

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, February 23, 2016

7:00 PM

Council Chambers

City Council

Mayor Barbara Halliday
Mayor Pro Tempore Al Mendall
Council Member Francisco Zermeño
Council Member Marvin Peixoto
Council Member Greg Jones
Council Member Sara Lamnin
Council Member Elisa Márquez

CITY COUNCIL MEETING**CALL TO ORDER Pledge of Allegiance: Council Member Mendall****ROLL CALL****CLOSED SESSION ANNOUNCEMENT****PRESENTATION**

California Water Environment Association
San Francisco Bay Section: 2015 (Wastewater) Collection System of the Year
Award

PUBLIC COMMENTS

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or 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.

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.

CONSENT

1. [CONS 16-073](#) Authorization to Extend Professional Services Contract with Maze & Associates for Annual Audit Services

 Attachments: [Attachment I Resolution Contract Extension](#)

2. [CONS 16-075](#) Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement for the Preparation of the Hayward Fiber-Optic Network Master Plan.

 Attachments: [Attachment I Resolution](#)

3. [CONS 16-083](#) Approval of Microsoft Enterprise License Agreement (ELA) for Microsoft Enterprise Software Licenses including Office 365

Attachments: [Attachment I Resolution](#)

4. [CONS 16-085](#) Water Pollution Control Facility Improvements - Phase II: Authorization for the City Manager to Execute Professional Services Agreement to prepare an Environmental Assessment

Attachments: [Attachment I Resolution](#)

WORK SESSION

Work Session items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.

5. [WS 16-011](#) Downtown Parking Study - Draft Report (Report from Director of Public Works Fakhrai)

Attachments: [Attachment I \(a\) Peak Parking Occupancy](#)
 [Attachment I \(b\) Peak Parking Occupancy](#)
 [Attachment I \(c\) Peak Parking Occupancy](#)
 [Attachment II Parking Regulation Zones](#)
 [Attachment III Proposed Parking Regulations](#)

6. [WS 16-013](#) Review of Polling and Update on Potential Ballot Measure (Report from Assistant City Manager McAdoo) - Report will be available on Monday, February 22, 2016

Attachments: [Attachment I Tracking Topline Report](#)

LEGISLATIVE BUSINESS

7. [LB 16-017](#) Review of Potential Elements of Citywide Community Workforce Agreement (Report from Assistant City Manager McAdoo)

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 MEETING – Tuesday, March 1, 2016, 7:00 PM****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.

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

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

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



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Staff Report

File #: CONS 16-073

DATE: February 23, 2016

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

Authorization to Extend Professional Services Contract with Maze & Associates for Annual Audit Services

RECOMMENDATION

That the Council adopts a Resolution (Attachment I) authorizing the City Manager to extend the contract between the City and Maze & Associates for a professional service agreement for an additional two-year audit term, for a total term not to exceed seven years, in an amount of \$140,000 for each annual audit (for a total seven-year contract amount of \$980,402) to perform the City's annual financial statement audits and related services for the fiscal years ending June 30, 2016 and June 30, 2017. The actual contract period will extend through June 30, 2018 to allow for completion of the fiscal year 2017 audit.

BACKGROUND

In March 2011, the City issued a request for proposal (RFP) for auditing services. Following an extensive review process, the City engaged Maze & Associates to provide the City with financial reporting audit services beginning with the audit for the fiscal year ended June 30, 2011. The original contract was for five years, including two optional one-year extensions that the City exercised and which were included as part of the original agreement that ends with the conclusion of fiscal year 2015 audit services.

DISCUSSION

Located in Pleasant Hill, CA, Maze & Associates has been in the governmental audit and accounting business for over thirty-five years and they currently provide annual audit services to over 100 municipal clients. Maze & Associates has provided the City exceptional service as the City's independent external auditors from 1996 through 2007 and then again beginning in 2011 and through the most recent fiscal year ended June 30, 2015.

The City has faced several complicated financial reporting changes during this recent audit term, including the dissolution of the City's Redevelopment Agency, new Government Accounting Standards Board requirements, and the implementation of a comprehensive citywide financial system. During this time, Maze has not only provided solid, objective audit services, but they have also assisted the City in improving its financial reporting and internal controls. Current best practices are to retain audit services

for at least five years, then issue a Request for Proposals (RFP) to select a new audit firm. Below is an excerpt from the Government Finance Officers Association Best Practice on Audit Procurement:

“Governmental entities should enter into multiyear agreements of at least five years in duration when obtaining the services of independent auditors. Such multiyear agreements can take a variety of different forms (e.g., a series of single-year contracts), consistent with applicable legal requirements. Such agreements allow for greater continuity and help to minimize the potential for disruption in connection with the independent audit. Multiyear agreements can also help to reduce audit costs by allowing auditors to recover certain "startup" costs over several years, rather than over a single year. Governmental entities should undertake a full-scale competitive process for the selection of independent auditors at the end of the term of each audit contract, consistent with applicable legal requirements...”

The City intends to issue an RFP for audit services within the next year for services to commence with the fiscal year ending June 30, 2018. The RFP process is time and labor intensive. This contract extension will allow the Finance Department the opportunity to coordinate the issuance of the RFP with other department work efforts while retaining a quality audit firm to continue the City's next two fiscal year audits.

FISCAL IMPACT

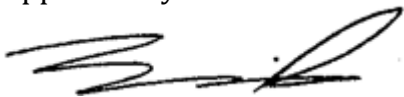
Annual audit services are currently funded from a General Fund allocation in the Finance Department. The annual City-wide audit services cost for fiscal year 2015 was approximately \$147,000, which was higher than the budgeted amount of \$135,000 due to the implementation of the new GASB pronouncements. The recommended audit contract extension will be \$140,000 each for both fiscal years 2016 and 2017.

PUBLIC CONTACT

There has been no previous public contact related to this contract extension.

Prepared and Recommended by: Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachments:

Attachment

Resolution I

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TWO-YEAR EXTENSION TO THE EXISTING PROFESSIONAL SERVICES CONTRACT WITH MAZE AND ASSOCIATES FOR AUDIT SERVICES THROUGH FISCAL YEAR ENDING JUNE 30, 2017.

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute a two-year extension of the existing professional services contract with Maze and Associates, in a form approved by the City Attorney, for audit services through fiscal year ending June 30, 2017.

WHEREAS, this extension will lengthen the term of the contract to 7 years and a total of \$980,402, including \$140,000 each year for fiscal years 2016 and 2017 audit services; and

WHEREAS, the contract term will be extended to June 30, 2018 to allow for completion of the fiscal year 2017 audit.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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Staff Report

File #: CONS 16-075

DATE: February 23, 2016

TO: Mayor and City Council

FROM: Economic Development Manager

SUBJECT

Authorization for the City Manager to Negotiate and Execute a Professional Services Agreement for the Preparation of the Hayward Fiber-Optic Network Master Plan.

RECOMMENDATION

That Council adopts the resolution (Attachment I) authorizing the City Manager to negotiate and execute a professional services contract with CTC Technology and Energy to prepare a Fiber-Optic Network Master Plan.

SUMMARY

In today's fast-moving, technology-driven world, broadband internet service is considered the foundation for economic growth, job creation, global competitiveness, and a better quality of life. Like electricity did a century ago, broadband infrastructure is driving economic development. It fosters and attracts new advanced industries and is helping existing businesses expand and remain competitive globally. Broadband is also changing the way communities educate children, provide public services, and access and disseminate knowledge.

To unlock the economic development potential afforded by broadband, the City is working toward establishing a system called the High-Speed Hayward Fiber-Optic Network (High-Speed Hayward) to serve our business community and potentially residents over the long term. However, this complex telecommunications initiative requires strategic planning to ensure the system is well designed, subscribed to, and managed. To ensure the achievement of these overarching goals, staff developed and is executing a comprehensive work program that includes data collection and analysis, the exploration of public-private partnerships, pursuit of funding opportunities, and development of a Fiber-Optic Network Master Plan (Fiber Master Plan).

This professional services contract will result in a Fiber Master Plan that will guide the City in planning, budgeting, and implementing this infrastructure project. The Master Plan is scheduled to be completed within nine months from contract initiation.

BACKGROUND

Work Task IS3.C of the [Economic Development Strategic Plan <http://www.hayward-ca.gov/haywardopenforbusiness/documents/2013/Economic_Development_Strategic_Plan.pdf>](http://www.hayward-ca.gov/haywardopenforbusiness/documents/2013/Economic_Development_Strategic_Plan.pdf) tasks staff to “explore a public/private partnership to secure broadband/fiber optic network in the industrial area.” To achieve this task, which is programmed over the duration of the five-year plan, Economic Development staff developed, and is executing a comprehensive work program designed to meet near- and long-term needs. Key elements of this program include:

1. Collecting data on existing broadband resources and business needs;
2. Engaging with technology and service providers to identify each organization’s plan or willingness to expand service to the Industrial Crescent and explore potential public-private partnerships;
3. Pursuing funding opportunities including federal economic development and public works grants for network design and construction;
4. Developing a Fiber Master Plan to guide the City in planning, budgeting and implementing a telecommunications infrastructure project.

Over the past two years in accordance with the EDSP work task, staff focused on providing an expeditious solution to Hayward’s business community’s broadband needs by seeking a private partner. While exploring partnerships with large and small providers (detailed below), staff discovered that the technical complexity of the project itself and the potential impacts on the City, the business end-users and other stakeholders required a more strategic and methodical approach to ensure the outcomes met the community’s needs. Staff determined that a fiber master plan utilizing subject-area expertise was required from specialized consultants to dive deeper into determining and evaluating network routes, technical equipment requirements, cost estimates, appropriate business models, and phasing of implementation.

Staff outlined this programmatic approach, received positive feedback and presented regular activity updates at meetings of the Council Economic Development Committee ([September 14, 2015 <https://hayward.legistar.com/ViewReport.aspx?M=R&N=Text&GID=606&ID=2277160&GUID=3B4C34A4-138D-4EC3-A6DD-1FA8E36CD578&Title=Staff+Report>](https://hayward.legistar.com/ViewReport.aspx?M=R&N=Text&GID=606&ID=2277160&GUID=3B4C34A4-138D-4EC3-A6DD-1FA8E36CD578&Title=Staff+Report) and February 1, 2016) and Council Technology Application Committee (October 2015 and December 2015).

The Fiber Master Plan is a critical element to move this EDSP initiative forward. It will leverage the wealth of data and analysis conducted by staff and guides the City from planning to actual implementation. A summary of staff’s progress on laying the foundation for this plan and its application are as follows:

- 1. Data Collection & GIS Mapping:** ED staff, working closely with Public Works - Engineering and Transportation, and Information Technology (IT), compiled all available data regarding existing and planned City and private-owned fiber infrastructure. This information includes existing and planned City-owned conduit and fiber. Staff then combined this with data from the Industrial

Technology and Innovation Corridor Baseline Profile to produce the first map system that plots existing fiber infrastructure, planned conduit, and locations of major employers. This new system provides the basis for planning a fiber-optic network loop to serve the Industrial Corridor and provides foundational data for selecting locations for fiber as resources become available.

- 2. Public-Private Partnership Exploration and Formation:** While developing the GIS maps, staff began engaging private providers to explore partnership options. These potential partners included: AT&T, Comcast, Sonic, and San Leandro Dark Fiber among others. The goal was to determine each organization's plan or willingness to expand service to the Industrial Corridor. AT&T and Comcast continue to provide services for those within proximity to service connection points. Sonic has no plans to expand fiber into the Hayward market at this time, but if the City expands the fiber network, they would be interested in the future. The greatest progress has been with San Leandro Dark Fiber.

San Leandro Dark Fiber (SLDF), who is the City of San Leandro's private partner for the Lit San Leandro Fiber Network, expressed a strong interest to expand their network to Hayward. They are currently working with Alameda County on expanding service through Cherryland and have maintained a strong interest in developing a partnership with the High-Speed Hayward Fiber Optic Network. Staff is currently collaborating with SLDF to develop an agreement to provide robust fiber services to Hayward businesses through the construction of the "Fiber Loop," which would connect existing City-owned conduit with newly constructed conduit creating a loop through the City and would become the backbone for fiber services. Staff is currently negotiating with SLDF on terms. Key to this agreement is the Fiber Grant Application, which is discussed in detail below.

- 3. United States Economic Development Administration Public Works Grant Application:** The development of a fiber optic network is a complex and costly infrastructure project with the greatest expense associated with the installation of conduit within the street systems. The City applied for a \$2.7 million grant opportunity to expand the City's fiber conduit infrastructure by to create a fiber loop under the United States Economic Development Administration (U.S. EDA) Public Works Program in June 2015. The application passed multiple panel evaluations, but ultimately was not funded for the 2015 federal fiscal year. U.S. EDA representatives have been supportive of the grant application and recommended continuing the application to FY 2016.

Staff submitted an updated FY 2016 grant application in October 2015. U.S. EDA responded favorably and requested the City provide additional technical information to further Hayward's application. The specificity of these requests, which included initiating environmental consultations with State and local agencies, indicate that a positive outcome is likely. Grants under this program are awarded on a rolling basis. Staff will continue work closely with and respond in a timely manner to U.S. EDA to maximize the likelihood of funding.

DISCUSSION

While staff continues to explore opportunities for meeting immediate demand for broadband connectivity from our business community, a Master Plan will serve as a strategic long-term planning

document. The Master Plan's primary objective is to collect and analyze information and data that will provide the best path and business model to deploy a fiber optic network. The initial emphasis of the network is to serve businesses located in Hayward's Industrial Innovation and Technology Corridor. Additional information on this targeted area and the types of business activities within it can be found in the [Industrial Technology and Innovation Corridor Baseline Profile <http://www.hayward-ca.gov/haywardupward/wp-content/uploads/2015/06/IndustrialBaselineReport.pdf>](http://www.hayward-ca.gov/haywardupward/wp-content/uploads/2015/06/IndustrialBaselineReport.pdf) published by the City's Economic Development Division in March 2015. In addition, there may be an opportunity to provide fiber connectivity for our residential neighborhoods over the long-term.

Specific technical goals of the Master Plan are as follows:

1. Provide the City with information and data to set its goals and facilitate the design and deployment of a Fiber Optic Network in Hayward;
2. Research and inventory the current supply of broadband communication assets, products and services in the Industrial Crescent;
3. Produce an inventory and assessment of existing City-owned assets and infrastructure required to support deployment of a fiber network;
4. Define and evaluate potential fiber optic network routes and requirements;
5. Identify impacts of a fiber network including impacts on City right-of-way, City-owned conduit, streetlight pools, traffic lights, existing fiber system and other real property;
6. Define services and technologies to be offered on the fiber optic network;
7. Prepare high-level conceptual network routes, deployment cost estimates and evaluate potential business models to build, operate, and make last mile connections to a fiber optic network;
8. Provide City Council and the City Council Committees with findings, recommendations, and feedback opportunities regarding the feasibility and costs of building a fiber-optic network and the best business model to achieve the goals; and
9. Produce comprehensive Master Plan document and phased Implementation Plan to achieve these goals.

Consultant Selection

Staff conducted extensive research and analysis to prepare the Request for proposals (RFP) and complete a competitive bidding process. RFP development, which began in August 2015, involved collaboration with staff from multiple departments, including Information Technology (IT), Public Works Engineering and Transportation, and Finance. Economic Development staff also reviewed related RFPs and completed Master Plans from the Cities of Palo Alto, Oakland, Santa Monica, Ontario, Victorville, and Santa Cruz.

[The RFP was released on September 3, 2015 <http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2015/rfp/1608-090115_Fiber_Master_Plan_RFP_PN_Final_08_25_MC2.pdf>](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2015/rfp/1608-090115_Fiber_Master_Plan_RFP_PN_Final_08_25_MC2.pdf). Responses were received on September 25, 2015 from four firms: The Broadband Group, CTC Energy and Technology, Magellan Advisors and SiFi Networks. These proposals were reviewed and scored by an interdepartmental panel and three of the four firms were invited for interviews on December 3, 2015. Interviewed firms included The Broadband Group, CTC Energy and Technology, and Magellan Advisors.

Following oral interviews and discussions conducted therein, staff sought additional information from the interviewed firms to clarify their technical approach to selected work tasks. Staff issued a request for revised scope, budget, and schedule information on December 21, 2015. All three vendors responded by the January 15, 2016 due date. These responses were reviewed and scored by an interdepartmental panel on January 22, 2016. Based on their experience, proposal scores, and interview performance, CTC Energy and Technology was unanimously selected by the panel.

CTC Energy and Technology offers extensive experience and expertise in all aspects of broadband master planning. The firm has completed similar work including market surveys, business plans, engineering and design, and financial pro forma for clients nationwide including the California cities of Culver City, Palo Alto, San Francisco, and Santa Cruz. The firm is currently preparing a similar plan for the City of Vallejo.

ECONOMIC IMPACT

The job creation impacts attributable to this initiative cannot be estimated at this time. However, information collected through the Economic Development Business Visitation Program from September 2014 to date indicates there is high demand for broadband connectivity for small to medium-sized businesses within the advanced industries sector. Firms in the biotechnology, construction and engineering, information and business services, and manufacturing sectors have expressed a need for such service to help them grow and remain competitive.

The ability to add this infrastructure to Hayward's Industrial Crescent will also serve as a strong competitive advantage over other communities. Improved broadband connectivity in our industrial corridor will support business attraction efforts. While the existence of fiber is only one of many site selection factors (such as lease rents, building configuration, traffic patterns, etc.), being able to market Hayward's broadband connectivity to the business community at large not only helps satisfy a site selection criterion, it will strengthen City's reputation as a center for innovation and growth.

FISCAL IMPACT

The Economic Development Division's operating budget for professional consulting services has adequate fund balance to appropriate up to \$108,000 to create the new project, Fiber-Optic Network Master Plan. This amount includes a contract base value of \$89,530 and an additional \$18,470 or approximately twenty percent as a contingency for any unforeseen changes in scope and/or potential follow-on tasks linked to Master Plan implementation.

PUBLIC CONTACT

Selection of the consultant was completed through a transparent and competitive bidding process. In accordance to City procurement procedures, the RFP was posted to the City website and advertisement notices were sent to potential vendors identified through internet research.

Interviews with business representatives and organizations, property owners, and other public and

File #: CONS 16-075

private stakeholders are key elements of the scope of work to be completed by the consultant.

Work sessions and staff updates with the Council, Council Economic Development Committee, and the Council Technology Application Committee will also be scheduled to allow review and comment on the Fiber Master Plan.

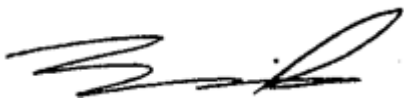
SCHEDULE

If approved, the project is scheduled to kick-off in mid-March and be completed within nine months.

Prepared by: Paul Nguyen, Economic Development Specialist

Recommended by: Micah Hinkle, Economic Development Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CTC ENERGY AND TECHNOLOGY TO PREPARE THE HAYWARD FIBER-OPTIC NETWORK MASTER PLAN.

WHEREAS, The City Council adopted the Economic Development Strategic Plan (FY 2014-2018), which established a goal to maintain and expand public infrastructure that businesses need to thrive; and

WHEREAS, this infrastructure includes advanced telecommunications systems that provides broadband or high-speed internet access; and

WHEREAS, broadband connectivity is fundamental to economic development, assisting in the attraction, retention, and expansion of Advanced Industries; and

WHEREAS, The City desires a comprehensive study and strategic plan for establishing a fiber-optic network to support economic and employment growth in the Industrial Technology and Innovation Corridor; and

WHEREAS, the City completed a competitive selection process for professional consulting services for creation of a fiber-optic network master plan; and

WHEREAS, CTC Energy and Technology were found to be the most responsive to the City's needs for creation of a fiber-optic network master plan; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute an agreement with CTC Energy and Technology for consulting services to prepare the Hayward Fiber-Optic Master Plan, in an amount not to exceed \$108,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

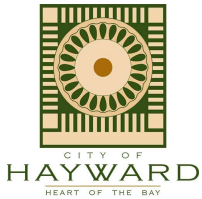
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



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Staff Report

File #: CONS 16-083

DATE: February 23, 2016
TO: Mayor and City Council
FROM: Director of Information Technology
SUBJECT: Approval of Microsoft Enterprise License Agreement (ELA) for Microsoft Enterprise Software Licenses including Office 365

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to negotiate and execute a purchase order and a three-year contract between the City of Hayward and PCM Gov, Inc., payable annually for a total amount not to exceed \$679,055; and approve a contingency of 10% (\$67,905).

BACKGROUND

The City of Hayward invests in technology to efficiently and economically support Hayward's mission and vision. The Microsoft Enterprise Agreement has proven to be a very cost-effective way to purchase Microsoft software to address key organizational objectives, such as building a secure and well-managed data center, maintaining line-of-business applications using the Microsoft Windows Operating System, SQL Database Software, and standardizing on Microsoft's popular productivity software, known as the Office Suite. With the addition of Microsoft Office 365, the City of Hayward will be able to implement hosted Exchange, individual or team sharepoint collaboration sites, hosted one terabyte user drives, instant messaging, and Skype for Business.

DISCUSSION

As part of the City of Hayward's Fiscal Year 2016 Budget, a renewal of its existing Microsoft Enterprise Agreement is planned. Bids were received from four Microsoft Large Account Resellers (LARs) that are approved to sell the Microsoft Enterprise Agreement via the County of Riverside's Master Agreement. Therefore, staff is seeking approval to piggy-back on the County of Riverside's Master Agreement.

Staff determined that the piggy-back procurement method would be the most advantageous to the City of Hayward. The County of Riverside competitively bids the renewal of the Microsoft Enterprise Agreement every five years. In its latest procurement, the County of Riverside awarded the contract to Insight Public Sector, as the firm bid the lowest volume pricing among the six Microsoft LARs. Because the

County of Riverside's procurement included terms that allow surrounding public agencies within California to benefit from volume pricing, a bench was created to include the six Microsoft LARs with their listed discount rates. This allows other public agencies to receive competitive quotes based on their specific Microsoft needs. In addition, the Microsoft LARs cannot go below their listed discount rates, which ensure fair and reasonable pricing.

Information Technology used a competitive procurement process by requesting four of the Microsoft LARs to submit quotes for the City of Hayward's Microsoft Enterprise renewal license. Upon receiving quotes, IT conducted a cost analysis and determined that the pricing from PCM Gov, Inc. was the lowest. Furthermore, the City of Hayward is agreeable to the contract terms agreed upon by the County of Riverside and PCMG. The County of Riverside's agreement contains the same Microsoft Master Agreement, which includes terms that are currently part of the City of Hayward's existing Microsoft contract.

FISCAL IMPACT

The project was approved in the City of Hayward's Fiscal Year 2016 Budget, account 730-30-0001-10001-61140, and is funded.

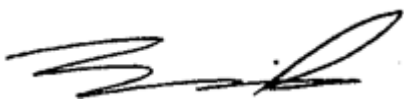
NEXT STEPS

If Council authorizes the City Manager to execute this purchase order, staff will execute the procure the licensing and start the installation. Project kickoff would commence in the fourth quarter of this current fiscal year.

Prepared by: Carolyn Saputo, Information Technology Manager - Infrastructure

Recommended by: Adam Kostrzak, Chief Information Officer

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER WITH PC MALL GOV TO PURCHASE MICROSOFT ENTERPRISE LICENSES UNDER THE MICROSOFT ELA.

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 PCMG, Inc. for the purchase Microsoft Enterprise renewal license, in an amount not to exceed \$746,960.29, both in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



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Staff Report

File #: CONS 16-085

DATE: February 23, 2016

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Water Pollution Control Facility Improvements - Phase II: Authorization for the City Manager to Execute Professional Services Agreement to prepare an Environmental Assessment

RECOMMENDATION

That the City Council adopts the attached resolution authorizing the City Manager to execute a professional services agreement with SMB Environmental to prepare an environmental assessment for the Water Pollution Control Facility (WPCF) Improvements, in an amount not to exceed \$70,000.

BACKGROUND

The City's WPCF provides wastewater treatment to the residential and business community, currently treating an average of about eleven million gallons per day. Like most wastewater entities, Hayward utilizes a facilities master plan to identify system needs for reliable and efficient operation and to develop projects and operational adjustments to meet current and future system demands. A Master Plan was developed in 2001 and included recommendations for a substantial rehabilitation of the WPCF and construction of new process units to improve its performance and reliability and to meet regulatory requirements. Many of these recommended projects were constructed as part of the WPCF Phase I Improvement Project, a fifty-seven million dollar project completed in 2008, including construction of a second trickling filter, two final clarifiers, solids contact tanks and solids thickening facilities.

The WPCF Master Plan was updated in 2014 to verify the need for additional projects identified in the 2001 Plan, revise the layout of additional required facilities, assess the impact of the Russell City Energy Center on WPCF operations, and address sustainability issues such as energy efficiency. The updated Master Plan recommends near term and longer term projects to ensure reliable wastewater service through the planning horizon and to address future, increasingly stringent, regulatory requirements. Examples of these projects, all of which are identified in the current Capital Improvement Program (CIP), include:

- Improvements to the wastewater receiving headworks
- Construction of a new trickling filter to replace an existing aging facility
- Construction of primary effluent flow equalization
- Repair of electrical distribution

In addition to implementing treatment-related projects, the City must also address the issue of operations and administration work space at the WPCF. The current Operations Building is part of the original WPCF construction dating back to 1952. The Administration Building, which includes the water quality laboratory, was constructed in the early 1970s, and rehabilitated, and the laboratory enlarged, in 1995. Since that time, space requirements have increased and the building has aged. The current CIP includes funding to construct a new Operations Building and to renovate and increase the size of, or build a new, Administration Building in order to improve workplace efficiency and provide for a modern lab. Finally, the CIP also includes funds to support design and construction of a second one-megawatt solar energy project at the WPCF to generate additional renewable power.

Staff is exploring the feasibility of applying for a low interest loan from the State Water Resources Control Board Revolving Loan Fund (SRF loan) to fund some or all of the projects described above. While it has not yet been determined which projects would be recommended for funding from the SWRCB, staff is aware, based on experience with other SRF loans, that the loan process with the State can be lengthy. To the extent that applicants complete loan requirements, such as environmental review, prior to submitting the funding application, the process may take less time and result in quicker access to loan funds.

DISCUSSION

A critical component of the SRF process is meeting the State's requirements for environmental compliance. While environmental review in California is typically accomplished through compliance with the California Environmental Quality Act (CEQA), because SRF loans are funded, in part, by federal monies, it is necessary to meet federal environmental regulations as well. For this purpose, specific "CEQA-Plus" requirements have been established by the State to ensure that the requirements of both the State and Federal agencies are met.

The State advises agencies interested in SRF funding to begin the environmental review as early as possible as this aspect of the loan process tends to take the longest. For this reason, staff recommends initiating the environmental review at this time. The environmental work will need to be completed prior to construction of Phase II improvements, regardless of the funding source, and there is no advantage in waiting.

The environmental assessment would be implemented in three major tasks:

- Task 1 - Project coordination and quality control
- Task 2 - Review of existing documentation, including environmental documents prepared for other WPCF projects and pertinent sections of the WPCF Master Plan
- Task 3 - Preparation of all environmental documents for public review, public notices and final documents

The City will be the lead agency for this project. Based on prior environmental reviews at the WPCF, staff anticipates that the final environmental document will likely be a Mitigated Negative Declaration; however, that determination will be made by the consultant during the course of the environmental review.

Consultant Selection

Staff issued requests for proposal to four consulting firms with experience and knowledge in the environmental assessment field and received one proposal from SMB Environmental. Staff reached out to the four consultants and was expecting more than one proposal; however, currently most firms are very busy with this kind of work. After review of this proposal, staff has determined SMB Environmental is qualified to perform the environmental assessment based on its experience with similar projects, qualifications of the team, and reasonableness of level of effort and rates.

The firm specializes in providing environmental, regulatory, and public relations support for a variety of water and wastewater projects. SMB Environmental successfully completed the environmental assessment for the City's Recycled Water Project and has also performed similar work for the City of Pleasanton, City of Mountain View, City of Ukiah, and other public agencies. The project team proposed by SMB Environmental includes technical experts experienced in preparing environmental compliance documents to meet CEQA Plus requirements. Staff contacted other agencies for which SMB Environmental has prepared environmental assessments prior to recommending their services and received favorable comments. As a small firm with relatively lower overhead costs, SMB is able to provide hourly rates that are reasonable and lower than most larger firms. Staff has determined that the level of effort reflected in the number of hours is also reasonable for the scope of work.

A detailed scope of work and a fee of \$59,058 have been negotiated with SMB Environmental. Since there are some inherent uncertainties in working with the State to obtain a State Revolving Fund loan, staff proposes a not-to-exceed amount of \$70,000 to allow funding for additional services and documentation that may be needed during various phases of the project.

ECONOMIC AND FISCAL IMPACT

The cost of the environmental assessment will not exceed \$70,000, including \$10,942 for additional services. The FY 2014 Capital Improvement Program includes sufficient funding in the Sewer Capital Improvement Fund to perform this work. The environmental assessment will be used to obtain a low interest from the State for project construction.

PUBLIC CONTACT

There will be a public review and comment period for the draft environmental assessment report. The consultant will prepare all the required environmental documents for public review, prepare notices for distribution by the City in compliance with CEQA and City requirements, and address all comments in the final environmental report. The final environmental assessment report will be adopted upon approval by the City Council.

File #: CONS 16-085

NEXT STEPS

Assuming City Council approval, staff will finalize a professional services agreement with SMB Environmental and a Notice to Proceed will be sent out accordingly. Staff will return to the City Council for review and consideration of the final environmental assessment report. Staff will also return to the City Council with a request to submit an application for an SRF loan once the most appropriate projects for funding have been determined.

Prepared by: Suzan England, Senior Utilities Engineer

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

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF HAYWARD AND SMB ENVIRONMENTAL, FOR PROFESSIONAL SERVICES TO PREPARE AN ENVIRONMENTAL ASSESSMENT FOR THE WATER POLLUTIONCONTROL FACILITY IMPROVEMENTS PHASE II, IN AN AMOUNT NOT TO EXCEED \$70,000

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute, on behalf of the City of Hayward, a professional services agreement with SMB Environmental to prepare an environmental assessment for the Water Pollution Control Facility Improvement Project, in an amount not to exceed \$70,000 including \$10,942 for additional services, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: WS 16-011

DATE: February 23, 2016

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Downtown Parking Study - Draft Report

RECOMMENDATION

That Council reviews and provides comments on proposed parking demand management strategies for Downtown Hayward.

BACKGROUND

In fall of 2014, Hayward staff was notified that BART would begin implementation of paid parking at the Hayward BART station. In response, staff developed various short term strategies to mitigate potential impacts to the Downtown parking areas.

Several policy options were evaluated to determine how parking might be managed in response to potential increases in demand within a quarter to one half mile of the BART station. Staff also reviewed case studies from other jurisdictions (e.g. Union City, San Leandro and Dublin) where BART implemented parking charges to identify possible unanticipated impacts and/or mitigation measures. As a result, the following “interim” strategies were presented to Council and implemented in December 2014.

Adopted “Interim” Parking Demand Management Strategies

- Designate and enforce 4-hour parking restrictions in the City Hall parking structure between 9:00 AM and 4:00 PM on weekdays. City employees parking in the structure will receive temporary parking permits for this garage.
- Designate and enforce 2-hour “time limit” parking from 8:00 AM to 5:00 PM for on-street parking within a quarter mile radius of the Downtown Hayward BART station.
- Designate and enforce 4-hour time restrictions for the commercial and residential areas west of the BART station (along A, B, C, Claire and Alice Streets) between 9:00 AM and 4:00 PM on weekdays
- Improve enforcement to ensure that time restrictions are being observed

Apart from the interim strategies that were implemented, it was recognized that long-term, comprehensive parking policies would be critical to the growth and development of the Downtown area. In order to identify these strategies and make the best use of available resources, the consulting firm, CDM Smith (CDM), was selected to work with staff to conduct a more focused analysis of parking supply and demand in Downtown Hayward, with the goal of developing long term strategies and policies. Separately, Hayward was one of a limited number of local agencies selected by MTC as part of a comprehensive evaluation of parking policies in the nine county Bay Area region. Staff took advantage of this regional effort as a mechanism to jump start a more focused assessment of Downtown parking needs by utilizing the data gathered from MTC's sanctioned study.

DISCUSSION

The primary focus of the Downtown Parking Study was to understand how existing regulations align with current parking demand, and propose updates to those regulations/strategies in order to improve parking demand management in the Downtown area. Proposed strategies that were included in the overall discussion included time restrictions, permits for residents and employers/employees, and options for future pricing implementation.

Generally, areas with higher demand should have shorter time restrictions for parking; the shorter time restrictions are in place to increase the turnover rate, making these spaces available to accommodate more patrons of local businesses. Areas with lower demand should have fewer restrictions with longer term parking available. Occupancy that is 65% or lower is considered "underutilized," meaning that these areas should have relatively low restrictions. Occupancy that is over 85% is considered "fully utilized," while occupancy over 95% is considered "over utilized."

While the study primarily focused on peak period occupancy, hot spots of high demand during off peak periods were also evaluated. In Downtown Hayward, the Midday period (12:00 PM) consistently displayed the highest parking occupancy. Parking occupancy is particularly highest along the B Street corridor from Montgomery Avenue to Foothill Boulevard as well as on A Street and C Street from Grant Street to Filbert Street (see Attachment I). Outside of these areas, there are several other block faces that have occupancy above 85%, but typically they are isolated and have adjacent block faces with underutilized parking.

As shown in Attachment II, there are two zones of high demand within the Downtown study area that have differing needs and considerations. The Downtown area has a high demand for customer parking as well as the need for long-term employee parking. The mixed commercial and residential areas just west of the BART Station have high demand primarily for long-term resident parking.

Staff Recommendations - Staff recommendations are divided into Phase I and Phase II. Phase I is defined as the following recommended one-year program. Phase II is defined as subsequent modification to Downtown parking regulations based on the results from Phase I.

Phase I:

- A. At this time, it is recommended that parking restrictions be largely limited to the two high-demand areas defined above, which will allow for clear recommendations and provide options for unrestricted parking in areas located further away from the Downtown core and BART station area where demand is lower. .
- B. Additional staff recommendations address the overall parking needs around the Downtown business corridor and residential neighborhood(s) in the Downtown area.
- As part of a one year pilot program, staff recommends that on-street priced parking be initiated in corridors of highest demand within Zone 1, along B Street from Foothill Blvd to Montgomery (see Attachment III), while eliminating time restrictions along the same corridor. The cost for parking within the priced parking area would increase hourly based on the amount of time a car has been parked in the area, which discourages long-term parking. It also gives those seeking short-term parking access to Downtown at either no cost or a very nominal rate. The end goal is to see a more even distribution of parking around Downtown and see less congestion along certain corridors, such as B Street.
 - To further increase flexibility and limit the amount of physical and costly changes to existing infrastructure, the pilot program will utilize multi-space pay stations, mobile payment, and License Plate Recognition (LPR) technology for payment collection and enforcement. Multi-space pay stations will provide the least intrusive changes to existing infrastructure on a per-block basis while allowing for payment with credit card or cash for those not accessing mobile technology..
 - The pilot program will monitor seventy-four standard spaces located on B Street between Foothill Boulevard and Montgomery Street during Phase 1. A free Downtown parking program for merchants and employees is recommended at this time, to shift long-term employee parking away from the highly utilized on-street parking facilities along the B Street corridor. Data analysis showed consistently high occupancy rates along on-street parking facilities, but low rates at off-street parking facilities. Free merchant/employee parking permits should be valid at multiple municipal parking lots.
 - If the pilot program is implemented, the City will provide a series of educational materials explaining existing conditions, parking options available, and why priced parking and permits have been adopted.
 - Staff would initiate a coordinated wayfinding system to more easily direct visitors to free public parking lots.
 - Time restricted parking should continue along A Street, B and C streets west of Grand Street, D Street, and Foothill Blvd. Increased enforcement should be implemented throughout the Downtown to reduce over parking and increase compliance.
 - A new Residential Preferential Parking (RPP) system for Downtown Hayward should be implemented in the neighborhood(s) adjacent to the Hayward BART station, as well as nearby spillover zones. The residential area bordering the Downtown commercial area and immediately adjacent to the Hayward BART Station are routinely impacted by daily parking activity, commuters who opt to park on-street to avoid BART parking fees, or those who spill over due to parking constraints in the nearby commercial and residential areas.
 - A critical component for success of the program is enforcement. The final report will

present staffing needs and costs to effectively enforce recommendations in Phase I, along with potential revenue generated from parking fees and citations. The report will also evaluate what may be needed in subsequent phases.

At the conclusion of the year-long pilot program, the impacts from Phase 1 will be evaluated and brought before Council for further consideration. At the end of the pilot program, Council will have the options to:

- Sunset the program and adopt potential alternative management strategies; or
- Extend the program indefinitely, by adopting it into City code; and
- Implement Phase 2

Phase II:

Phase 2 could include the following components:

- If use patterns warrant it, expand priced parking to areas of high demand. This expanded area could include B Street from Montgomery to Grand Street, Main Street between A and C streets, and Watkins Street between B and C streets, adjacent to the new library.
- Implementation of smart meters and elimination of time limits on side streets adjacent to B Street from Foothill Blvd to Grand Street.
- Implementation of pay station systems at the City Hall and Cinema garages, to include Real-Time Parking Information, and/or
- Implementation of pay station systems for the Municipal surface parking lots and garages.

FISCAL IMPACT

City staff has been successful in obtaining a grant from MTC to implement Phase 1 of the Pilot Parking Program as described above. The grant amount of \$438,000 (\$100,000 in City local match) covers the purchase of pricing and enforcement technology, education programs and wayfinding signage. Phase 1 costs are included in this detailed grant proposal, which will be the City of Hayward's first implementation of on-street pricing in several decades. The technology purchased will be the City's to retain regardless of whether the pilot program implemented in Phase I continues past the pilot phase. This is a good opportunity for the City to acquire this equipment using grant funds.

The implementation of paid parking is the major component of the grant received from MTC. If the pilot related to paid parking is not adopted/implemented, the City will have to forfeit the grant. Without regard to the MTC grant, the City can move forward with formalizing time restrictions in the Downtown as a method of parking management and implementation of both employee/employer and residential parking permits.

PUBLIC CONTACT

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

In October 2016, staff solicited comments from visitors to the Downtown area on a Friday night and a Saturday during the Farmers Market via survey; 134 surveys were completed. In addition, a more detailed survey was posted on-line on the City's website, Facebook page, the social network Nextdoor, and disseminated via e-mail. The survey, posted in both English and Spanish, targeted those who work in Downtown, visit Downtown, and/or live in Downtown. A key element of the outreach strategy was to work with residents and business owners to identify critical issues and gauge reaction to potential new approaches such as pricing and parking management. Approximately 840 on-line surveys were filled out and submitted.

For the long term, a more comprehensive assessment of parking will be undertaken as part of the Downtown Specific Plan. The strategies put in place as part of this effort are to manage existing parking demand and supply and to explore options and alternatives and understand their limitations and impacts. The Downtown Specific Plan will address issues such as unbundling of parking for residential developments, the potential redevelopment of the municipal lots, a determination of the need for future parking supply as the Downtown grows, and metrics as to what level of development would trigger the need for additional capacity. This study and its recommendations will be the starting point for that longer term and broader discussion.

NEXT STEPS

If Council decides to authorize the City Manager to proceed with implementing the pilot pricing program along the B Street corridor as discussed, MTC is requiring that all grantees adopt a resolution no later than April 1, 2016. As such, if Council concurs with the adoption of the Phase 1 pilot pricing program, an item would be placed on the March 22, 2016 agenda for Council adoption..

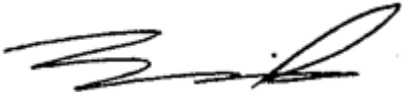
In addition, the final report will include a detailed financial analysis outlining revenues, capital needs, and operating costs for a more robust parking management and enforcement component. This effort will outline the steps necessary to combine parking enforcement and management activities citywide relative to necessary staffing, anticipated revenues, and operating/capital outlays. Specifically, combining the citywide RPP program with the Downtown RPP and the South Hayward JPA will be the focal point of the analysis. The report will discuss the potential creation of a more formal parking management and enforcement component within the municipal organization, and outline costs and anticipated revenues associated with such a coordinated enforcement effort. Following receipt of feedback by Council, staff will finalize the comments in a final Downtown parking management plan report for Council review and possible adoption this fall.

Prepared by: Fred Kelley, Transportation Manager

Recommended by: Morad Fakhrai, Director of Public Works

File #: WS 16-011

Approved by:



Fran David, City Manager

Attachments:

Attachment I (a)	Peak Parking Occupancy Map
Attachment I (b)	Peak Parking Occupancy Map
Attachment I (c)	Peak Parking Occupancy Map
Attachment II	Parking Regulation Zones
Attachment III	Proposed Parking Regulations

Attachment I (a) - Peak Parking Occupancy – 2014, Weekday 12:00 PM

August 2014, Weekday 12PM

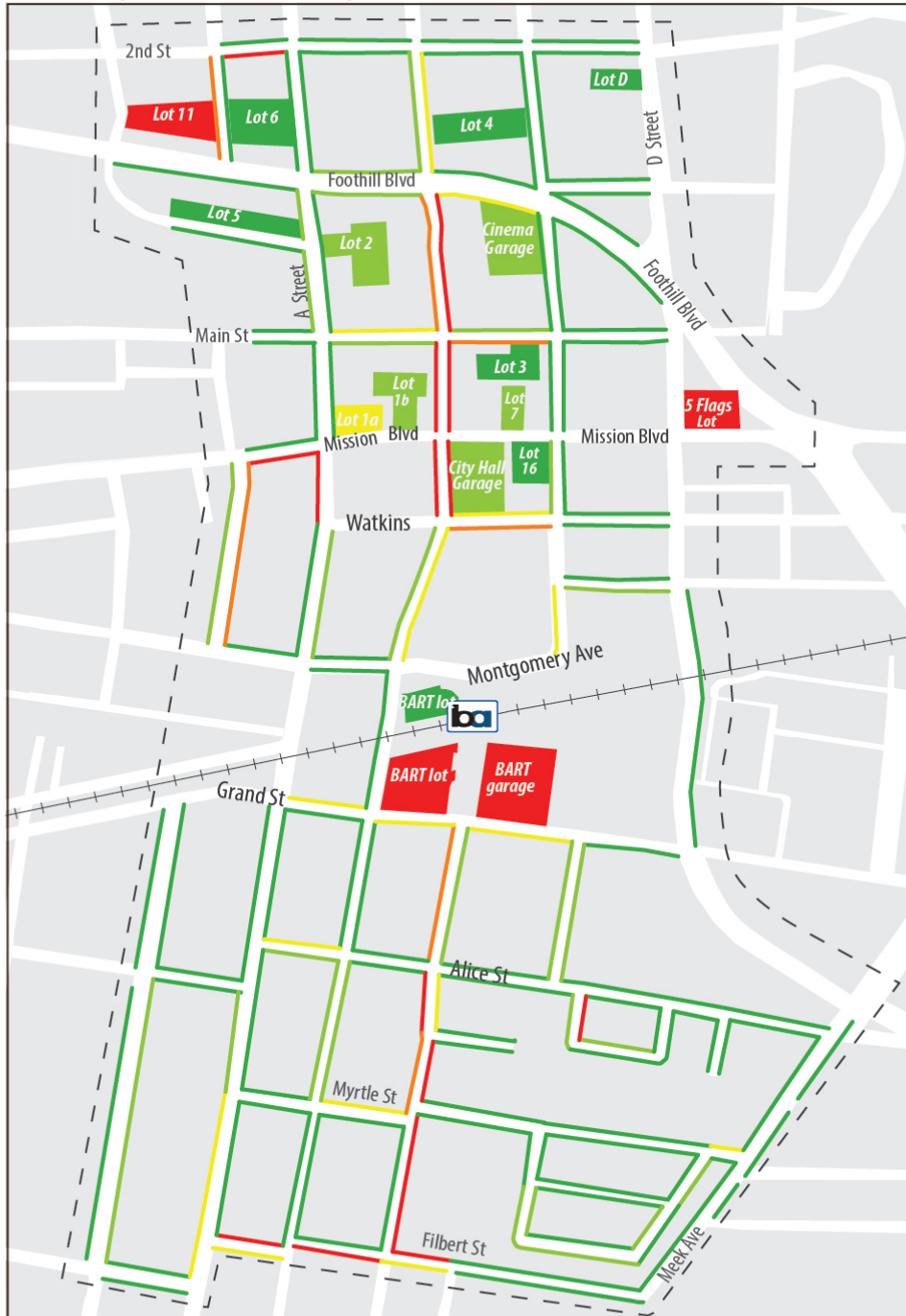


Percent Occupied 0-50% 50-70% 70-85% 85-95% 95-100% +++ BART [dashed box] Study Area Boundary



Attachment I (b) - Peak Parking Occupancy – 2015, Weekday 12:00 PM

February 2015, Weekday 12PM

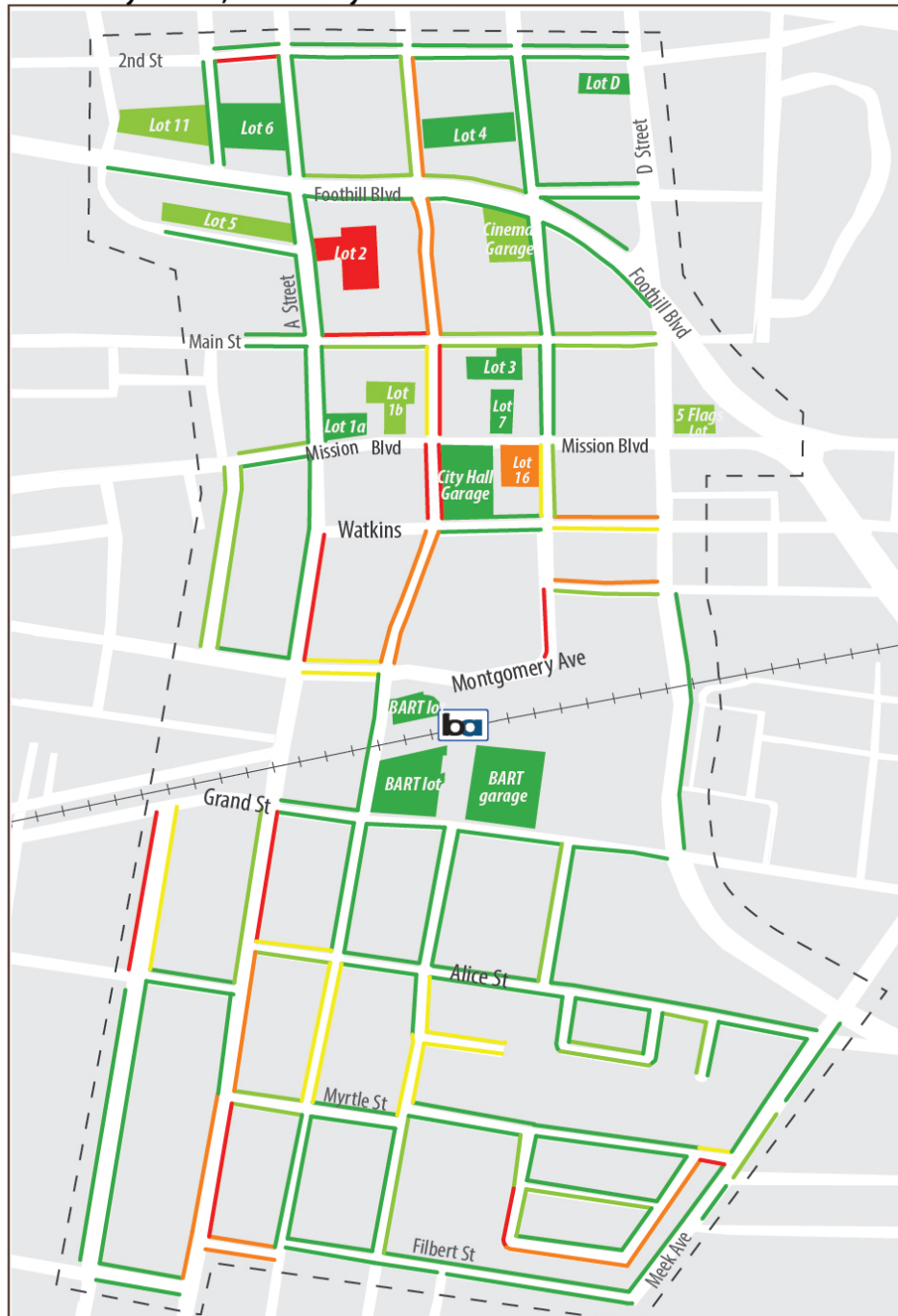


Percent Occupied 0-50% 50-70% 70-85% 85-95% 95-100% +++ BART Study Area Boundary



Attachment I (c) - Peak Parking Occupancy – 2015, Saturday 12:00 PM

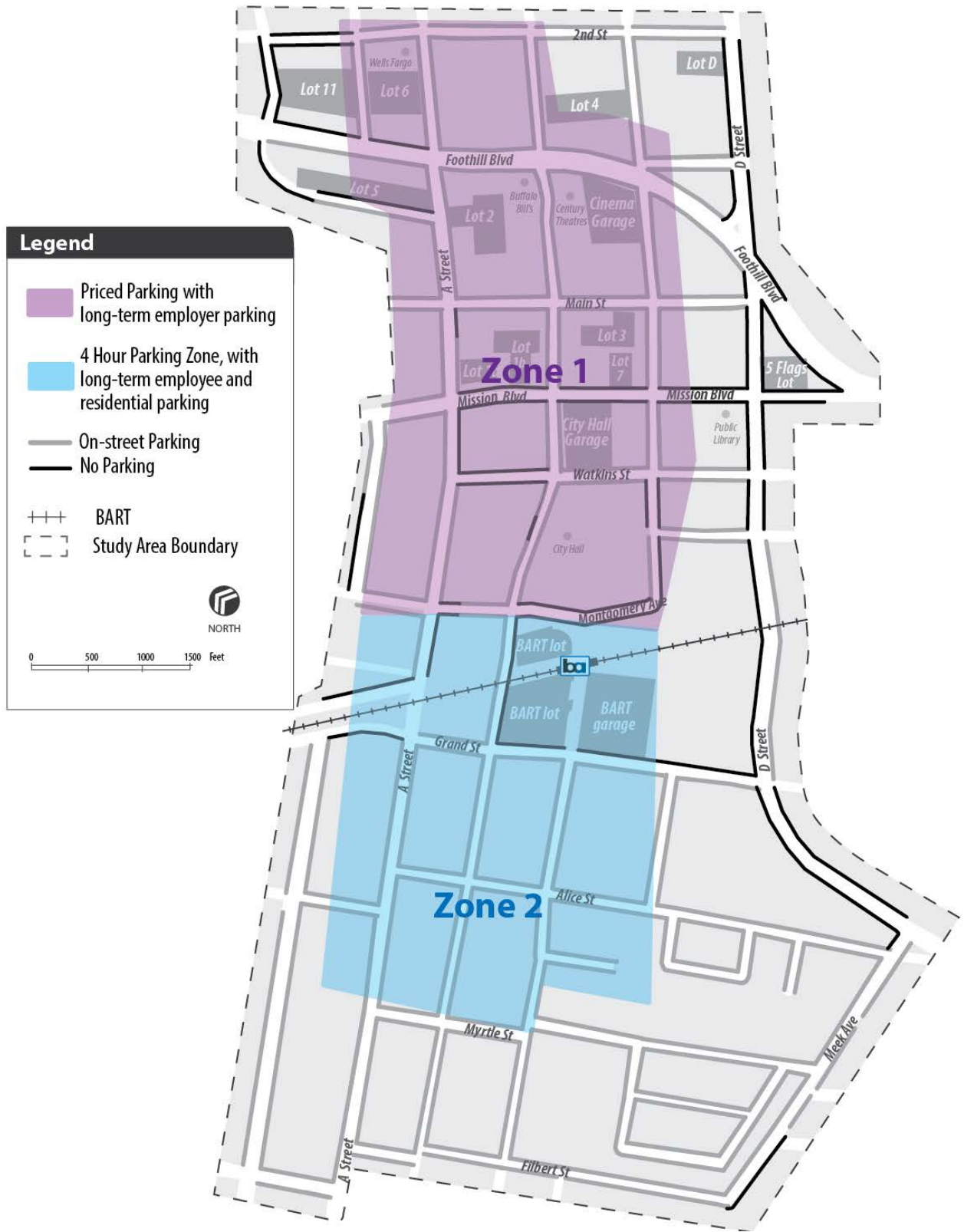
February 2015, Saturday 12PM



Percent Occupied 0-50% 50-70% 70-85% 85-95% 95-100% +++ BART Study Area Boundary




Attachment II - Parking Regulation Zones



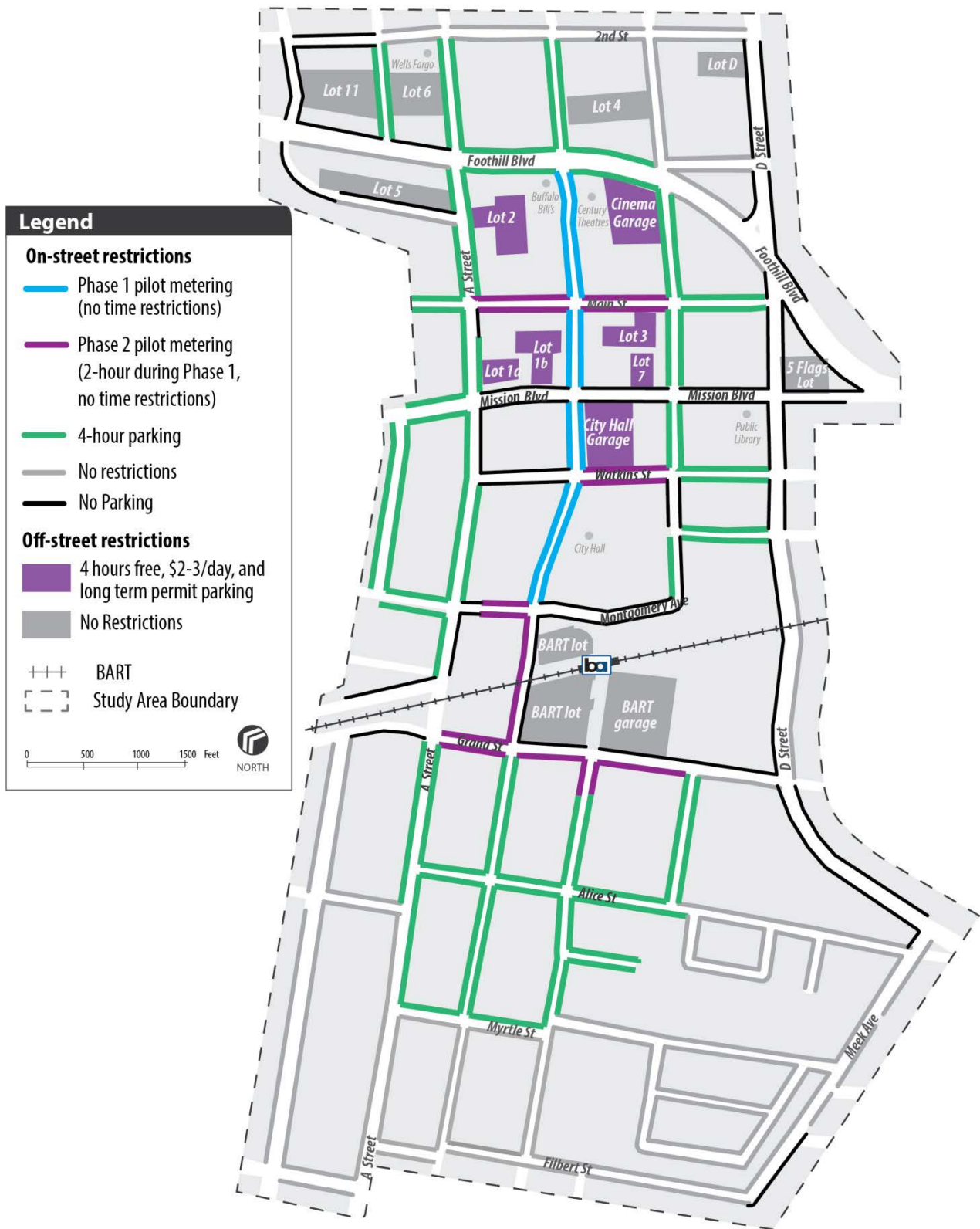
Legend

- Priced Parking with long-term employer parking
- 4 Hour Parking Zone, with long-term employee and residential parking
- On-street Parking
- No Parking
- BART
- Study Area Boundary


 NORTH

0 500 1000 1500
 Feet

Attachment III – Proposed Parking Regulations





CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: WS 16-013

DATE: February 23, 2016

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Review of Polling and Update on Potential Ballot Measure

RECOMMENDATION

That the Council reviews the tracking poll results for renewal of the City's Utility Users Tax (UUT), receives an update on community outreach efforts surrounding the renewal, and identifies the next steps needed to place the renewal of the Utility Users Tax on the June 2016 ballot.

BACKGROUND

The Utility Users Tax (UUT) was approved by Hayward voters as part of a special election in May of 2009 as a means of protecting critical city services in the wake of the devastating impacts of the Great Recession. The UUT is a 5.5% tax on the use of electricity, natural gas, telecommunications (including traditional telephone service, long distance service and cellular phone service), and video/cable television services. The tax was initially adopted with a ten year sunset clause, meaning that the tax is set to expire in 2019, unless renewed by the voters.

The UUT currently generates about \$16 million per year and is now the City's third largest General Fund revenue source behind property and sales taxes. About 75% of the revenue (roughly \$12 million) is allocated to public safety operations (police and fire). The remaining \$4 million generated by the UUT funds other City programs such as streets and roads maintenance, library services and economic development programs. Even with an improving economy in recent years, revenues have lagged behind the increasing demand for services and their rising cost. The City has walked a tightrope, dramatically reducing its budget while maintaining high levels of service. At the same time, employees from all bargaining groups have shouldered more of the cost of their benefits as the City has adjusted its compensation structure. Without the UUT, the City would have no choice but to enact severe service cuts in order to maintain fiscal stability and a balanced budget.

In the summer of 2015, staff began discussing the renewal of the City's UUT. The UUT was originally adopted during a special election for the City. The City is pursuing renewal of the UUT at this point so that the matter can be placed on the ballot during a regular election held by the City. Should Council

decide to seek renewal of the UUT at this time, staff is recommending that it be put on the ballot for the upcoming regular municipal election in June so that if that renewal effort is unsuccessful, there will be an opportunity for two additional years of outreach and engagement with the Hayward community about the critical need for this revenue source before the last possible renewal point in June 2018.

At the January 26, 2016 City Council meeting, the Council received the results from preliminary polling done last fall and confirmed the recommendation of the Budget & Finance Committee to proceed with outreach efforts around a renewal of the 5.5% UUT measure for either ten or twenty years (see staff report here:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=2555232&GUID=6B112550-623A-434B-A3AF-281484E67165>).

DISCUSSION

Following the Council's discussion in January, staff and community volunteers embarked on an extensive outreach effort. The intent of this effort was to gauge the community's feedback on whether the City followed through on its commitments related to the UUT and to understand if there were other priorities of importance to the community that should be funded with the UUT revenues. The original commitments associated with passage of Measure A in 2009 primarily included the preservation of police and fire staffing and preventing rolling closures of fire stations, among others. The City was able to meet these commitments and work towards a balanced budget in no small part due to the significant wage and benefit concessions our employees made in order to maintain service levels to the community. The additional revenue that resulted from the passage of Measure A and implementation of the UUT was also critical in the City's efforts to balance the budget and maintain those critical City services most highly valued by the community.

As part of our effort to gauge citizen feedback, firefighters from Local 1909, staff and community volunteers walked door to door on four Saturdays in January and February to talk with registered voters about the UUT. This resulted in the following findings:

Total conversations:	1,408
Support renewal:	833 (59%)
Undecided:	498 (35%)
Oppose renewal:	77 (5%)

In addition, staff created an online survey for resident feedback and also sent a direct mail piece to 32,680 Hayward households. The survey asked the following questions:

- 1) Has the City honored its promise to fund essential city services with UUT funding?
- 2) What about service delivery? Is the City responsive when you ask for help?
- 3) Are there other City services (beyond public safety, street maintenance, libraries, and economic development) that should be supported with UUT funding?
- 4) What do you think about the proposal to extend (but not increase) the existing UUT?

While these surveys are not scientific nor statistically significant and may also include responses from non-Hayward residents, they do provide interesting insights into community perspectives and general support for City services. In those instances where specific complaints were expressed on the surveys or

via email, staff ensured that these complaints were either entered into Access Hayward or referred to the appropriate staff member for response and follow up.

As of Friday, February 19, staff had received 712 online responses and 591 survey cards had been returned for a total of 1,303 responses. Compared with other communities that engage in similar outreach efforts, this is an extremely high response rate. Here is a summary of responses to the four survey questions. It is important to remember that the responses to each question may not add up to the total responses listed above since some individuals did not answer all questions or chose to only write comments.

- 1) Has the City honored its promise to fund essential city services with UUT funding?
Yes: 444 responses
No: 148 responses
I don't know: 710 responses

While the yes responses outnumber the no responses by a 4 to 1 margin, the more instructive data point from this question is the number of residents who are unaware of the City's efforts to maintain funding for essential services with the UUT. This presents a great opportunity for the Council and staff to continually create awareness of the importance of this revenue stream to the City's overall budget.

- 2) What about service delivery? Is the City responsive when you ask for help?
Yes: 647 responses
No: 192 responses
I don't know: 398 responses

The responses to this question indicate an overwhelming positive reaction to the City's responsiveness when our residents ask for help. This indicates a level of trust in City government that may make voters more likely to support local revenue measures - residents may be more likely to trust the City to spend funds appropriately.

- 3) Are there other City services (beyond public safety, street maintenance, libraries, and economic development) that should be supported with UUT funding?

This question elicited a wide range of open ended responses but there were some themes that emerged. The vast majority of respondents indicated that there were no other services (other than those listed) that should be supported or they were not sure about other services that could be supported (236 total respondents). Other respondents indicated that the City should utilize UUT funding to support these services:

<i>More street and sidewalk repair:</i>	<i>52 responses</i>
<i>Youth Programs/Improving Education:</i>	<i>51 responses</i>
<i>Cleaning up Hayward/Litter:</i>	<i>45 responses</i>
<i>Homeless services:</i>	<i>40 responses</i>
<i>More Police services:</i>	<i>22 responses</i>
<i>Graffiti Removal:</i>	<i>11 responses</i>

- 4) What do you think about the proposal to extend (but not increase) the existing UUT?

<i>Support extension:</i>	<i>759 responses (61%)</i>
<i>Oppose extension:</i>	<i>206 responses (17%)</i>
<i>Have concerns/unsure:</i>	<i>273 responses (22%)</i>

This provides excellent anecdotal data that Hayward residents are generally supportive of renewal/extension of the UUT based on the current information they have. While there is still additional work the City can and will do to provide information and respond to resident concerns, there is an overall sense that the City is responsive to resident issues and concerns.

This feedback is also validated by the voter survey recently conducted by Godbe Research in late February as a follow up to the preliminary survey conducted in November 2015 (See Attachment I for the topline survey results). The results of this survey will be presented in more detail at this meeting. This survey specifically evaluated the renewal of the UUT at its current rate (5.5%) and compared voter sentiment around a ten year versus a twenty year sunset clause. In this scenario, the renewal of the UUT would not go into effect until the current tax sunsets in 2019, and would remain in effect until 2039.

ECONOMIC AND FISCAL IMPACT

As mentioned earlier in this report, the UUT currently generates about \$16 million per year and is now the City's third largest General Fund revenue source behind property and sales taxes. About 75% of the revenue (roughly \$12 million) is allocated to public safety operations (police and fire). The remaining \$4 million generated funds other City programs such as streets and roads maintenance, library services and economic development programs. Losing this revenue source would necessitate devastating cuts to critical City services.

Based on recent information from the County Registrar of Voters, the City could spend approximately \$200,000 for an election held during the regular municipal election cycle (June 2016). The City Clerk has already included this cost in the FY2016 budget. If the City chose to pursue a stand-alone election date (a date when there are no other elections and the municipality would bear the costs), that cost could possibly double unless the decision was made to utilize a mail-in ballot process.

PUBLIC CONTACT

Throughout the year and particularly over the last two months, the City has engaged in extensive public outreach to determine if our community generally believes the City has honored the commitments made in seeking voter approval of the initial UUT; and to determine if the voting community supports the potential renewal of the UUT. This outreach is summarized in the Discussion section of this report.

NEXT STEPS

Based on the information presented as part of this report, if the Council decides to place the renewal of the UUT on the June 2016 ballot, all of the paperwork would need to be filed with the County Registrar of Voters no later than March 11, 2016. If the decision is to move forward on the June ballot, staff will return to the Council at the March 1, 2016 meeting for approval of the required documents to place the measure on the June ballot. Along with whether or not to place the UUT renewal on the June ballot,

Council is also asked to provide staff direction on the key decision of whether to pursue a ten year or twenty year sunset clause for the measure.

If the Council is going forward with the measure on the June ballot, staff asks that Council strongly consider a twenty-year extension. A twenty-year extension would provide a level of funding stability that would allow staff to focus attention and efforts on other high priority projects. The energy and attention (as well as cost) necessary to place a measure on the ballot is extensive. To date, over \$100,000 has been spent on polling and outreach efforts and probably well over 300 hours of staff time (not to mention the time of community volunteers and the Council) has been expended. The financial stability of a twenty-year extension also allows staff and the Council to engage in longer term fiscal planning efforts with reassurance that the City's financial situation will not dramatically change as a result of the UUT revenue disappearing.

Prepared and Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Survey Topline Results



GODBE RESEARCH
Gain Insight

CITY OF HAYWARD

2016 UUT Renewal Feasibility Tracking Survey

Topline Report

n=554

15-minutes

Likely June 2016 Voters

February 21, 2016

www.godberesearch.com

Northern California and Corporate Offices
1575 Old Bayshore Highway, Suite 102
Burlingame, CA 94010

Nevada
59 Damonte Ranch Parkway, Suite B309
Reno, NV 89521

Pacific Northwest
601 108th Avenue NE, Suite 1900
Bellevue, WA 98004

METHODOLOGY

Sample Universe:

- 18,628 Likely June 2016 voters

Sample Size:

- Likely June 2016 n=554

Data Collection: Online & Phone Interviewing

- Online, n=227

- Phone, n=327

Margin of Error:

- Likely June 2016 \pm 4.10%

Interview Dates: February 10 to February 20, 2016

Phone Interview Length: 15 minutes

UNINFORMED BALLOT TEST

		Likely June 2016 Voter		
		%	MML + SML	Mean
1. Uninformed Ballot Measure: To maintain City of Hayward services including: • neighborhood police patrols, fire stations and 911, firefighter, paramedic response times; • preserving youth and anti-gang programs; • emergency and disaster preparedness; and • city streets, sidewalks and lighting; shall the City of Hayward renew the existing Utility Users Tax at the current rate of 5.5 percent on gas, electricity, video and telecommunications services, providing \$16 million annually for 20 years from the current end date, with exemptions for low-income lifeline users; and all money used for City of Hayward services?	Definitely Yes	45.5%		
	Probably Yes	23.2%		
	Probably No	6.7%		
	Definitely No	17.9%		
	DK/NA	6.6%		
	Total Yes	68.8%		
	Total No	24.6%		

FEATURES OF THE MEASURE

		Likely June 2016 Voter		
		%	MML + SML	Mean
2A. Police service levels, response times, and neighborhood patrols	Much More Likely	58.2%	75.1%	
	Somewhat More Likely	16.9%		
	No Effect	12.1%		
	Somewhat Less Likely	5.3%		
	Much Less Likely	6.7%		
	DK/NA	0.8%		
2B. Fire protection services	Much More Likely	57.5%	75.4%	
	Somewhat More Likely	18.0%		
	No Effect	14.2%		
	Somewhat Less Likely	2.6%		
	Much Less Likely	6.6%		
	DK/NA	1.2%		
2C. Emergency and disaster preparedness	Much More Likely	49.4%	69.7%	
	Somewhat More Likely	20.3%		
	No Effect	16.7%		
	Somewhat Less Likely	3.8%		
	Much Less Likely	9.0%		
	DK/NA	0.7%		
2D. City streets, sidewalks, and lighting	Much More Likely	48.9%	74.1%	
	Somewhat More Likely	25.2%		
	No Effect	12.6%		
	Somewhat Less Likely	3.4%		
	Much Less Likely	8.5%		
	DK/NA	1.4%		
2E. Local job and economic development programs	Much More Likely	41.9%	61.8%	
	Somewhat More Likely	19.9%		
	No Effect	18.2%		
	Somewhat Less Likely	6.6%		
	Much Less Likely	11.3%		
	DK/NA	2.1%		
2F. Neighborhood appearance and graffiti removal	Much More Likely	39.1%	61.6%	
	Somewhat More Likely	22.5%		
	No Effect	18.0%		
	Somewhat Less Likely	8.1%		
	Much Less Likely	10.9%		
	DK/NA	1.4%		
2G. Library hours and access to books, computers, and the internet	Much More Likely	38.0%	61.6%	
	Somewhat More Likely	23.6%		
	No Effect	20.5%		
	Somewhat Less Likely	5.3%		
	Much Less Likely	10.9%		
	DK/NA	1.6%		

		Likely June 2016 Voter		
		%	MML + SML	Mean
2H. 911 and paramedic services	Much More Likely	58.7%	78.0%	
	Somewhat More Likely	19.4%		
	No Effect	13.1%		
	Somewhat Less Likely	2.4%		
	Much Less Likely	5.7%		
	DK/NA	0.8%		
2I. Animal control and protection services	Much More Likely	33.9%	55.7%	
	Somewhat More Likely	21.8%		
	No Effect	22.4%		
	Somewhat Less Likely	8.1%		
	Much Less Likely	12.2%		
	DK/NA	1.6%		
2J. Adequate emergency response times by keeping all Hayward fire stations open	Much More Likely	59.2%	77.1%	
	Somewhat More Likely	17.9%		
	No Effect	13.1%		
	Somewhat Less Likely	2.9%		
	Much Less Likely	5.4%		
	DK/NA	1.5%		

FEATURES OF THE MEASURE -- RANKED BY MEAN SCORE

	Likely June 2016 Voter		
	%	MML + SML	Mean
2J. Adequate emergency response times by keeping all Hayward fire stations open			1.24
2H. 911 and paramedic services			1.24
2B. Fire protection services			1.19
2A. Police service levels, response times, and neighborhood patrols			1.15
2D. City streets, sidewalks, and lighting			1.04
2C. Emergency and disaster preparedness			0.98
2E. Local job and economic development programs			0.76
2G. Library hours and access to books, computers, and the internet			0.74
2F. Neighborhood appearance and graffiti removal			0.72
2I. Animal control and protection services			0.58

POSITIVE STATEMENTS

		Likely June 2016 Voter		
		%	MML + SML	Mean
3A. We need to extend the measure to maintain our current levels of public safety	Much More Likely	46.5%	66.3%	
	Somewhat More Likely	19.9%		
	No Effect	31.3%		
	DK/NA	2.3%		
3B. The measure will maintain response times for police, fire, and 911 emergency services	Much More Likely	52.3%	71.6%	
	Somewhat More Likely	19.3%		
	No Effect	26.7%		
	DK/NA	1.7%		
3C. The measure will generate locally controlled funds for critical Hayward needs that cannot be taken by the State	Much More Likely	50.0%	67.8%	
	Somewhat More Likely	17.8%		
	No Effect	30.0%		
	DK/NA	2.2%		
3D. This measure requires mandatory financial audits and yearly reports to the community to ensure the funds are spent as promised	Much More Likely	56.4%	72.4%	
	Somewhat More Likely	16.0%		
	No Effect	26.4%		
	DK/NA	1.2%		
3E. Without the measure the City's budget reserves will be wiped out and essential services drastically cut	Much More Likely	43.9%	62.7%	
	Somewhat More Likely	18.8%		
	No Effect	31.8%		
	DK/NA	5.5%		
3F. Over the last 10 years, demand for city services has increased. Hayward cannot maintain its current level of services to residents without extending the measure	Much More Likely	41.6%	63.5%	
	Somewhat More Likely	21.9%		
	No Effect	33.2%		
	DK/NA	3.2%		
3G. This measure is good for the environment, as it encourages energy conservation and the use of green, alternative power	Much More Likely	39.7%	59.1%	
	Somewhat More Likely	19.4%		
	No Effect	37.3%		
	DK/NA	3.6%		
3H. This measure is fair to all rate payers since it is based on an individual's actual utility usage	Much More Likely	41.0%	59.9%	
	Somewhat More Likely	19.0%		
	No Effect	35.0%		
	DK/NA	5.1%		
3I. With this measure, everyone in the City will be paying their fair share, not just property owners or businesses	Much More Likely	44.6%	64.3%	
	Somewhat More Likely	19.7%		
	No Effect	33.1%		
	DK/NA	2.6%		
3J. Businesses would pay their fair share too	Much More Likely	49.0%	67.2%	
	Somewhat More Likely	18.2%		
	No Effect	30.9%		
	DK/NA	2.0%		

		Likely June 2016 Voter		
		%	MML + SML	Mean
3K. Low income residents and lifeline users can apply for exemptions from the Utility Users Tax	Much More Likely	42.4%	61.8%	
	Somewhat More Likely	19.3%		
	No Effect	35.0%		
	DK/NA	3.2%		
3L. The City has reformed employee benefits and pensions to reduce costs to city taxpayers	Much More Likely	35.5%	58.3%	
	Somewhat More Likely	22.7%		
	No Effect	35.9%		
	DK/NA	5.8%		

POSITIVE STATEMENTS -- RANKED BY MEAN SCORE

	Likely June 2016 Voter		
	%	MML + SML	Mean
3D. This measure requires mandatory financial audits and yearly reports to the community to ensure the funds are spent as promised			1.30
3B. The measure will maintain response times for police, fire, and 911 emergency services			1.26
3C. The measure will generate locally controlled funds for critical Hayward needs that cannot be taken by the State			1.20
3J. Businesses would pay their fair share too			1.18
3A. We need to extend the measure to maintain our current levels of public safety			1.15
3E. Without the measure the City's budget reserves will be wiped out and essential services drastically cut			1.13
3I. With this measure, everyone in the City will be paying their fair share, not just property owners or businesses			1.12
3F. Over the last 10 years, demand for city services has increased. Hayward cannot maintain its current level of services to residents without extending the measure			1.09
3K. Low income residents and lifeline users can apply for exemptions from the Utility Users Tax			1.08
3H. This measure is fair to all rate payers since it is based on an individual's actual utility usage			1.06
3G. This measure is good for the environment, as it encourages energy conservation and the use of green, alternative power			1.03
3L. The City has reformed employee benefits and pensions to reduce costs to city taxpayers			1.00

NEGATIVE STATEMENTS

		Likely June 2016 Voter		
		%	MML + SML	Mean
4A. Voters have passed millions of dollars in city sales taxes, utility taxes, bonds and parcel taxes. Just last year the City passed a sales tax, and the school district is planning on extending a property parcel tax on top of that.	Much More Likely	34.6%	55.6%	
	Somewhat More Likely	20.9%		
	No Effect	42.8%		
	DK/NA	1.6%		
4B. The City is responsible for the current budget problems. If our tax dollars weren't going to high salaries, benefits, and pensions for public employees, we would not need this measure	Much More Likely	30.3%	51.6%	
	Somewhat More Likely	21.3%		
	No Effect	43.5%		
	DK/NA	4.9%		
4C. Instead of increasing taxes, public services in Hayward should be paid from the City's current revenues and reserves, even if services have to be cut	Much More Likely	22.5%	39.6%	
	Somewhat More Likely	17.1%		
	No Effect	55.7%		
	DK/NA	4.7%		
4D. There are no rules that direct the spending of utility tax dollars, and no guarantee that the funds will be spent as promised	Much More Likely	39.1%	62.0%	
	Somewhat More Likely	22.9%		
	No Effect	36.2%		
	DK/NA	1.8%		
4E. The City should not tax residents on fixed incomes for the utilities they need to meet basic family needs	Much More Likely	29.1%	51.3%	
	Somewhat More Likely	22.3%		
	No Effect	44.1%		
	DK/NA	4.6%		
4F. The 10 percent sales tax in Hayward is among the highest in the county, we can't afford an increase in the utility tax on top of that	Much More Likely	39.7%	56.1%	
	Somewhat More Likely	16.4%		
	No Effect	41.8%		
	DK/NA	2.1%		

NEGATIVE STATEMENTS -- RANKED BY MEAN SCORE

	Likely June 2016 Voter		
	%	MML + SML	Mean
4D. There are no rules that direct the spending of utility tax dollars, and no guarantee that the funds will be spent as promised			1.03
4F. The 10 percent sales tax in Hayward is among the highest in the county, we can't afford an increase in the utility tax on top of that			0.98
4A. Voters have passed millions of dollars in city sales taxes, utility taxes, bonds and parcel taxes. Just last year the City passed a sales tax, and the school district is planning on extending a property parcel tax on top of that.			0.92
4B. The City is responsible for the current budget problems. If our tax dollars weren't going to high salaries, benefits, and pensions for public employees, we would not need this measure			0.86
4E. The City should not tax residents on fixed incomes for the utilities they need to meet basic family needs			0.84
4C. Instead of increasing taxes, public services in Hayward should be paid from the City's current revenues and reserves, even if services have to be cut			0.65

INFORMED BALLOT TESTS

		Likely June 2016 Voter		
		%	MML + SML	Mean
5. Informed Ballot Test: To maintain City of Hayward services including: <ul style="list-style-type: none"> • neighborhood police patrols, fire stations and 911, firefighter, paramedic response times; • preserving youth and anti-gang programs; • emergency and disaster preparedness; and • city streets, sidewalks and lighting; shall the City of Hayward renew the existing Utility Users Tax at the current rate of 5.5 percent on gas, electricity, video and telecommunications services, providing \$16 million annually for 20 years from the current end date, with exemptions for low-income lifeline users; and all money used for City of Hayward services?	Definitely Yes	44.2%		
	Probably Yes	22.9%		
	Probably No	7.6%		
	Definitely No	19.7%		
	DK/NA	5.5%		
	Total Yes	67.2%		
	Total No	27.3%		
6. Alternative Ballot Test: 10 Year Sunset	Definitely Yes	47.9%		
	Probably Yes	20.3%		
	Probably No	8.8%		
	Definitely No	18.3%		
	DK/NA	4.8%		
	Total Yes	68.2%		
	Total No	27.1%		

DEMOGRAPHICS

		Likely June 2016 Voter		
		%	MML + SML	Mean
A. Do any children under the age of 18 live in your household?	Yes	21.9%		
	No	76.9%		
	DK/NA	1.2%		
B. Respondent's Gender	Male	45.9%		
	Female	54.1%		
C. Age	18-29	6.7%		
	30-39	9.5%		
	40-49	12.2%		
	50-64	34.0%		
	65+	37.6%		
	No age	0.0%		
D. Ethnic Surname	Japanese	0.6%		
	Chinese	2.0%		
	Hispanic	15.5%		
	Jewish	1.9%		
	Armenian	0.0%		
	Vietnamese	0.9%		
	Italian	1.1%		
	Korean	0.2%		
	African American	6.3%		
	Not Coded	71.4%		
E. Homeownership Status	Owner	64.8%		
	Renter	35.2%		
F. Party	Democrat	62.3%		
	Republican	16.6%		
	Other party	3.7%		
	Decline to state/no party preference	17.4%		
G. Household Party Type	Dem 1	29.8%		
	Dem 2+	22.8%		
	Rep 1	6.7%		
	Rep 2+	4.8%		
	Other 1	10.2%		
	Other 2+	4.6%		
	Dem & Rep	5.1%		
	Dem & Other	12.0%		
	Rep & Other	3.3%		
	Dem, Rep & Other	0.9%		

		Likely June 2016 Voter		
		%	MML + SML	Mean
H. Registration Date	2013 to 2016	13.6%		
	2009 to 2012	27.8%		
	2005 to 2008	18.7%		
	2001 to 2004	9.2%		
	1997 to 2000	5.9%		
	1993 to 1996	4.3%		
	1981 to 1992	11.4%		
	1980 or before	9.2%		
	Not coded	0.0%		
I. Voting History		see detailed crosstabs		
J. Times Voted in Last Elections	2	3.4%		
	3	5.0%		
	4	4.3%		
	5	5.7%		
	6	5.9%		
	7	4.8%		
	8	6.9%		
	9	7.2%		
	10	13.2%		
	11	15.8%		
	12	27.2%		
	13	0.3%		
	14	0.2%		
	K. Absentee Voter	0	23.1%	
1		6.8%		
2		4.6%		
3		6.6%		
4		4.5%		
5		4.5%		
6		4.4%		
7		4.7%		
8		4.8%		
9		4.9%		
10		7.1%		
11		9.4%		
12		14.3%		
13		0.1%		
14	0.2%			
L. Permanent Absentee Voter	Yes	71.0%		
	No	29.0%		
M. Likely Absentee Voter	Yes	73.4%		
	No	26.6%		

		Likely June 2016 Voter		
		%	MML + SML	Mean
N. Likely June 2016 Voter	Yes	100.0%		
	No	0.0%		
Sample Type	Online	30.0%		
	Phone	70.0%		



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Staff Report

File #: LB 16-017

DATE: February 23, 2016

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Review of Potential Elements of Citywide Community Workforce Agreement

RECOMMENDATION

That Council receives this report and provides direction to staff on whether to pursue a Citywide Community Workforce Agreement (CWA). If Council chooses to pursue a CWA, staff requests direction on the elements to be negotiated with the Alameda County Building Trades Council and affiliated parties.

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 the past four years. In 2015, the Building Trades Council and the City executed a CWA for the new Library and Community Learning Center project, which was advertised for construction bids in May 2015. Staff has now had several months of experiencing in implementing the CWA for the Library construction project.

The Council has asked staff to bring forward an item that would allow for discussion of creating a “Citywide” CWA that could apply to a broader scope of projects within the community. Staff has drafted this report to help frame the policy discussion for the Council and to receive direction on how a Citywide CWA might be structured.

If the Council directs staff to pursue a Citywide CWA based on the discussion at this meeting, staff will work with representatives from the Building Trades Council to negotiate the various terms and conditions. These terms and conditions would be similar to those in the CWA for the Library project. The key difference will be the scope of projects subject to the Citywide CWA. This agreement would then return to Council for final approval and eventual implementation.

BACKGROUND

Over the years, CWAs/PLAs have been utilized in the construction industry to assure that labor issues related to major construction projects are minimized 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 work stoppages, strikes, or lockouts; thereby allowing for the timely and cost-effective completion of projects.

CWA agreements were entirely prohibited on federal and federally funded construction projects from 2001 to 2009 pursuant to Presidential 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. One exception to this is that projects receiving Federal Highway funds cannot have a local hire requirement. These types of agreements have been historically used on larger scale construction projects until recently when some cities have negotiated agreements to apply them more broadly to smaller public works projects on a citywide basis.

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. In addition, 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 larger 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 to five years, more than 90% of those projects were performed by contractors that already belong to a local labor union (i.e., "union contractors"). Despite this historically progressive approach, Council has over the last few years expressed interest in being even 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.

In April 2015, the Council directed staff to negotiate and execute a CWA with the Building Trades Council for the new Library and Community Learning Center (<http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca041415full.pdf>). That agreement includes the following types of provisions:

- 1) Requirements that the contractor and subcontractors on the project use local union hiring halls to hire trades workers for the projects;
- 2) "Local Hire" provision, encouraging the contractor to employ Hayward residents or HUSD graduates;

- 3) Requirements that all hired workers pay union dues and other benefit trust fund contributions;
- 4) Management rights regarding employment procedures, including hiring, discipline, etc;
- 5) Grievance and arbitration procedures to allow for timely resolution of disputes;
- 6) Standardized work rules and regulations; and
- 7) Provisions governing requirements around apprenticeships.

The April 2015 report to Council outlined many of the benefits and challenges associated with CWAs (Report is linked above).

DISCUSSION

Prior reports to Council have reported on Citywide CWAs in the City of Berkeley, where all City capital projects over \$1 million in value are subject to the Citywide CWA; and HUSD, where a CWA is applicable to capital projects funded by recent school bonds. In addition, the only Alameda County agency that has entered into a CWA is the General Services Agency and the CWA only applies to “vertical” projects (those that include building construction). The Council has asked staff to bring forward an item that would allow for discussion of creating a broader “Citywide” CWA that could apply to a broader scope of projects within the community. Staff has drafted this report to help frame the policy discussion for the Council and to receive direction on how a Citywide CWA might be structured.

There are a number of policy questions for Council discussion related to a Citywide CWA/PLA.

- 1) Should a Citywide CWA apply only to City projects or should it also apply to private development projects?

The first element needed for discussion of this question is a common definition of “private” projects. For purposes of the Citywide CWA, a private project is in essence any project where the City does not provide a financial contribution to the project in some way. The only real role the City has in these projects is to review the land use application and perform the environmental review. Staff is not aware of any other local agencies that require CWAs on all “private” projects. Staff recommends that Council not apply a Citywide CWA to “private” projects at this time.

One of the Council’s key priorities is economic development and encouraging an environment where the City has a reputation of being business friendly. There is an overall opinion in the development community that CWAs make development more costly and more challenging. In addition, staff has received data from a developer who built the same residential product (single family homes with the same floor plans) in two adjacent communities in the Bay Area, one that required a CWA and one that did not. The building cost per square foot for the CWA project was \$4 more expensive per square foot than the building cost for the non-CWA project. Staff recommends that the Council exclude “private” projects from the requirements of the CWA/PLA due to the current economic conditions and land values in Hayward. This does not prohibit the BTC and a private developer from entering into a CWA/PLA on a private project within the City should they choose to do so. However, it removes the City from the negotiating and monitoring process on these agreements.

An important distinction of “private” projects are those that require or request the City’s partnership,

whether financially or in some other manner. Often there is a partnership or a request for the City's participation because the City wants to achieve a broader goal or priority for the community that may not be entirely economically feasible, (e.g. enhanced community benefits or a higher level of sustainable features). SB 972 requires that developers pay prevailing wages on any projects where they have received a fee waiver, reduction, or credit on City permit fees. This legislation addresses one of the key goals of the Council, which is to ensure that workers in Hayward receive fair and equitable wages. If there are private development projects in the future that require or request the City's partnership, staff would recommend that these be evaluated individually and in the current context at that time. In these circumstances (which are likely to be small in number), staff would recommend a case-by-case review of whether these projects would be subject to the requirements of a Citywide CWA/PLA given the competing Council priorities that might arise.

Another important distinction and essential exemption from the Citywide CWA/PLA for "private" projects would be the City's future entitlement and sale of any of the former Caltrans Route 238 Bypass parcels (or other City-owned parcels). The primary goals of selling these parcels are to ensure development that is consistent with the City's General Plan and zoning requirements and goals, and to maximize the dollar value generated by the sale of the properties. The City is not financially participating in these transactions; the City is simply acting as the conduit to get these parcels onto the private market. Associating the sale and development of these land parcels with a Citywide CWA/PLA would dramatically reduce staff's ability to achieve the larger goals expressed above.

2) Scope of public projects to be included in the Citywide CWA

If the Council chooses to only pursue a Citywide CWA on "public" projects, there are a few questions that arise where Council direction is requested.

- a. Should the CWA apply to all types of capital projects or only to those above a certain project cost threshold?

In prior discussions with the BTC, staff had identified the types of public projects that would be subject to the CWA. These generally included on-site construction, demolition, and site preparation. Other off-site fabrication and other specialty work could 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 would only apply to projects awarded by the City and not projects awarded/managed by another third party public agency where the City has contributed funding. An example of this might be the upgrade of AC Transit bus shelters throughout the City. The City might contribute supplemental funding to a project of this nature to enhance the outcome for the community but AC Transit would be the agency responsible for awarding the contract and managing the project. This list of projects mirrors what other local agencies have covered as part of their CWAs.

In addition, other agencies have established a minimum project cost threshold. If the project construction cost is above a certain amount, then that project (and the contractor selected to perform the work) would be subject to the requirements of the CWA. In the City of Berkeley, for example, a \$1 million minimum project cost threshold was established. On projects smaller than this amount, monitoring of the agreements becomes more burdensome on staff as the contractors

bidding on these types of projects are typically less knowledgeable about navigating the various requirements. In addition, smaller projects are often more time-sensitive and may require flexibility to meet time or other demands. This would require more time to secure and implement contracts, and a lot more staff engagement and interaction with the contractor to ensure understanding of and compliance with the CWA requirements. Given these issues, staff would actually prefer a higher threshold (e.g. \$3 million or greater).

In addition, staff would recommend that the City retain the ability to exempt certain specialty or unique projects from the CWA requirements as needed and upon approval by the City Council. Given that staff has not implemented this type of agreement before, staff has concerns that there may be projects that arise during the term of the agreement where implementation of a CWA may not be in the best interest of the City or the community for a variety of reasons. Staff would recommend retention of the right to ask the Council to exempt a project from the CWA if the circumstances warrant. This has been a key discussion item with the BTC previously. Staff and the Building Trades would first meet in good faith to discuss the exemption. However, if the parties fail to reach a consensus, staff would be able to bring the project to the Council for review and consideration.

Staff does not anticipate utilizing this mechanism very often for a couple of reasons. First and foremost, there will likely be limited examples where projects would need to be exempted from the CWA. Secondly, the desired goal would be to reach consensus with the Building Trades on these exemptions without the necessity of bringing the items to Council for direction.

Current experiences with Library CWA

Staff has been working with the BTC to implement the CWA for the Library and Community Learning Center project since May 2015. While the experience is relatively new, there are a few insights that can be shared with Council. The most important for Council consideration prior to embarking on a Citywide CWA is the amount of staff time spent on issues related to the CWA. This has been more burdensome on the project manager and Public Works management staff than previously anticipated by past Council discussions. For instance during the contract bidding period, obtaining Master Agreements for the bid documents involved contacting numerous sources to determine where information was located, contacting each of the building trades to get a copy of their master agreements, then distributing those agreements to plan holders and responding to questions related to the agreements. Clerical and engineering staff members were involved in making telephone calls to each trade and follow-up to obtain the master agreements.

Also, arranging for Pre-job conferences involves contacts with contractors, building trades, obtaining agreements to be bound, attending meetings, and follow-up. Each meeting takes between eight to twelve hours of staff time. There have been six meetings to date, with another two to four more expected. Staff has been separately tracking the hours spent administering the CWA. Currently, the project manager is spending between 5% to 10% of his time on issues related to the CWA. The Public Works department management team members are spending approximately 2% to 3% of their time on the CWA. At this current rate, the staff's administrative efforts for CWA will be at least \$100,000 at the completion of the project.

Given the volume of capital projects that the City designs and constructs every year and the low-level of staffing throughout the City, spending this much time on CWA implementation will impact the volume of work that staff can deliver. As discussed more in the fiscal impact section below, staff strongly recommends that if the Council wishes to pursue a Citywide CWA, an additional staff position for monitoring and implementing the agreement be added to the budget.

Hidden costs of CWA - At least two of the subcontractors who initially bid on the project and were selected by the general contractor have since declined working on the project primarily due to the requirements of the CWA. The contractor was forced to re-bid that part of the project and will be required to pay more to attract the labor to perform the work. While the general contractor will need to absorb this cost given our current contract, this is an example of why contractors inflate their initial overall job estimates by 10-20% when bidding on a project that includes a CWA. They need to account for issues like this that will increase their costs of doing business.

One other issue that can become a hidden cost of a CWA is the payment of dual benefits and union benefit trust fund contributions by nonunion contractors. The payment of prevailing wages is required by law on all public works projects. Under the law's requirements, workers are paid a base salary component that must be in cash, and a benefits component that may be paid either as cash or as payments to a benefits program on behalf of the worker. Under a CWA/PLA, typically the benefits portion of workers' wages must be paid into the benefits program run by and for the benefit of the signatory union and its members. A nonunion contractor will be required to pay the benefits portion of its nonunion workers' wages to the union benefits plan even if they already have their own benefits program in place and even if the nonunion contractor's workers may never be entitled to receive the benefits through the union. The nonunion contractor may then have to pay the benefits portion a second time to its employees so that its employees receive the full value of their required wages. This could impact contractor participation and workforce equity and is an issue that would need to be monitored as part of a Citywide CWA.

Summary of Staff's Request for Council Direction

1. The first decision point for the Council associated with this report is whether to pursue a Citywide CWA.
2. If Council chooses to pursue a Citywide CWA, other decisions must be made:
 - a. Should the CWA apply to private and public projects or public projects only; how will each of these categories be defined; and will a CWA apply or not to the development and sale process of Caltrans lands?
 - b. Should there be a minimum project cost threshold for projects?
 - c. Should the CWA apply to all projects (i.e. should the CWA be restricted to vertical projects as is most common or apply to all projects such as roadways, sidewalks, utilities, etc.)?
 - d. Should Council retain the right to exempt future as yet unknown projects (in certain

limited circumstances) based on recommendations from staff (and after first attempting to gain consensus with the BTC on these exemptions)?

ECONOMIC AND FISCAL IMPACT

There has been much debate over the years regarding the fiscal impacts of CWAs/PLAs and the actual benefits they achieve (i.e., smoother management/labor relationships, increased local hiring, and improved pay and benefits to workers over and above that of a prevailing wage job). Prior staff reports to Council have provided detail regarding project cost implications. 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 and does and does not achieve the other intended benefits.

Staff's two primary concerns related to the CWA are (1) the administrative burden on City project managers for implementing and monitoring the agreement and (2) the financial impact the CWA might have on limited project resources. These concerns have been somewhat substantiated through current experiences with implementing the CWA on the Library construction project.

The City of Berkeley has a staff position dedicated to working with the BTC and Public Works on implementation of the CWA and on workforce development. Having a single point of contact for implementation of the CWA is critical for a couple of reasons. First and foremost, it is essential for workload management with the current Public Works and Utilities staff members. Second, with a dedicated staff person, there will be consistent implementation of the CWA across all of the projects, potentially resulting in fewer issues or concerns and ultimately saving staff time. Project managers unfamiliar with the CWA would not have to spend valuable project development and management time learning the terms of the CWA, figuring out how to implement it, and developing the necessary relationships and lines of communication with both labor and contractor.

NEXT STEPS

If the Council so directs, staff will proceed to finalize negotiations on the Citywide CWA based on the direction provided by Council; and will bring the terms of the final agreement back for Council approval once negotiated with the BTC representatives.

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