT 4 - B St btwn Foothill & 2nd St      | 14% | 17%    | 13%      | 10%     |
| LOT 5 - A St btwn City Center & Foothill | 18% | 32%    | 62%      | 53%     |
| LOT 6 - A St btwn Foothill & 2nd St      | 25% | 38%    | 30%      | 51%     |
| LOT 7 - Mission Blvd btwn B and C St     | 60% | 60%    | 50%      | 60%     |
| LOT 11 - Russell Way btwn Foothill & 2nd | 7%  | 100%   | 65%      | 9%      |
| 5 Flags - Mission & D St                 | 66% | 97%    | 69%      | 94%     |
| Lot D - D St and 2nd St                  | 14% | 10%    | 10%      | 10%     |
| Cinema Place Garage - Foothill & C St    | 19% | 51%    | 36%      | 40%     |
| City Hall Garage - Watkins & B St        | 50% | 54%    | 40%      | 25%     |
| LOT 16 - Mission & C St                  | 6%  | 49%    | 30%      | 0%      |

| Legend         |        |
|----------------|--------|
| Under-utilized | < 55%  |
| Near Capacity  | 80-85% |
| At Capacity    | > 85%  |