

**CITY COUNCIL MEETING  
TUESDAY, JULY 9, 2019**

**DOCUMENTS RECEIVED  
AFTER PUBLISHED AGENDA**

**ITEM #13 PH 19-070**

**21ST CENTURY LIBRARY AND COMMUNITY  
LEARNING CENTER AND HERITAGE PLAZA:  
PUBLIC CONTRACT CODE § 4107 HEARING  
REGARDING REMOVAL AND SUBSTITUTION OF  
THE ELECTRICAL SUBCONTRACTOR, COLLINS  
ELECTRICAL COMPANY, INC**

**DOCUMENTS FROM HERRIG & VOGT, LLP**

July 8, 2019

City of Hayward  
777 B Street, 4<sup>th</sup> Floor  
Hayward, CA 94541  
(E-Mail: kevin.briggs@hayward-ca.gov)

Attn: Kevin Briggs  
Project Manager  
Department of Public Works

Re: 21<sup>st</sup> Century Library and Community Learning Center  
City of Hayward, Project: #06992

Dear Mr. Briggs:

Please be advised that this office represents Collins Electrical Company, Inc. ("Collins").

As instructed in Mr. Ameri's July 3<sup>rd</sup> letter in which he informed Collins of the City's request for TB Penick remove Collins from the above referenced project, Collins objects to the City's proposal and is submitting the following material to you in support of our rejection of the City's intentions. We also take this opportunity to inform the City that, should a public hearing be convened on July 9<sup>th</sup> to address this issue, it is Collins' intention to present live testimony to the City Council supporting our position.

Within Mr. Ameri's July 3<sup>rd</sup> letter (sent via email at 2:25 PM on the eve of a national holiday), he identified the following unsupported justification for seeking Collins' removal from the project:

- Collins' alleged failure to prosecute the work in a timely and satisfactory manner,
- Collins' work is allegedly substantially unsatisfactory and is not in accordance with the plans and specifications,
- Collins is allegedly delaying or disrupting the progress of the work.

All of Mr. Ameri's contentions are inaccurate.

At 4:19 PM Friday, July 5<sup>th</sup>, Collins was provided with a City Staff Report, the contents of which purport to demonstrate Mr. Ameri's contentions; however, the report only provides two

examples of Collins' alleged malfeasance and fails to indicate that any work was unsatisfactory or not in accordance with the plans and specifications for the project. In fact, since arriving at the project site years ago, Collins has never received any notification that its work was not in compliance with project or electrical code requirements. The City's contention that any of Collins' work is unsatisfactory or not in compliance the contract requirements is unfounded and lacks justification to consider seeking Collins' removal as the electrical subcontractor for the library project. In effect, Collins has had no notice of the alleged justification for this removal.

Though only provided one business day to respond to Mr. Ameri's request to have Collins removed as the electrical subcontractor, we offer the additional supported information that the City's Staff Report failed to include in its rendition of the two examples offered as evidence Collins failed to prosecute the work in a timely and satisfactory manner.

*Window Actuators:* The window actuator work was the responsibility of another of Penick's subcontractors, Lincoln Glass and Mirror, not Collins Electrical. During an inspection of the project, the Fire Department explained that the conductors for the windows should be encased in conduit. On January 22<sup>nd</sup>, the City's Engineering and Transportation Division confirmed, "TP Penick is hereby directed to fully enclose all window actuator wiring in continuous raceways per CBC 2013 Code Section 909." A copy of this email is attached as **Exhibit A**. Once this conduit requirement was imposed, Penick re-assigned that work to Collins on a cost reimbursable basis.

Collins assigned a specific labor code for this work in its payroll recording system and time-card evidence indicates that Collins began charging labor to PCO 5058 during the week of January 28, 2019. Collins worked diligently and consistently on the window actuator extra work throughout February and into March when, on March 15<sup>th</sup>, Penick directed that:

.... pursuant to Section 18.1 of your subcontract, you are hereby directed to immediately suspend all work on the Project. Should we be able to resolve our issues with the Owner, we will then notify you to resume your work either per our original subcontract or via an assignment as allowed in Section 19 of your subcontract. The Project will be locked and secured during this work.

**Attached as Exhibit B.**

With no assurance how much time it would take Penick and the City to resolve their issues and in accordance with Penick's directive, Collins removed most of its tools from the jobsite. On March 20<sup>th</sup>, Penick lifted the suspension; however, Collins expressed to Penick,

Thank you for the resumption of work notification. Without knowing how long of a duration your work stoppage was going to be we transferred our crew to another project. Prior to returning, we will need to assess if your wood ceiling and Mecho shade subcontractors have completed their work that would allow Collins to complete the fire alarm, smoke control and Lutron system work. As of March 15, 2019, both subcontractors' work were (sic) NOT complete and with the suspension of all trades until today it would appear they have no opportunity to completed their work scope.

Please advise when your subcontractors will have completed their work scope which would allow Collins to restart our work.

I have attached a few photos from our Friday, March 15, 2019, delay email to demonstrate the lack of progress on both the wood ceilings and Mecho shades.

**Exhibit B.**

Though Collins monitored the wood ceiling and Mecho shade progress, prerequisite work that had to be finished before Collins could resume installing the window actuators, the ceiling subcontractor, Spacetone Acoustics, and the Mecho shade subcontractor, did not complete their work until mid-April. From January through early June, contemporaneous payroll records indicate Collins spent nearly 1000 hours installing the window actuators.

To assign blame to Collins for work assigned to them in the last phase of the project when Collins' new work was dependent upon the ability of other subcontractors to finish their precedent work timely is disingenuous. See attached email correspondence for the extensive delays caused by the window actuator issues, attached as **Exhibit C**.

*Strobes and Horns:* By March 2019, Collins had already hung horns and strobes in the Third-Floor cloud ceiling; however, in passing, the Architect decided they did not meet his aesthetic tastes and directed they be installed elsewhere. Collins was also told verbally not to proceed installing the horns/strobes in the First and Second-Floor ceilings. With such a nebulous directive, the contractors had to draft an RFI to obtain definitive information from the Architect.

After completing a new ceiling design for the fire alarm system, new drawings had to be submitted to the City for approval, which was accomplished on April 30<sup>th</sup>; however, Penick did not authorized Collins to proceed with the work until May 15<sup>th</sup>. Collins commenced some investigative work the next day; but, Space Tone, the ceiling vendor, did not open the ceiling for Collins' access until May 23<sup>rd</sup>. Collins completed its work by month-end and immediately

thereafter, horns and strobes were connected for pre-testing before closing the ceiling permanently.

Pre-testing occurred continuously from June 3<sup>rd</sup> to June 21<sup>st</sup>; unfortunately, on the 21<sup>st</sup>, Collins learned that the smoke curtain installation was not completed. It was also not possible to finalize the fire alarm system for that segment of the building without programming information from the mechanical subcontractor regarding AHU-1. Collins work was stymied again because of the lack of progress by other trades.

Collins reiterated that they would re-install the horn/strobes in their final fixed locations of the newly re-installed ceiling tiles when they got the programming information from Helwig. In the process of obtaining this information, Helwig found a problem with their VAV dampers. As a result, on July 5<sup>th</sup> Collins ran some additional conduit and boxes that could be used to add some fire alarm relays to circumvent the mechanical contractor's problem for Helwig. On July 8<sup>th</sup> the horns/strobes were re-installed horn/strobes and pre-testing continued.

To assign blame to Collins for changed work assigned to them in the last phase of the project when Collins' new work was dependent upon the ability of other subcontractors to finish their precedent work timely does not recognize all of the facts surrounding the issue.

*Collins Turned Off Power:* The City has also expressed that Collins' refusal to energize certain electrical circuits in the building has hampered library operations such as training activities or vender installation activities. Notably, the City and Penick requested that Collins energize parts of the building despite the fact that no certificate of occupancy, temporary or otherwise, had been issued by the fire marshal.

Under the California Building Standards Code, any occupancy or use of a building prior to the issuance of a certificate of occupancy is strictly prohibited. *See* Ca. Building Code (2016), Section 111.1. Furthermore, the Code states that “[n]o person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.” Ca. Building Code, Section 112.1. Any actions by Collins in contravention of the foregoing provisions would be illegal. Ca. Building Code, Section 114.1 (“It shall be unlawful for any person, firm or corporation to...occupy any building...regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.”).

To date, there has been no certificate of occupancy, nor temporary certificate of occupancy, issued by the state fire marshal. The City's requests for Collins to energize the building prior to the issuance of a certificate of occupancy were not only improper, but illegal. *See Baskin v.*

*Hughes Realty, Inc.*, 25 Cal.App.5th 184, 203 (2018) (Standards set forth in the California Building Standards Code “have the dignity of statutes.”). For the City to cite Collins’ legally justified actions as the basis for termination is unethical and retaliatory.

That notwithstanding, Collins sought to comply with the City’s requests in good faith. In light of the recognizable hazards presented by allowing members of the public to enter an active construction zone, Collins attempted to obtain an indemnification agreement from Penick prior to energizing the building. No signed indemnification was ever returned to Collins. Copies of this email correspondence are attached as **Exhibit D**.

Legal Considerations: In his July 3<sup>rd</sup> letter, Mr. Ameri indicates that the City “has [past tense] requested that T.B. Penick remove Collins Electrical as the electrical subcontractor on the above referenced project...” The City has no contractual relationship with Collins; subsequently, they must rely upon Penick to terminate Collins’ subcontract agreement. However, at the time of the writing of Mr. Ameri’s letter, Penick was unaware of the City’s request. Penick received Mr. Ameri’s notice concurrently with Collins. More importantly, after receipt of Mr. Ameri’s letter, Penick responded to Collins that,

Penick agrees with Collins that we most certainly do NOT want the City of Hayward to force the termination of Collins Electric. That would be a disaster. Doing so would certainly impede and delay delivery of the Library, bring about unending warranty headaches and expose the City to wrongful termination claims.

For all the frustrations of this project, right now we have good momentum towards TCO. It’s my hope that the City will pull back from this course and help us turn over the Library.

**Attached as Exhibit E.**

The City is grossly mistaken to believe that Penick concurs with the City’s proposed course of action. Further, the City complains about delays on the project, yet concedes in its Staff Report dated July 9, 2019, that the removal of Collins will “cause additional delays to the completion of the project and will likely result in additional administrative costs and delay claims.”

In addition to the error above, the City also violated statutes and protocol for a substitution of a subcontractor. First, the City did not allow adequate time for Collins to file an objection. The Subletting and Subcontracting Fair Practices Act governs public works projects. Section 4107 of the Act governs the removal and substitution of subcontractors by the general contractor.

To substitute a subcontractor, Section 4107 requires the following:

1. The City of Hayward shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request;
2. The notice shall be served by certified or registered mail;
3. After receipt of the notice, Collins has five working days within which to submit written objections to the City.

The City gave Collins five days to file objections, but not five working days – one day was a national holiday and two were weekend days. Under Section 4107, Collins should have been given at least until July 11, 2019 to file objections. Further, the statute only specifies sending the notice by certified or registered mail. Receipt by Collins of the physical letter would be the actual date from which to calculate five working days. However, this is a moot point as Penick, as the prime contractor, has not made a request to substitute Collins. In fact, as shown above, Penick believes removing Collins as the electrical subcontractor would be extremely detrimental to project performance.

Secondly, the scheduling of the July 9<sup>th</sup> hearing referenced in Mr. Ameri's July 3<sup>rd</sup> letter is premature and there is insufficient notice of the hearing. A failure to file written objections within five working days will constitute consent to the substitution. If no objections are filed, no hearing is required. However, the statute states that "if written objections are filed," then the City shall hold a hearing and must notify Collins at least five working days prior to the hearing date. The statute does not contemplate scheduling a hearing at the same time the initial notice is sent.

Section 4107 contains two pertinent time periods for notice: one for the written objections and one for notification of the hearing date. Thus, at a minimum, a hearing should be held ten working days after Collins first received the notice. *See e.g., Titan Electric Corp. v. Los Angeles Unified School Dist.*, 160 Cal.App.4th 188, 202-03 (2008) ("If objections are filed, the entity must give the listed subcontractor written notice of a hearing on the request for substitution at least five working days in advance."); *Mako Investments, LLC v. West Coast Contractors of Nevada, Inc.*, 2016 WL 5683043 (2016) ("the submission of [written objections] would trigger a hearing...").

Collins, through the undersigned, requested that Kevin Briggs, Project Manager, Michael Lawson, City Attorney, and Alex Ameri, Director of Public Works, continue the hearing to comply with the Public Contract Code. None agreed. The City has failed to comply with the time periods afforded to Collins under Section 4107.

Moreover, Section 4107 only contemplates removal of a subcontractor by the general contractor and contains nine exclusive grounds on which an awarding authority can consent to removal of a subcontractor. California courts have interpreted the statute as limiting an awarding authority's



ability to consent to removal to the specified circumstances therein. *See Synergy Project Management, Inc. v. City and County of San Francisco*, 33 Cal.App.5th 21, 26 (2019). The City cites Section 4107(a)(7) as a basis for its desire to remove Collins:

When the awarding authority, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.

However, as discussed above, Collins never once received notice from the City that its work was unsatisfactory or not in substantial accordance with the plans and specifications.

As to the City's contention that Collins delayed completion of the project and had limited staff onsite, Collins objects to this inaccurate and incomplete portrayal of the facts at hand. Collins is in possession of several hundred emails between Collins and Penick revealing that the delays originated with Penick's lack of coordination of its other subcontractors and the lack of a schedule. In fact, to Collins' knowledge, the project has been operating without a schedule since 2017. Collins was consistently on the jobsite, ready to perform, yet frequently was forced to wait on other subcontractors to finish work before any electrical work could be performed. For instance, Collins was constantly waiting on the ceiling subcontractor, Spacetone Acoustics, the Mecho shade subcontractor, and the mechanical subcontractor to finish their respective work before Collins could proceed. A copy of email correspondence evidencing the repeated delays caused by other subcontractors is attached as **Exhibit F**.

These facts demonstrate that there is no basis under Section 4107(a)(7) to remove Collins as the electrical subcontractor.

The City has failed to comply with California statutes regarding proper procedures and protocol regarding the substitution request they have made to Penick.

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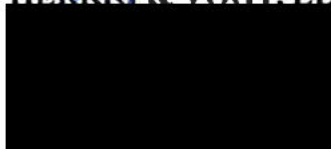
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Conclusion: For the reasons described above, Collins objects to the City's request for Penick to remove Collins as the electrical subcontractor for the work. In addition, the City's accelerated actions to circumvent due process prescribed by California law have severely prejudiced Collins' rights. For all the reasons above, Collins hereby demands the City rescind its July 3<sup>rd</sup> letter and withdraw any further action in this regard.

Very truly yours,

HERRIG & VOGT, LLP



George F. Vogt, Jr.  
GFV/mm

cc: Tim Penick, TB Penick Construction  
Alex Ameri, City of Hayward Director of Public Works  
Michael Lawson, City of Hayward, City Attorney

## Jennifer Resnicke

---

**From:** John Bangert  
**Sent:** Thursday, January 24, 2019 10:23 AM  
**To:** Jim Scates  
**Cc:** Steve Meek; Jeni Gray; Deborah Summers; Temple Marcee; Rick Henry  
**Subject:** RE: Applicable CBC Code Section for Smoke Control System - Window Actuator Wiring

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Jim,

Please issue the most current window actuator drawings for this window work.

FYI this work will take 12' ladders to do this work , it's going to be a long and tedious process now that grid, tile ceiling, wood ceilings and other MEP trades have installed their work around this window infrastructure. Please coordinate with Temple to have wood and tile ceilings removed prior to us starting this work.

Below is our scope to install in conduit, correct the wiring, label cables and test each of the window actuators back to the controller.

I want to more carefully define the scope of work in order for everyone understand how we plan to troubleshoot the window actuator motor control problems and what support we will need to solve this ongoing problem.

1. Confirm the approved Bronze Craft shop drawing wiring diagram.
2. Inspect the controller for any shorting or burning of internal wiring or components.
3. Confirm the window actuator motor is not damage and is able to operate manually via an electronic input.
4. Remove existing window actuator motor wiring between motor and controller.
5. Install a combination of EMT and flex conduit.
6. Install new LV cabling window actuator motor wiring between motor and controller.
7. Terminate new cabling onto the window controller.
8. Confirm the window actuator motors wiring has been terminated correctly.
9. Confirm the required voltage and current is being delivered to the window motors from the controller.
10. Label new window motor cabling.
11. Adjust window position to closed if needed.
12. Coordinate to test with Syserco to open and close windows via Building automation command.\*
13. Coordinate to test with fire alarm contractor to open and close windows via fire alarm smoke override command.\*

\*A possible on site visit by Bronze Craft may be required if the windows actuators are still not operating via both control systems after the above work has been completed. A factory inspection of the controller to determine if any logic or manufacturing failures may be causing the window malfunction.

Please advise

**John Bangert**

Project Manager

**COLLINS ELECTRICAL COMPANY, INC. | CA License No. 115427**

[REDACTED] | [www.collinselectric.com](http://www.collinselectric.com)



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**From:** Jim Scates <[REDACTED]>  
**Sent:** Wednesday, January 23, 2019 3:27 PM  
**To:** John Bangert <[REDACTED]>  
**Cc:** Steve Meek <[REDACTED]>; Jeni Gray <[REDACTED]>; Deborah Summers <[REDACTED]>; Temple Marcee <[REDACTED]>; Rick Henry <[REDACTED]>  
**Subject:** RE: Applicable CBC Code Section for Smoke Control System - Window Actuator Wiring  
**Importance:** High

John,  
By Flora's comments, this is considered part of the Fire Alarm system, Collins is TBP's Fire Alarm subcontractor.

Once again,  
This is Collins' Direction to Proceed on Force Account and to be tracked on T&M, to remove all window actuator wiring and place it in continuous raceway.  
This work to begin ASAP.

---

**T.B. PENICK  
& SONS, INC.**

**JIM SCATES  
SUPERINTENDENT**  
[REDACTED]  
TBPenick.com

GENERAL CONTRACTING, DESIGN-BUILD,  
CONSTRUCTION MANAGEMENT, STRUCTURAL  
AND ARCHITECTURAL CONCRETE SINCE 1905

15435 INNOVATION DRIVE, SUITE 200  
SAN DIEGO, CA 92128

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**From:** John Bangert [REDACTED]  
**Sent:** Wednesday, January 23, 2019 9:34 AM  
**To:** Jim Scates  
**Cc:** Steve Meek; Jeni Gray; Deborah Summers; Temple Marcee; Rick Henry  
**Subject:** RE: Applicable CBC Code Section for Smoke Control System - Window Actuator Wiring

Jim,

It's my opinion that Lincoln Glass should hire a separate electrical contractor to do this work.

Thank you,

**John Bangert**

Project Manager

**COLLINS ELECTRICAL COMPANY, INC. | CA License No. 115427**

[REDACTED]  
[REDACTED] | [www.collinselectric.com](http://www.collinselectric.com)



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**From:** Jim Scates <[REDACTED]>  
**Sent:** Tuesday, January 22, 2019 5:00 PM  
**To:** John Bangert <[REDACTED]>; Deborah Summers <[REDACTED]>; Temple Marcee <[REDACTED]>  
**Cc:** Steve Meek <[REDACTED]>; Jeni Gray <[REDACTED]>  
**Subject:** FW: Applicable CBC Code Section for Smoke Control System - Window Actuator Wiring  
**Importance:** High

John,  
The City has directed us to proceed with ALL window actuator wiring to be fully enclose in continuous raceways per CBC 2013 Code Section 909.

This is Collins' Direction to Proceed on Force Account and tracked on T&M, to remove all window actuator wiring and place it in continuous raceway.  
This work to begin ASAP.

Call me with any questions.

---

**T.B. PENICK  
& SONS, INC.**

**JIM SCATES  
SUPERINTENDENT**  
[REDACTED]  
TBPenick.com

---

**From:** Sammy Lo [REDACTED]  
**Sent:** Tuesday, January 22, 2019 2:55 PM  
**To:** Jim Scates; Scott Salge; Kevin Briggs  
**Cc:** Jeni Gray; Alex Ameri; Kathy Garcia; Jane Light; Jayanti Addleman; Scott Salge  
**Subject:** RE: Applicable CBC Code Section for Smoke Control System - Window Actuator Wiring

Jim,

As discussed in today's meeting, TP Penick is hereby directed to fully enclose all window actuator wiring in continuous raceways per CBC 2013 Code Section 909.

Sammy Lo, PE  
Associate Civil Engineer  
Engineering and Transportation Division  
City of Hayward  
777 B Street  
Hayward, CA 94541  
[Sammy.Lo@hayward-ca.gov](mailto:Sammy.Lo@hayward-ca.gov)  
510.583.4768 T  
510.583.3620 F

## Jennifer Resnicke

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**From:** John Bangert <[REDACTED]>  
**Sent:** Thursday, March 21, 2019 2:19 PM  
**To:** Jim Scates  
**Cc:** JeniG@tbpenick.com; Amanda Sebastian; [REDACTED]; Temple Marcee; Deborah Summers; Rick Henry; Brian Gini; Kevin Gini; George Vogt  
**Subject:** RE: Notice of Resumption of Work: 21st Century Library and Community Learning Center and Heritage Plaza Arboretum  
**Attachments:** 21st Century Library - Rm 104 ceiling #1 3.15.19.pdf; 21st Century Library - Rm 104 ceiling #2 3.15.19.pdf; 21st Century Library - Rm 108 & 109 Ceiling 3.15.19.pdf; 21st Century Library - Rm 205 Ceiling 3.15.19.pdf; 21st Century Library - Rm 107 shade 3.15.19.pdf; 21st Century Library - Rm 207 shades 3.15.19.pdf; 21st Century Library - Rm 210 shade 3.15.19.pdf; 21st Century Library - Rm 124 shades 3.15.19.pdf; 21st Century Library - Rm 131 shade 3.15.19.pdf; 21st Century Library - Rm 309 shades 3.15.19.pdf

Hello Jim,

Thank you for the resumption of work notification. Without knowing how long of a duration your work stoppage was going to be we transferred our crew to another project. Prior to returning, we will need to assess if your wood ceiling and Mecho shade subcontractors have completed their work that would allow Collins to complete the fire alarm, smoke control and Lutron system work. As of March 15, 2019 both subcontractors work were NOT complete and with the suspension of all trades until today it would appear they have no opportunity to completed their work scope.

Please advise when your subcontractors will have completed their work scope which would allow Collins to restart our work.

I have attached a few photos from our Friday, March 15 2019, delay email to demonstrate the lack of progress on both the wood ceilings and Mecho shades.

Sincerely,

**John Bangert**

Project Manager

**COLLINS ELECTRICAL COMPANY, INC. | CA License No. 115427**

[REDACTED]  
[REDACTED] | [www.collinselectric.com](http://www.collinselectric.com)



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**From:** Jim Scates <JimS@tbpenick.com>

**Sent:** Wednesday, March 20, 2019 5:31 PM

**To:** [REDACTED]; Mike Sherman ([REDACTED]) <[REDACTED]>; Mark Sung <[REDACTED]>;  
Tarcio Mascarenhas <[REDACTED]>; Patricia <[REDACTED]>; [REDACTED]; Ricardo  
Marrun <[REDACTED]>; Marco Ramirez <[REDACTED]>; Marcos Talamantes  
<[REDACTED]>; Gerardo Almanza <[REDACTED]>; Gonsalo Jaime  
<[REDACTED]>; John Bangert <[REDACTED]>; Deborah Summers  
<[REDACTED]>; Temple Marcee <[REDACTED]>; josh.zoller <[REDACTED]>  
<[REDACTED]>; <a href=[REDACTED]>[REDACTED]>; Jonathan Young  
<[REDACTED]>;  
<[REDACTED]>; OLIVIA SOLDATE <[REDACTED]>; Hannah  
Plecker <[REDACTED]>; Andrew Soldate <[REDACTED]>; Alex Velasquez <[REDACTED]>;  
<[REDACTED]>; Tavo Martinez <[REDACTED]>; <[REDACTED]>;

**Cc:** Amanda Sebastian <[REDACTED]>; Jeni Gray <[REDACTED]>; Kevin Briggs  
<Kevin.Briggs@hayward-ca.gov>; Sammy Lo <Sammy.Lo@hayward-ca.gov>

**Subject:** Notice of Resumption of Work: 21st Century Library and Community Learning Center and Heritage Plaza  
Arboretum

**Importance:** High

**Addressee:**

Effective immediately, March 20, 2019, T.B. Penick & Sons, Inc. (TB Penick) has resumed work at the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum, 888 ?C? Street, Hayward, CA. 94541-5007 (Project).

Therefore, you are hereby directed to immediately resume your work on the Project. The Project will be open and ready to work starting tomorrow morning, Thursday, March 21, 2019. Please contact Jim Scates to make such arrangements at your earliest convenience.

Sincerely,

Tim Penick  
TB Penick & Sons, Inc.

---

**JIM SCATES**

**SUPERINTENDENT**

[REDACTED]  
[REDACTED]

TBPenick.com





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**From:** Jeni Gray

**Sent:** Friday, March 15, 2019 3:37 PM

**To:** [REDACTED]; Mike Sherman ([REDACTED]); Mark Sung; Tarcio Mascarenhas; Patricia; [REDACTED]; Ricardo Marrun; Marco Ramirez; Marcos Talamantes; Gerardo Almanza; Gonsalo Jaime; John Bangert; Deborah Summers; Temple Marcee; josh.zoller pvbuilders.com; adnana.mrkonjic pvbuilders.com; Jonathan Young; [REDACTED]; OLIVIA SOLDATE; Hannah Plecker; Andrew Soldate; Alex Velasquez; [REDACTED]; Iavo Martinez; [REDACTED]

**Cc:** Amanda Sebastian; Jeni Gray; Jim Scates

**Subject:** Notice of Suspension of Work: 21st Century Library and Community Learning Center and Heritage Plaza Arboretum

**Importance:** High

**Addressee:**

Effective March 15, 2019, T.B. Penick & Sons, Inc. (TB Penick) will suspend its work at the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum, 888 ?C? Street, Hayward, CA. 94541-5007 (Project).

Therefore, pursuant to Section 18.1 of your subcontract, you are hereby directed to immediately suspend all work on the Project. Should we be able to resolve our issues with the Owner, we will then notify you to resume your work either per our original subcontract or via an assignment as allowed in Section 19 of your subcontract. The Project will be locked and secured during this work suspension. However, in the meantime, we can make arrangement for access to the Project site should you desire to remove your owned tools and equipment, provided the Owner does not install its own locks. Please contact Jim Scates to make such arrangements at your earliest convenience.

We will certainly continue to work in good faith with the Owner to solve this dispute and get back to work. We will update you as the circumstances change and/or warrant.

Sincerely,

Tim Penick  
TB Penick & Sons, Inc.

---

**T.B. PENICK  
& SONS, INC.**

**JENI CURIEL  
ASSISTANT PROJECT MANAGER**



[TBPenick.com](http://TBPenick.com)

GENERAL CONTRACTING, DESIGN-BUILD,  
CONSTRUCTION MANAGEMENT, STRUCTURAL  
AND ARCHITECTURAL CONCRETE SINCE 1905

15435 INNOVATION DRIVE, SUITE 100  
SAN DIEGO, CA 92128

## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Friday, July 07, 2017 4:50 PM  
**To:** Steve Meek  
**Cc:** [REDACTED]  
**Subject:** 21st Century Library - Schedule delays

Hello Steve,

We are advising you that our ability to perform our work in electrical room 117 is being impeded by the delay in response to RFI 548 on the project.

Additional interfering issues are as follows:

- RFI 696 the actuated window approved submittal is preventing Collins from roughing in conduit for power and the fire alarm system. Also these windows are part of the emergency smoke control evacuation system and until we are issued an approved submittal we are not able to determine if any additional equipment is needed to insure the system works as the engineer envisioned. One last item these changes will most likely will change the approved fire alarm system drawings and will require the plans to be resubmitted for permit approval with the City of Hayward fire department. Please note this system will need to be operational to obtain the temporary occupancy of the building.
- The utility yard pads in place to set and install the Fire Life safety generator set.
- Not yet able to install switchgear in the electrical rooms on floors one through three.
- Approved Shade design drawing are delaying our ability to complete the electrical rough in. In addition this design is not compatible with the Lutron lighting control system as specified and without an approved design we cannot review the documents to determine how it will integrate if possible) with Lutron system.
- Approved Casework drawings are delaying our ability to complete the electrical rough in with the customer service desk and teen room benches.
- Approved Ceiling drawings are delaying our ability to complete the electricals rough in and support locations.
- Heritage Park AIC rating request is delaying our ability to identify the fault current of the park service pedestal and in turn delaying the manufacturing release.
- Ongoing revisions to the light fixtures P3 & P9 have changed the hardware, lamp drivers and diffuser is delaying our ability of finalize the light fixture options for manufacturing release.
- Delays in the Supplemental Lighting submittal response is impacting our ability to define the light fixture options for manufacturing release.
- Delays in change order response is impacting our ability to rough in, provide lighting and the emergency generator.
- Response to RFI 152.1 Fluxwerx fixture power feed drop is delaying our ability to complete the electrical rough in for these rows of fixtures.

The ongoing delays of information has been continuing for months and is pushing our scope of work back each month which will create added project cost of labor, supervision and possibly material.

We are providing this information so that an effort can be made to resolve this issue so as not to continue to impact the project schedule and project cost.

Thank You,

**John Bangert**

Project Manager

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## Jennifer Resnicke

---

**From:** John Bangert  
**Sent:** Tuesday, August 29, 2017 5:08 PM  
**To:** Jeni Gray  
**Cc:** Jim Scates; Deborah Summers; Temple Marcee; Doug Scripture; Robert Langevin;  
[REDACTED]  
**Subject:** 21st Century Library RE: fire alarm comments - window delays  
**Attachments:** RFI-171 BOD Smoke Control System.pdf

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Jeni,

We are still waiting for the window actuator / smoke control approved resubmittal. Based on last week's commissioning meeting, that resubmittal should arrive next week?

Also we sent in an RFI 171 asking for the Library's Basis of Design (BOD) for the smoke control system parameters. We will need that information to complete the smoke control design and control panel. This window information and BOD is critical to understanding how the approved smoke control panel will need to be modified to incorporate the added windows and louvers in to the controls.

We cannot reissue to both the design team and the fire department until these documents have been issued.

The slow progress of the smoke control window actuators submittal and has not only delayed our ability to provide a revised set of document to the city fire department for review, but has also delayed our completion of the fire alarm system conduit rough in. We started discussing the motorized / operable window submittal during the weekly sub meeting of May 10, 2017 and we still don't have an approved copy of this equipment submittal. The new fire alarm document must have the correct information and calculations regarding the smoke control i.e. windows, listing how the windows will be controlled in an smoke activation and in normal condition. I have been stating this for months. Without this information the fire alarm document will be returned as revise and resubmit further slowing the progress of the project.

Please send the window actuators information as soon as possible.

Also please be advised the last time the fire alarm shop drawings when into the city fire department for review it took 90 days for an approved submittal to be returned.

Thank you,

**John Bangert**

Project Manager

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---

**From:** Jeni Gray [REDACTED]  
**Sent:** Tuesday, August 29, 2017 3:30 PM  
**To:** John Bangert  
**Cc:** Jim Scates  
**Subject:** RE: Fire alarm comments

John,

Could I please have status on the fire alarm resubmittal.



**JENI GRAY**  
**ASSISTANT PROJECT MANAGER**  
[REDACTED]  
TBPenick.com

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---

**From:** John Bangert [REDACTED]  
**Sent:** Monday, June 26, 2017 5:02 PM  
**To:** Jeni Gray  
**Cc:** Roderic Crowe; Deborah Summers  
**Subject:** RE: Fire alarm comments

Hello Jeni,

Please see the attached fire alarm comments. I will resubmit officially when the window design and approved submittals are issued for review.

Thanks,

**John Bangert**

Project Manager

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---

**From:** Jeni Gray [REDACTED]  
**Sent:** Tuesday, June 13, 2017 9:29 AM  
**To:** John Bangert  
**Cc:** Roderic Crowe  
**Subject:** RE: Fire alarm comments

John,

Please see all correspondences. WE also went through this last week when you had a meeting with Rod. Please see the attachments. 😊



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**JENI GRAY  
ASSISTANT PROJECT MANAGER**



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---

**From:** John Bangert [REDACTED]  
**Sent:** Tuesday, June 13, 2017 9:23 AM  
**To:** Jeni Gray  
**Cc:** Roderic Crowe  
**Subject:** RE: Fire alarm comments

Jeni

I cannot find the fire alarm submittal that had comments from the EOR. Please forward the returned submittal so that can update and return.

Thanks,

**John Bangert**

Project Manager

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---

**From:** Jeni Gray [REDACTED]  
**Sent:** Tuesday, June 13, 2017 9:20 AM  
**To:** John Bangert  
**Cc:** Roderic Crowe  
**Subject:** Fire alarm comments

John,

I still have not received this information. Please advise.



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**JENI GRAY**  
**ASSISTANT PROJECT MANAGER**



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---

**From:** Jeni Gray  
**Sent:** Wednesday, June 07, 2017 10:35 AM  
**To:** John Bangert  
**Subject:** PV comments



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**JENI GRAY**  
**ASSISTANT PROJECT MANAGER**



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## Jennifer Resnicke

---

**From:** Jim Scates <[REDACTED]>  
**Sent:** Thursday, November 02, 2017 4:19 PM  
**To:** Tavo Martinez  
**Cc:** John Bangert; Jeni Gray  
**Subject:** FW: 21st Century Library - Window actuator controller

**Importance:** High

Tavo,  
John with Collins has made a request, see email below.

Delivery is required ASAP  
Please confirm.

Thanks

---

**T.B. PENICK  
& SONS, INC.**

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**JIM SCATES  
SUPERINTENDENT**

[REDACTED]  
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**From:** John Bangert [REDACTED]  
**Sent:** Thursday, November 02, 2017 3:40 PM  
**To:** Jim Scates  
**Cc:** Temple Marcee; Deborah Summers; Doug Scripture; Tavo Martinez  
**Subject:** 21st Century Library - Window actuator controller  
**Importance:** High

Jim,

We would like to have the window actuator controllers delivered to the project. What is their status?

Thanks,

**John Bangert**

Project Manager

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## Jennifer Resnicke

---

**From:** John Bangert  
**Sent:** Thursday, December 06, 2018 12:56 PM  
**To:** Jim Scates  
**Cc:** Jeni Gray; Steve Meek; 'Doug Scripture'; John Losey; Tom Waldron; Tavo Martinez; [REDACTED]; Temple Marcee; Deborah Summers; Rick Henry  
**Subject:** 21st Century Library - Window Actuator system  
**Attachments:** DOC041218-04122018150009.pdf

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Jim,

I believe it's premature to start the fire alarm system testing without addressing the following deficiencies relating to the window actuator system operation.

Marc Sirote, verbally informed our fire alarm crew the window controllers do not provide the code required window status, only the window actuators will provide position window status as required by code UUKL. This information should have been provided during the many months leading up to installation of the window actuators and controllers. We could have roughed in conduit for the system prior to walls and ceiling being installed.

It is also my understanding that since the window actuator controller does not provide positive window status and that only the window actuator motor provides this status the fire alarm system will be required to install a monitoring module for each window in order to provide the required window status per UUKL. This new scope of work will require conduit, j boxes, wire, fittings, terminations and labeling from each of the window motors to the nearest fire alarm monitoring loop.

In addition the wiring currently in place from the window actuator motor to the window controller does not comply with the project code requirement that states all life safety conductors will be contained within a conduit. As a result the current window conductors that are above the ceiling will need to be removed and reinstalled in conduit or a waiver issued by the City of Hayward fire department allowing the existing wiring to remain.

Finally, we have been informed this week the window actuator controller must have an uninterruptible power supply and not just an emergency circuit to prevent the controller from losing power at any time.

Several items must be completed prior to restarting the fire alarm system testing.

1. The fire alarm monitoring scope of the window actuator status must be approved and completed.
2. The current wiring in place from the window motor to the window controller must be replaced and installed in conduit.
3. Verification of the window actuator operation during a smoke event.
4. Complete installation of all of the building ceilings to allow the completion of the fire alarm system devices.

Please advise how you would like to proceed on remediating the listed above.

We will await your response.

**John Bangert**

Project Manager

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---

**From:** Jim Scates <[redacted]>  
**Sent:** Wednesday, December 5, 2018 6:11 PM  
**To:** Tavo Martinez <[redacted]>; John Bangert <[redacted]>; [redacted]  
**Cc:** Jeni Gray <[redacted]>; Steve Meek <[redacted]>; 'Doug Scripture' <[redacted]>; John Losey <[redacted]>; Tom Waldron <[redacted]>  
**Subject:** Window Actuators

Tavo, John & John,

Window Actuators

From a BMS stand point, it appears that the windows are now operating correctly.

Now we need Fire Alarm to tie-in and start checking it's functions.

John (Collins), how soon can we start the Fire Alarm portion of this work??



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**JIM SCATES  
SUPERINTENDENT**



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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Wednesday, June 12, 2019 2:03 PM  
**To:** Jeff Diamond; Deborah Summers  
**Cc:** Amanda Sebastian; Temple Marcee; Rick Henry; George Vogt; Tim Penick; Kevin Gini; Brian Gini  
**Subject:** RE: 21st Century Library - 6.12.19 Indemnity Agreement - Start up  
**Attachments:** 6.12.2019 Indemnity Agreement re startup work.pdf

Jeff,

The first email contained the January indemnity agreement, Please disregard and sign the attached June 12 agreement.

Thank you,

---

**From:** John Bangert  
**Sent:** Wednesday, June 12, 2019 2:01 PM  
**To:** Jeff Diamond <[REDACTED]>; Deborah Summers <[REDACTED]>  
**Cc:** Amanda Sebastian <[REDACTED]>; Temple Marcee <[REDACTED]>; Rick Henry <[REDACTED]>; George Vogt <[REDACTED]>; Tim Penick <[REDACTED]>; Kevin Gini <[REDACTED]>; Brian Gini <[REDACTED]>  
**Subject:** 21st Century Library - 6.12.19 Indemnity Agreement - Start up  
**Importance:** High

Hello Jeff,

By allowing non construction personal into a unfinished building without a completed fire alarm system T.B Penick and the City of Hayward will take full responsibility for any and all damage to installed electrical devices or equipment and for any personal injury related accidents.

Please sign and return the attached 6.12.19 Indemnity / Hold Harmless Agreement. The rooms you have listed below will be energized for use by the City of Hayward.

Please note the project warranty has started as of October 27 2018.

Thank you,

**John Bangert**

Project Manager

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---

**From:** Jeff Diamond <[REDACTED]>  
**Sent:** Wednesday, June 12, 2019 11:18 AM  
**To:** John Bangert <[REDACTED]>; Deborah Summers <[REDACTED]>  
**Cc:** Amanda Sebastian <[REDACTED]>  
**Subject:** Room numbers

101, 131, 135, 144, 202, 207, 220, 244. I am requesting these rooms to please be turned on and left on.  
J.

---

**JEFFERY DIAMOND**

**SUPERINTENDENT**

[REDACTED]

[REDACTED]

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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Monday, June 17, 2019 9:42 AM  
**To:** Jeff Diamond  
**Cc:** Amanda Sebastian; Temple Marcee; Rick Henry; George Vogt; Tim Penick; Kevin Gini; Brian Gini; Deborah Summers  
**Subject:** RE: 21st Century Library - 6.12.19 Indemnity Agreement - Start up  
**Attachments:** 6.12.2019 Indemnity Agreement re startup work.pdf

Hi Jeff,

I have not yet see a signed copy of the Indemnity letter, when do you expect it to be returned? We will be shutting off the power if we don't receive the letter by Wednesday.

Thank you,


### John Bangert

Project Manager

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---

**From:** John Bangert  
**Sent:** Wednesday, June 12, 2019 2:03 PM  
**To:** 'Jeff Diamond' <[REDACTED]>; Deborah Summers <[REDACTED]>  
**Cc:** 'Amanda Sebastian' <[REDACTED]>; Temple Marcee <[REDACTED]>; Rick Henry <[REDACTED]>; 'George Vogt' <[REDACTED]>; 'Tim Penick' <[REDACTED]>; Kevin Gini <[REDACTED]>; Brian Gini <[REDACTED]>  
**Subject:** RE: 21st Century Library - 6.12.19 Indemnity Agreement - Start up



Jeff,

The first email contained the January indemnity agreement, Please disregard and sign the attached June 12 agreement.

Thank you,

---

**From:** John Bangert

**Sent:** Wednesday, June 12, 2019 2:01 PM

**To:** Jeff Diamond <[REDACTED]>; Deborah Summers <[REDACTED]>

**Cc:** Amanda Sebastian <[REDACTED]>; Temple Marcee <[REDACTED]>; Rick Henry

<[REDACTED]>; George Vogt <[REDACTED]>; Tim Penick <[REDACTED]> Kevin Gini

<[REDACTED]>; Brian Gini <[REDACTED]>

**Subject:** 21st Century Library - 6.12.19 Indemnity Agreement - Start up

**Importance:** High

Hello Jeff,

By allowing non construction personal into a unfinished building without a completed fire alarm system T.B Penick and the City of Hayward will take full responsibility for any and all damage to installed electrical devices or equipment and for any personal injury related accidents.

Please sign and return the attached 6.12.19 Indemnity / Hold Harmless Agreement. The rooms you have listed below will be energized for use by the City of Hayward.

Please note the project warranty has started as of October 27 2018.

Thank you,

**John Bangert**

Project Manager

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---

**From:** Jeff Diamond <[REDACTED]>  
**Sent:** Wednesday, June 12, 2019 11:18 AM  
**To:** John Bangert <[REDACTED]>; Deborah Summers <[REDACTED]>  
**Cc:** Amanda Sebastian <[REDACTED]>  
**Subject:** Room numbers

101, 131, 135, 144, 202, 207, 220, 244. I am requesting these rooms to please be turned on and left on.  
J.



**JEFFERY DIAMOND**

**SUPERINTENDENT**



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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Wednesday, June 19, 2019 5:54 PM  
**To:** Jeff Diamond  
**Cc:** Rick Henry; Temple Marcee; Deborah Summers; Amanda Sebastian; Tim Penick; George Vogt; Kevin Gini; Brian Gini  
**Subject:** RE: Power

Hi Jeff,

Collins Electric has continually manned this project ( except when Penick shutdown the project) since October twenty fifteen and we have moved forward with labor, materials with good will towards T.B. Penick only to be disappointed time after time with the lack of commitment to finish the project.

We feel that Penick has taken advantage of our commitment to finish the project by allowing your subcontractors to continue to delay our ability to complete our scope of work. One example of the many delays is room 104, which after nine month the wood ceiling and walls are still not complete. Another example is your Mecho Shade subcontractor which after seven months still have not finished their work, which in turn is delaying Collins. What is the hold up?

The indemnity letter was issued last Wednesday and I would have thought that Penick would have quickly signed the letter in order to start the process of regaining our trust, however once again Penick has failed. I cannot understand why your attorney would need more than seven working days to review and sign the letter.

I'm sorry but unless we receive the Indemnity letter by noon on Friday we will be forced to shut off all power to the building.

Best Regards,

**John Bangert**

Project Manager

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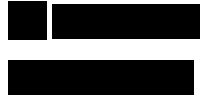
**From:** Jeff Diamond <[REDACTED]>  
**Sent:** Wednesday, June 19, 2019 10:22 AM  
**To:** John Bangert <[REDACTED]>  
**Subject:** Power

John, please give me more time in having your letter signed. Our legal department as I am told, is looking at it. I don't know why you are holding me hostage. If you turn the power off, that will just delay me even further. Please reconsider and let the attorneys hash this out, we are so close.  
J.



**JEFFERY DIAMOND**

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## Jennifer Resnicke

---

**From:** Tim Penick <[REDACTED]>  
**Sent:** Friday, July 05, 2019 1:17 PM  
**To:** Rick Henry; Kevin Briggs; John Bangert  
**Cc:** Alana Cirami; Jeff Diamond; Alex Ameri; Sammy Lo; George Vogt; Brian Gini  
**Subject:** RE: Collins Electrical Removal from the 21st Century Library Project

Good Afternoon Kevin,

I left you a voice mail this afternoon. Penick agrees with Collins that we most certainly do NOT want the City of Hayward to force the termination of Collins Electric. That would be a disaster. Doing so would certainly impede and delay delivery of the Library, bring about unending warranty headaches and expose the City to wrongful termination claims.

For all the frustrations of this project, right now we have good momentum towards TCO. It's my hope that the City will pull back from this course and help us turn over the Library.

Best,

Tim

---

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**TIM PENICK  
PRESIDENT**

[REDACTED]  
TBPenick.com

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---

**From:** Rick Henry <RHenry@collinselectric.com>  
**Sent:** Friday, July 05, 2019 10:24 AM  
**To:** Kevin Briggs <Kevin.Briggs@hayward-ca.gov>; John Bangert <[REDACTED]>  
**Cc:** Tim Penick <[REDACTED]>; Alana Cirami <[REDACTED]>; Jeff Diamond <[REDACTED]>;  
Alex Ameri <Alex.Ameri@hayward-ca.gov>; Sammy Lo <Sammy.Lo@hayward-ca.gov>; George Vogt  
<[REDACTED]>  
**Subject:** RE: Collins Electrical Removal from the 21st Century Library Project

Kevin,

I've received your letter and have our attorney drafting a response to you.

This is a very serious accusation, I wish you would reconsider this position.

We have men onsite today working to complete the fire alarm, please see attached email. It is our goal to have the fire alarm tested and completed by Thursday, July 11 so you can have TOC by Friday of next week.

Obviously, if we are spending all our time between now and Tuesday night trying to defend ourselves we aren't focusing on our goal which is to complete your library.

John and I are scheduled to speak with you and Alex on Monday at 1:00. Can we move this conversation to today?

Kevin, we are taking the necessary steps to complete the library. This letter will completely derail those efforts and make it nearly impossible for you to occupy the library in the near future by substituting Collins Electrical with another electrical contractor.

If you and Alex are available today we would like to discuss this with you.

We would also like you to resend your substation letter so we have the ability to complete this project next week.


## Rick Henry

Dublin Branch Manager

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**From:** Kevin Briggs <[Kevin.Briggs@hayward-ca.gov](mailto:Kevin.Briggs@hayward-ca.gov)>  
**Sent:** Wednesday, July 3, 2019 2:25 PM  
**To:** Rick Henry <[REDACTED]>; John Bangert <[REDACTED]>  
**Cc:** Tim Penick <[REDACTED]>; Alana Cirami <[REDACTED]>; 'Jeff Diamond' <[REDACTED]>;  
Alex Ameri <[Alex.Ameri@hayward-ca.gov](mailto:Alex.Ameri@hayward-ca.gov)>; Sammy Lo <[Sammy.Lo@hayward-ca.gov](mailto:Sammy.Lo@hayward-ca.gov)>  
**Subject:** Collins Electrical Removal from the 21st Century Library Project

Mr. Henry,

Attached you will find our notice that the City of Hayward has requested that TB Penick immediately remove Collins Electrical from our library project. A public hearing has been scheduled for the City Council meeting that will be held on July 9, 2019.

This action is being taken because of Collins Electric's recent lack of progress on critical items of work that have delayed building occupancy.

If you have any questions, or would like to discuss, you can contact me at 510.583.4760.

Regards,

Kevin

Kevin S. Briggs  
Project Manager  
Department of Public Works  
City of Hayward

## Jennifer Resnicke

---

**From:** John Bangert  
**Sent:** Thursday, January 24, 2019 11:47 AM  
**To:** Jeni Gray  
**Cc:** Jim Scates; Steve Meek; Mark [REDACTED]; Temple Marcee; Deborah Summers; Rick Henry; Brian Gini; Kevin Gini; George Vogt; Doug Scripture; Tom Waldron  
**Subject:** 21st Century Library - DELAYS  
**Attachments:** 21st Century Library - Rm 104 ceiling #1 1.22.19.pdf; 21st Century Library - Rm 104 ceiling #2 1.22.19.pdf; 21st Century Library - Rm 108 & 109 Ceiling 1.22.19.pdf; 21st Century Library - RM 203 Ceiling 1.22.19.pdf; 21st Century Library - Rm 205 Ceiling 1.22.19.pdf; 21st Century Library - Rm 207 Ceiling 1.22.19.pdf; 21st Century Library -Rm 309 Ceiling 1.22.19.pdf; 21st Century Library - Rm 307 ceiling 1.22.19.pdf  
**Importance:** High

Jeni,

We have delay costs associated with not having the wood ceilings being completed. Collins is not able to complete the lighting controls, fire alarm and security system devices installed within the wood ceiling. As it stands today Evan brothers has yet complete one room and by working only part time the wood ceilings may not be completed until June.

Also please be advised this wood ceiling delay has halted all commissioning activities of the lighting, lighting controls, fire alarm and security system.

When will the wood ceilings be completed?

Attached are photos I took on Tuesday of the wood ceilings.

We are providing this information so that an effort can be made to resolve this issue so as not to impact the project schedule and/or the project cost.

### John Bangert

Project Manager

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From: Jeni Gray <[REDACTED]>

Sent: Thursday, January 24, 2019 10:17 AM

To: [REDACTED]; John Bangert <[REDACTED]>; [REDACTED]; Rick Henry <[REDACTED]>; Steve Meek <[REDACTED]>; Temple Marcee <[REDACTED]>; Deborah Summers <[REDACTED]>; Jonathan Young <[REDACTED]>; Gerardo Almanza <[REDACTED]>; John Escobar <[REDACTED]>; OLIVIA SOLDATE <[REDACTED]>; Hannah Plecker <[REDACTED]>; Rick Kiikvee <[REDACTED]>; Jim Scates <[REDACTED]>; Tavo Martinez <[REDACTED]>; Susan Heller <[REDACTED]>; Pat Sexton <[REDACTED]>; 'Eddy Stubbs' <[REDACTED]>; Deborah Summers <[REDACTED]>; Zach Sheerman <[REDACTED]>; Steve Alberts <[REDACTED]>; Sharon Alberts <[REDACTED]>; Ken McClister <[REDACTED]>; Doug Sudhi <[REDACTED]>; David Ribeiro <[REDACTED]>; Ron Turmenne <[REDACTED]>; Ruslan Makovey <[REDACTED]>; Kathy Brewster <[REDACTED]>; Juan Valencia <[REDACTED]>; Carlos Sandoval <[REDACTED]>; Crispin Benitez <[REDACTED]>; Ricardo Marrun <[REDACTED]>; Jeff Diamond <[REDACTED]>; Tanya Luis <[REDACTED]>; Ricardo Costa <[REDACTED]>; Alex Velasquez <[REDACTED]>; Cristian Velasquez <[REDACTED]>; Amanda Sebastian <[REDACTED]>; Mark Sung <[REDACTED]>; Gonsalo Jaime <[REDACTED]>

Subject: Hayward Library RFI Distribution

Team,

Please see attached RFI response(s) and notify TBP whether or not you will have any additive or deductive costs and or schedule impact within 5 working days. If we fail to hear back from you within 5 Days, we will submit our Change Order Request to the Owner without any added pricing included for your work. If we determine that a Credit/Deduct is owed, we will submit those deductive costs based on our best estimate and you will be obligated to accept those deductive costs by future Change Order to your Subcontract.

See below link to access FTP site for all RFI's, ASI's and Returned Submittals..

Here's your FTP Site:  
RFI's and Submittals - Hayward  
Site: <http://download.tbpenick.com/>  
Username: rsha  
Password: rsha2  
Internal Path: "\\sdgnetapp01\FTP\Penick\RFI's and Submittals - Hayward



**JENI GRAY**  
**ASSISTANT PROJECT MANAGER**



[TBPenick.com](http://TBPenick.com)

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AND ARCHITECTURAL CONCRETE SINCE 1905

15435 INNOVATION DRIVE, SUITE 100  
SAN DIEGO, CA 92128

## Jennifer Resnicke

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**From:** John Bangert  
**Sent:** Thursday, February 21, 2019 4:58 PM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Steve Meek; [REDACTED]; Deborah Summers; Temple Marcee; Rick Henry; Brian Gini; Kevin Gini; George Vogt; Peter Neumann; Dick Kauth  
**Subject:** 21st Century Library - AV room 205 & 104 Delays  
**Attachments:** IMG\_0040.jpg; ATT00001.txt; IMG\_0039.jpg; ATT00002.txt; IMG\_0038.jpg; ATT00003.txt; IMG\_0037.jpg; ATT00004.txt

Hello Jim,

Our Av sub continues to be delayed by not having the Wood Ceiling completed. The length of time its taking to complete this scope of is unbelievable. Also be advised this wood ceiling delay has halted all Installation activities of the lighting, lighting controls, fire alarm and security system as well.

We are providing this information so that an effort can be made to resolve this issue so as not to continue to impact the project schedule and the project cost.

Please review the attached photos taken by PCD last week.

John Bangert  
Project Manager  
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-----Original Message-----

From: Dick Kauth <[REDACTED]>  
Sent: Thursday, February 21, 2019 4:44 PM  
To: John Bangert <[REDACTED]>  
Subject: 21st Hayward

These are photos taken last week. Still rooms not completed. Approx. 1 week left to program all systems but need these room completed to complete programming. Any help would be appreciated.

## Jennifer Resnicke

---

**From:** John Bangert  
**Sent:** Friday, March 15, 2019 6:04 PM  
**To:** Jim Scates  
**Cc:** [REDACTED]; [REDACTED]; Temple Marcee; Deborah Summers; Rick Henry; Brian Gini; Kevin Gini; George Vogt; Tim Penick  
**Subject:** 21st Century Library - Ceiling delays  
**Attachments:** 21st Century Library - Rm 104 ceiling #1 3.15.19.pdf; 21st Century Library - Rm 104 ceiling #2 3.15.19.pdf; 21st Century Library - Rm 108 & 109 Ceiling 3.15.19.pdf; 21st Century Library - Rm 205 Ceiling 3.15.19.pdf

Hello Jim,

The wood ceilings in room 104, 108, 109 and 205, is delaying our ability to complete the lighting, lighting controls and fire alarm devices. In addition, please be advised this wood ceiling delay has halted all commissioning activities of the lighting, lighting controls, fire alarm and security system.

We are providing this information so that an effort can be made to resolve this issue so as not to CONTINUE to impact the project schedule and project cost.

See the attached photos for your records.

Please advise as to when the wood ceiling work will be completed.

### John Bangert

Project Manager

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## Jennifer Resnicke

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**From:** John Bangert  
**Sent:** Friday, March 15, 2019 6:08 PM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Temple Marcee; Deborah Summers; Rick Henry; Brian Gini; Kevin Gini; George Vogt; Tim Penick  
**Subject:** 21st Century Library - Casework Delays  
**Attachments:** 21st Century Library - Rm 149 Casework 3.15.19.pdf

Hello Jim,

We are being delayed in our ability to complete the electrical scope of work in room 149. The casework needs to be installed with the electrical chases in order to allow Collins to complete the electrical work. We are providing this information so that an effort can be made to resolve this issue so as not to CONTINUE to impact the project schedule and project cost. See the attached photo for your records.

Please advise as to when the case work will be completed.

### John Bangert

Project Manager

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## Jennifer Resnicke

---

**From:** John Bangert  
**Sent:** Friday, March 15, 2019 6:20 PM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Temple Marcee; Deborah Summers; Rick Henry; Brian Gini; Kevin Gini; George Vogt; Tim Penick  
**Subject:** 21st Century Library - ceiling delays trash enclosure  
**Attachments:** 21st Century Library - Rm 119 ( trash shed) ceiling 3.15.19.pdf

Hello Jim,

The trash enclosure ceiling is not yet installed. We cannot install the lighting in the enclosure until the ceiling is installed. I first sent an email in January about this issue and we are providing this information so that an effort can be made to resolve this issue so as not **to continue to impact the project schedule and/or the project cost.**

Thank you,

**John Bangert**

Project Manager

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[REDACTED] | [www.collinselectric.com](http://www.collinselectric.com)



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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Friday, March 29, 2019 2:44 PM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Amanda Sebastian; Deborah Summers; Rick Henry; Temple Marcee; Brian Gini; Kevin Gini; George Vogt; [REDACTED]  
**Subject:** 21st Century Library - Ceiling Delays  
**Attachments:** 21st Century Library - Rm 104 ceiling #1 3.27.19.pdf; 21st Century Library - Rm 104 ceiling #2 3.27.19.pdf; 21st Century Library - Rm 205 Ceiling 3.27.19.pdf

Hello Jim,

The wood ceilings in room 104, 108, 109 and 205, is delaying our ability to complete the lighting, lighting controls and fire alarm devices. In addition, please be advised this wood ceiling delay has halted all commissioning activities of the lighting, lighting controls, fire alarm and security system.

We are providing this information so that an effort can be made to resolve this issue so as not to CONTINUE to impact the project schedule and project cost.

See the attached photos my visit on March 27<sup>th</sup> for your records.

Please advise as to when the wood ceiling work will be completed.

### John Bangert

Project Manager

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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Friday, April 05, 2019 3:57 PM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Amanda Sebastian; Deborah Summers; Temple Marcee; Rick Henry; Brian Gini; Kevin Gini; George Vogt  
**Subject:** 21st Century Library - Wood Ceiling Delays  
**Attachments:** 21st Century Library - Rm 114 #2 4.5.19.pdf

Hello Jim,

The wood ceilings in room 104, 108, 109 and 205, is delaying our ability to complete the lighting, lighting controls and fire alarm devices. In addition, please be advised this wood ceiling delay has halted all commissioning activities of the lighting, lighting controls, fire alarm and security system.

We are providing this information so that an effort can be made to resolve this issue so as not to CONTINUE to impact the project schedule and project cost.

Please advise

### John Bangert

Project Manager

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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Monday, April 15, 2019 10:08 AM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Temple Marcee; Deborah Summers; Dick Kauth; Bill Graham; Rick Henry; Melissa Miramontez; George Vogt  
**Subject:** 21st Century Library - AV completion  
**Attachments:** IMG\_2309.JPG  
**Importance:** High

Hello Jim,

Our AV subcontractor is asking if room 104 and 205 have been completed. The attached photo is what I took on Friday and I understand the ceiling folks are still working on the ceilings in room 104 today. When do you expect they will be complete?

In addition have ALL of the owner furnished equipment (OFE) installed and operational. Is all of the owner furnished equipment installed and operational?

Please advise,

### John Bangert

Project Manager

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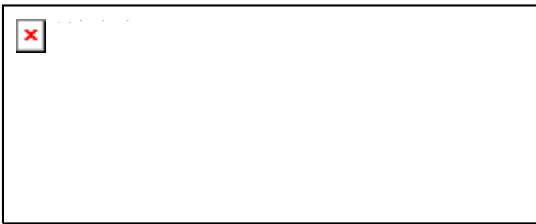
**From:** Dick Kauth <[REDACTED]>  
**Sent:** Friday, April 12, 2019 11:20 AM  
**To:** John Bangert <[REDACTED]>; Bill Graham <[REDACTED]>

**Subject:** Hayward 21st.

John we will need to have clear pictures of room 104 and 205 so that we see that those rooms are completed in order to get this project on the schedule. As for the finishing up of the programming we will need all OFE and those room completed. After those room are completed we will need a week to complete the programming and test all systems. Let me know how to proceed.

**Dick Kauth**

**Project Manager**



Visit us on the web at [www.pcdinc.net](http://www.pcdinc.net)

## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]@[REDACTED].com>  
**Sent:** Friday, April 26, 2019 11:32 AM  
**To:** Jim Scates  
**Cc:** [REDACTED]; Amanda Sebastian; Deborah Summers; Temple Marcee; Brian Gini; Rick Henry; Kevin Gini; George Vogt; [REDACTED]  
**Subject:** 21st Century Library - Rm 104 ceiling Delays  
**Attachments:** 21st Century Library - Rm 104 #2 4.5.19 - Mark up.pdf; 21st Century Library - Rm 104 ceiling removed 4.26.19 wwith markup.pdf

**Importance:** High

**Follow Up Flag:** Follow up  
**Due By:** Friday, May 10, 2019 11:00 AM  
**Flag Status:** Flagged

Hello Jim,

The wood ceilings in room 104 has been removed for some reason and is delaying our ability to complete the lighting. Also the Lutron daylight harvesting devices have been removed and nowhere to be found. In addition light fixtures were removed and we found them piled in with some wood scraps. Please note that we will need to replace all these Lutron devices and the light fixtures with new ones since your sub has voided the warranty of these equipment. Finally, please be advised this ongoing wood ceiling delay has halted all commissioning activities of the lighting, lighting controls, fire alarm and security system. See the attached before and after photos of room 104 depicting this problem.

We are providing this information so that an effort can be made to resolve this issue and not to CONTINUE to impact the project schedule and project cost.

Please advise

### John Bangert

Project Manager

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## Jennifer Resnicke

---

**From:** John Bangert <[REDACTED]>  
**Sent:** Tuesday, June 04, 2019 9:08 AM  
**To:** Jeff Diamond  
**Cc:** Amanda Sebastian; Deborah Summers; Temple Marcee; Rick Henry; Brian Gini; Kevin Gini; George Vogt  
**Subject:** 21st Century Library - Room 104 ceiling Delays  
**Attachments:** 21st Century Library - Rm 104 ceiling 5.31.19.pdf

Hello Jeff,

Now that Jim is no longer working for Penick, I will start sending you email listing areas that are delaying our progress in completing our scope of work.

The attached photo is the current condition of the ceiling for room 104. The long term delay in completing the ceiling is currently preventing Collins from installing the lighting, lighting controls and commissioning the building.

Please advise when this ceiling is expected to be completed.

Thank you,

**John Bangert**

Project Manager

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**ITEM #14 PH 19-067**

**APPROVAL OF A RESOLUTION CERTIFYING AN  
ADDENDUM TO THE 2014 GENERAL PLAN  
ENVIRONMENTAL IMPACT REPORT,  
APPROVAL OF MASTER DEVELOPMENT PLAN,  
AND AUTHORIZATION FOR THE CITY  
MANAGER TO ISSUE A REQUEST FOR  
PROPOSALS FOR THE DISPOSITION AND  
DEVELOPMENT OF PARCEL GROUP 5: BUNKER  
HILL**

**E-MAIL FROM BRUCE KING**

**From:** Bruce King <>

**Sent:** Sunday, July 7, 2019 8:09 AM

**To:** Jennifer Ott <[Jennifer.Ott@hayward-ca.gov](mailto:Jennifer.Ott@hayward-ca.gov)>; List-Mayor-Council <[List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)>

**Cc:** John Stefanski <[John.Stefanski@hayward-ca.gov](mailto:John.Stefanski@hayward-ca.gov)>; Sara Buizer <[Sara.Buizer@hayward-ca.gov](mailto:Sara.Buizer@hayward-ca.gov)>; Paul McCreary <[mccp@haywardrec.org](mailto:mccp@haywardrec.org)>

**Subject:** FSLC Comments on Parcel Group 5 Bunker Hill

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hayward City Council and Jennifer Ott,

This email provides comments from Friends of San Lorenzo Creek (FSLC) related to the two creeks, open spaces, and trails in the Parcel Group 5 Master Development Plan. See the attachment to this email for explanatory figures. I will attend the Hayward City Council meeting on July 9 to present the following...

**RECOMMENDED ACTIONS (also see attachment):**

1. Establish a minimum creek setback (i.e., 2:1 slope +20 feet from creek toe) for the houses and their property lines
2. Establish ownership, responsibilities, and funding for the 10.5 acres of open space and creek/riparian corridor (e.g., a permanent conservation easement and endowment)
3. Add a short section of trail through the northern open space and creek area from Carlos Bee Boulevard to Bunker Hill Court
4. Cleanup debris in the creek areas and conduct some limited restoration

**CREEK DESCRIPTION**

There are two beautiful creek and riparian areas in the open space areas located at the north and south end of Parcel Group 5. The creeks are shaded by a dense, oak-bay, riparian woodland. Dense undergrowth makes some sections of the creeks inaccessible, but it is possible walk along or across sections of both creeks. Human activity has resulted in trash and debris being left in some creek areas. The northern creek area has trash and debris from past homeless encampment. The southern creek area has some debris in the creek, possibly from past residents.

**ADDITIONAL EXPLANATION OF RECOMMENDATIONS**

1. Creek Setback. Creek setbacks are used to keep structures and human activity (e.g., houses and property lines) away from creek banks and the riparian corridor. See Alameda County setback criteria in the attachment. On June 27, the Planning Commission recommended inclusion of creek setbacks in the development.

2. Open Space Ownership and Responsibilities. The two open spaces need permanent conservation, oversight, and maintenance. This requires definition of ownership, responsibilities, and funding. A conservation easement and endowment is a common solution.

3. Add a Trail from Carlos Bee Blvd to Bunker Hill Court. There is an existing, old, dirt road that is in disrepair that goes from Carlos Bee Boulevard to the end of Bunker Hill Court. This road easily crosses the small creek, but the road crossing has washed away. This route should be planned as a pedestrian or multi-use trail. This trail would be the only way people can reasonably see this creek and get into the riparian woodland habitat, the trail would put public and enforcement "eyes on the creek" to prevent

homeless encampment, and would provide an alternative route (and in some cases shorter) between Bunker Hill Court, Carlos Bee Blvd, and Parcel Group 6 (Carlos Bee Quarry site).

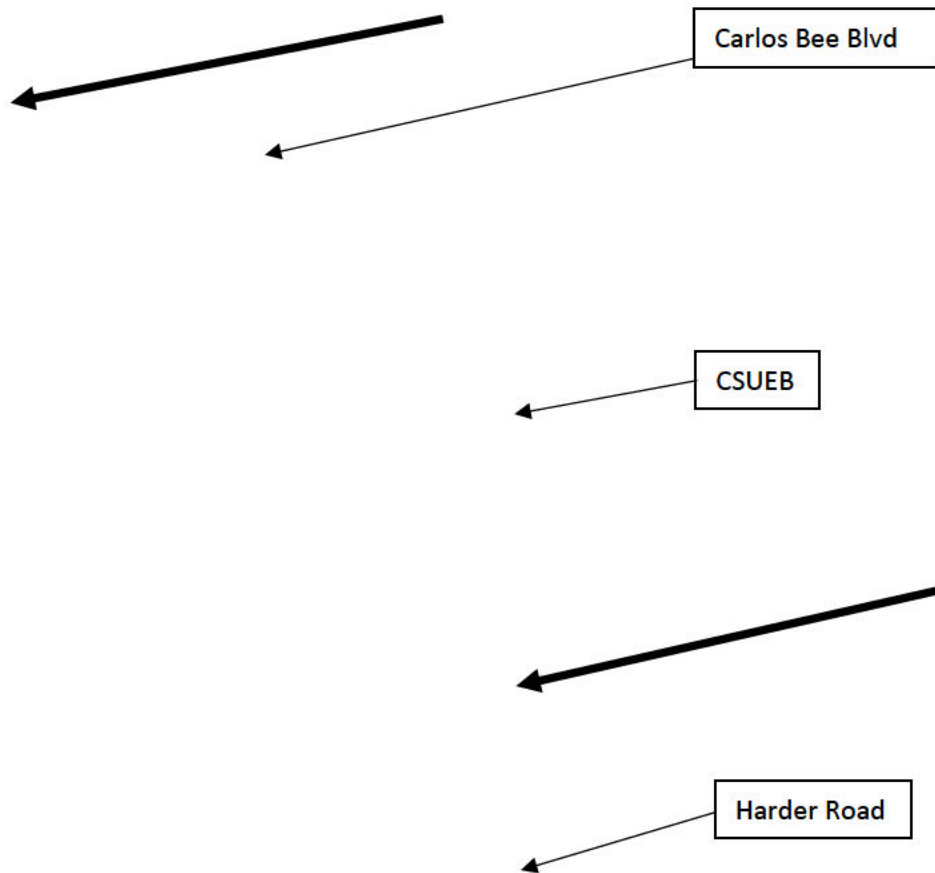
4. Creek Debris Cleanup and Restoration. Development of Parcel 5 should require removal of debris in the creek areas from past human activity, assessment of habitat restoration needs, and some limited restoration. The northern creek area has trash and debris from past homeless encampment. The southern creek area has some debris in the creek (e.g., tires, barrels, wood constructions), possibly from past residents. Removal of this debris is needed and appears at first glance to be relatively straight forward. Each creek area should also be assessed for habitat restoration needs and some restoration should be performed. For example, the southern creek appears at first glance to have a few limited growths of non-native, invasive ivy which could reasonably be removed. The northern creek appears at first glance to have more extensive growth of ivy, which would be more difficult to remove. Creek habitat needs should be assessed and reasonably restored.

#### **TIMING OF COMMENTS**

Numerous "Friends" of Friends of San Lorenzo Creek participated in the November 2018 community meeting for the Route 238 parcel groups, and meetings for Parcel Groups 6, 8, and 9, but FSLC was not aware of other meetings on this parcel group or any requests for input on the proposed Master Development Plan until the Parcel 5 Plan was placed on the June 27 Planning Commission agenda.

Bruce King  
Friends of San Lorenzo Creek

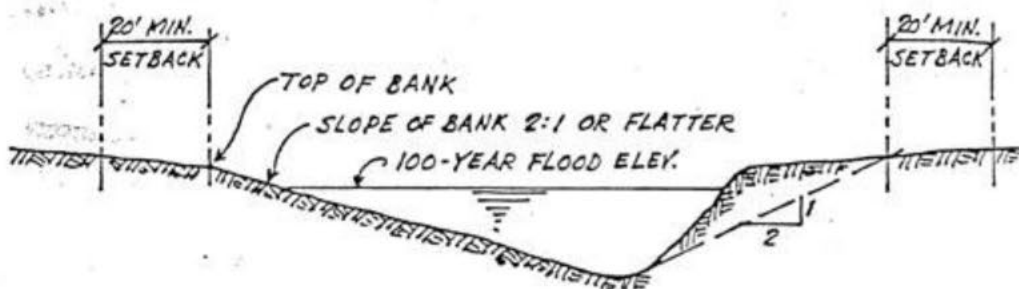
**Friends of San Lorenzo Creek Comments**  
Parcel Group 5 Master Development Plan  
City of Hayward Planning Commission - June 27, 2019



**Recommended Planning Commission Resolutions:**

Creek Setback: Houses and their property lines shall be outside an established minimum creek setback. The creek setback shall be a minimum of 20 feet from:

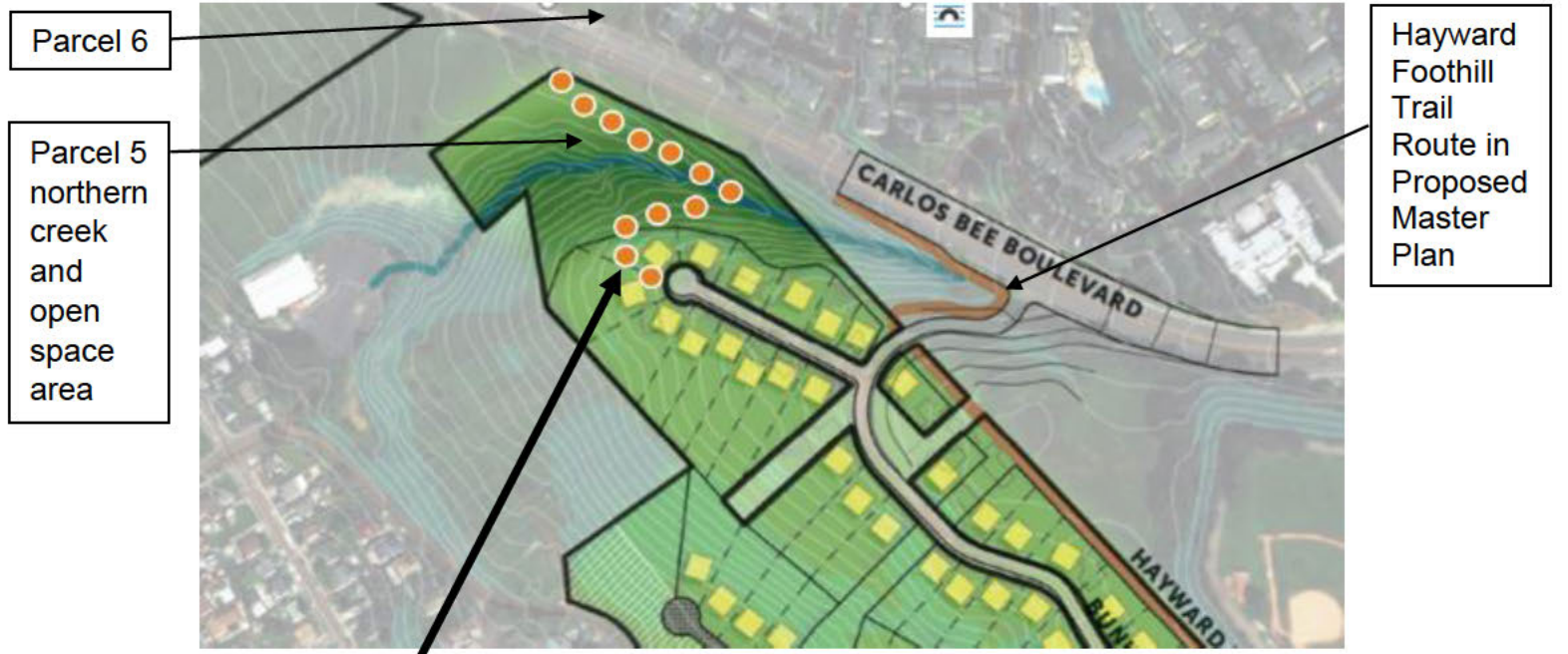
- The top-of-bank when the bank is less than a 2:1 slope (horizontal to vertical), or
- The point where a 2:1 slope line exits the natural terrain when the bank is greater than a 2:1 slope.



Conservation Easement: A permanent conservation easement with ownership, responsibilities, and an endowment shall be established over the 10.5 acres of open space located around the riparian corridors at the northern and southern portions of Parcel Group 5.



**Friends of San Lorenzo Creek Comments**  
Parcel Group 5 Master Development Plan  
City of Hayward City Council – July 9, 2019



**Add a Secondary Hayward Foothill Trail or Other Trail through creek area following an old dirt road**



## Excerpts of the Watercourse Protection Ordinance Setback and Development Requirements

Bruce King, Friends of San Lorenzo Creek  
October 2018

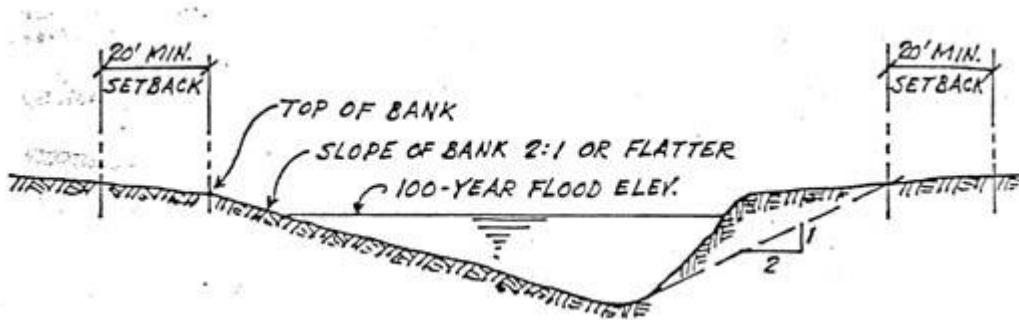
Alameda County General Ordinances, Chapter 13.12

Section 13.12.040 - Jurisdiction

This chapter shall apply to the unincorporated area of Alameda County.

Section 13.12.320: Setback Criteria (Excerpts only)

Section A - Typical where 100-year storm flow is contained within banks of existing watercourse.



Section 13.12.310: Requirements (Excerpts only)

- The purpose of setbacks is to safeguard watercourses by preventing activities that would contribute significantly to flooding, erosion or sedimentation, would inhibit access for watercourse maintenance, or would destroy riparian areas or inhibit their restoration. Accordingly, no development shall be permitted within setbacks, except as otherwise provided herein.
- In certain situations, where, in the opinion of the director of public works, it would be in the public interest to permit limited development within a setback, the director of public works may grant a permit for said development provided that the above-specified purpose would be satisfied.
- The director of public works shall make the determination as to setback limits and any permitted development within a setback.

In addition, WPO Section 13.12.030 defines the following terms:

- "Development" means any act of filling, depositing, excavating or removing any natural material, or constructing, reconstructing or enlarging any structure, which requires a permit issued by the director of public works.
- "Structure" means any works or constructions of any kind, including those of earth or rock, permanent or temporary, and including fences, poles, buildings, pavings, inlets, levees, tide gates, spillways, drop structures and similar facilities.
- "Permit" means a permit issued by the director of public works pursuant to the provisions of this chapter. [Click here to see copy of ACFCWCD [Water Course Permit](#)]

-----  
See all definitions and requirements of the WPO (~9 pages) online at:

- The body of the ordinance, but not the setback criteria is at:  
[https://library.municode.com/ca/alameda\\_county/codes/code\\_of\\_ordinances?nodetd=TIT13PUS\\_E\\_CH13.12WAPR](https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?nodetd=TIT13PUS_E_CH13.12WAPR)
- The Set Back Criteria diagrams can be found at: <http://friendsofsanlorenzocreek.org/ord13-12-320.htm>

**ITEM #14 PH 19-067**

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AND AUTHORIZATION FOR THE CITY  
MANAGER TO ISSUE A REQUEST FOR  
PROPOSALS FOR THE DISPOSITION AND  
DEVELOPMENT OF PARCEL GROUP 5: BUNKER  
HILL**

**E-MAIL FROM ALICIA G LAWRENCE**

**From:** Alicia Lawrence <>

**Sent:** Monday, July 8, 2019 7:24 PM

**To:** List-Mayor-Council <[List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)>

**Cc:** The Hayward Collective <[thecollective@thehaywardcollective.com](mailto:thecollective@thehaywardcollective.com)>

**Subject:** Parcel 5 Master Plan

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Please review the attached letter regarding the Parcel 5 Master Plan.

Thank you.

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Alicia G. Lawrence

The Hayward Collective



July 8, 2019

**RE: Parcel 5 Master Plan**

Dear Mayor Halliday, City Council Members, and City of Hayward staff;

In 2017, twenty-four families were essentially evicted from Parcel 5. Many of these families were moderate and low-income people who were subsequently displaced outside of Hayward.

In review of the Master Plan for Parcel 5, there is a clear lack of equity in accounting for those mass evictions and what it means to build equitable housing across this city. We are fully aware of the 2009 settlement agreement and subsequent tenant transfer programs. It is not the tenants' fault that the terms of the agreement did not stipulate they had to move upon signing. It is not the tenants' fault that the economy had still not recovered and rentals were hard to come by. It is not the tenants' fault that when they tried to purchase their homes, they did not qualify and were denied the opportunity. It is not the tenants' fault that the City of Hayward continued to collect rent on those properties, then turned around and claimed habitability issues when you decided you were ready to sell. And it is not the tenants' fault that you chose the peak of the housing crisis to entice and evict tenants out of their homes.

At the June 27, 2019 Planning Commission meeting, city staff claimed that 17% affordable housing across the 10 parcels of public land is more than enough. This claim obfuscates the fact that the City of Hayward is currently failing to meet its affordable housing needs. The 2015-2023 Regional Housing Needs Allocation (RHNA) states that 49.46%<sup>1</sup> of Hayward's new permits should be for Very-Low Income to Moderate Income. According to the most recent RHNA update (more than 1/3 of the way through the cycle); the City of Hayward is at 37% of its above-moderate allocation, but only 4.7% of its very-low income allocation, 4% of its low income allocation, and 0% of the moderate income allocation.<sup>2</sup> Clearly, City of Hayward needs to do better than 17% affordable housing across these parcels of public land.

We understand the tension in trying to accommodate the requests of the most immediate neighbors, but this plan should have started from a place of "how do we achieve a 1:1 replacement of the 24 naturally affordable homes being destroyed?" That should have been the focal point from which the requests of the neighbors were then wrapped around. Instead, this plan shoehorns in 8 deed-restricted Accessory Dwelling Units (ADUs) - which are not even required to be rented out.

Using ADUs to satisfy the Affordable Housing component of a development on public land — land on which you can set the bar on what you expect to see from developers across the city — sets a disconcerting precedent.

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<sup>1</sup> *Regional Housing Need Plan, San Francisco Bay Area: 2015–2023*, Page 21, [https://abag.ca.gov/sites/default/files/2015-23\\_rhna\\_plan.pdf](https://abag.ca.gov/sites/default/files/2015-23_rhna_plan.pdf)

<sup>2</sup> *5th Cycle Annual Progress Report Permit Summary (xls)*, California Department of Housing and Community Development, [http://www.hcd.ca.gov/community-development/housing-element/docs/Annual\\_Progress\\_Report\\_Permit\\_Summary.xlsx](http://www.hcd.ca.gov/community-development/housing-element/docs/Annual_Progress_Report_Permit_Summary.xlsx)



At the very least, you should be maximizing density along Bunker Hill Boulevard. The neighboring residents who commented at the June 27, 2019 Planning Commission meeting were very clear in that they already have a tight-knit community and will not consider the residents of the newer homes as part of their community. Maximize density along Bunker Hill Boulevard, increase the density on the east side of Maitland Drive, and allow for the homes on the west side of Maitland Drive and along Central Boulevard to blend with the neighboring homes. This city does not need more 3,500-square-foot, multi-million dollar homes. We need homes that first-time homebuyers can afford.

Additionally, given that 24 families were evicted from Parcel 5, the equitable solution here is to restrict a minimum of 24 of the homes as deed-restricted affordable housing units; the displaced Parcel 5 tenants should be given first right-of-refusal to those homes.

We issued a statement regarding the SoHay project, and it was clear our complaints — regarding the insufficiency of affordable housing on those parcels of public land — were lodged too late for your liking. So we are here, at what are still the beginning stages of what will become of this parcel. We are making an effort to be part of the process for how housing is built across this city, and our concerns for residents across this city should be given due consideration in these still early stages of this process.

**In summary, we recommend that the proposed Master Plan and RFP be changed to:**

- Maximize density on Bunker Hill Boulevard
- Increase density on the east side of Maitland Drive
- Include a minimum of 24 homes as deed-restricted (in perpetuity) affordable housing units
- Offer first right-of-refusal to the displaced Parcel 5 tenants for those deed-restricted homes

Sincerely,  
The Hayward Collective