

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, November 3, 2015

7:00 PM

Council Chambers

City Council

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

CITY COUNCIL MEETING

CALL TO ORDER Pledge of Allegiance: Council Member Zermeno

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

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 15-081](#) Approval of FY 2015-16 Measure B/BB Annual Paratransit Program Plan

Attachments: [Attachment I Resolution Paratransit Plan FY 15-16](#)
[Attachment II Executive Summary](#)

2. [CONS 15-253](#) City Procurement Policy Update

Attachments: [Attachment I Resolution](#)
[Attachment I-a Exhibit A Summary of Threshold & Approval Levels](#)
[Attachment II Summary of Threshold & Approval Levels](#)

3. [CONS 15-292](#) Resolutions Authorizing the City Manager to Enter Into an Agreement with Alliant Insurance Services, Inc. to Provide Group Insurance Broker and Advisory Services, Include the City of Hayward with the CSAC Excess Insurance Authority Municipality Pools for Delta Dental, VSP, and Cigna Life/Disability Insurance, and Move the City of Hayward's Transit and Flexible Spending Account Benefits, COBRA and Retiree Dental Administration to Priselac & Associates, Inc.

Attachments: [Attachment I Resolution Alliant Agreement](#)
 [Attachment II Resolution CSAC EIA Pool Agreement](#)
 [Attachment III Resolution P & A Group](#)

4. [CONS 15-299](#) Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 - Districts 1 & 8: Award of Construction Contract

Attachments: [Attachment I Resolution](#)
 [Attachment II Location Map District 1](#)
 [Attachment III Location Map District 8](#)
 [Attachment IV Bid Summary](#)

5. [CONS 15-303](#) Ygrene Property Assessed Clean Energy (PACE) - Authorization to operate under SB 555

Attachments: [Attachment I Resolution](#)

6. [CONS 15-304](#) Municipal Parking Lot Nos. 3 and 4 Improvement Project: Award of Construction Contract and Appropriation of Funds

Attachments: [Attachment I Resolution Award of Contract](#)
 [Attachment II Resolution Appropriation of Funds](#)
 [Attachment III Location Map](#)
 [Attachment IV Bid Summary](#)

7. [CONS 15-306](#) Pavement Rehabilitation Gas Tax FY15: Amend Construction Contract

Attachments: [Attachment I Resolution Amend Contract](#)
 [Attachment II Resolution Appropriation of Funds](#)

8. [CONS 15-309](#) Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201500856 Relating to the Construction of Twenty-four Detached Single-Family Homes at 23645 and 23653 Eden Avenue

Attachments: [Attachment I Summary of Ordinance Published 10/31/15](#)

9. [CONS 15-310](#) Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201400543 Relating to a Residential Development at 24178 and 24180 Saklan Road

Attachments: [Attachment I Summary of Ordinance Published 10/31/15](#)

LEGISLATIVE BUSINESS

10. [LB 15-031](#) Regulations Requiring Greater Disclosure of Contributors to City Measures and Recalls, and Clarification of Loans Candidates Make to Their Own Campaigns (Report from City Attorney)

Attachments: [Attachment I Campaign Finance Ordinance](#)
 [Attachment II June 16, 2015 Work Session Powerpoint](#)

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 REGULAR MEETING, NOVEMBER 17, 2015, 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.



CITY OF HAYWARD

Hayward City Hall
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Staff Report

File #: CONS 15-081

DATE: November 3, 2015
TO: Mayor and City Council
FROM: Director of Library & Community Services
SUBJECT: Approval of FY 2015-16 Measure B/BB Annual Paratransit Program Plan

RECOMMENDATION

That the Council:

- 1) Adopts the attached resolution authorizing the FY 2016 Measure B/BB Annual Paratransit Program Plan, including the continued provision of paratransit taxi, door-to-door group trip, meals-on-wheels, travel to Alzheimer's daycare, and travel training through the Hayward Operated Paratransit (The HOP) program effective July 1, 2015;
- 2) Authorizes the City Manager to approve the provision of the following new paratransit pilot projects: VIP Rides (volunteer driver program) and the CRIL accessible car share program through Measure B/BB funds;
- 3) Authorizes the City Manager to execute service agreements with: Alzheimer's Services of the East Bay (ASEB); Community Resources for Independent Living (CRIL); LIFE Eldercare; MV Transportation Inc.; St. Mini Cab, Inc. and Services Opportunities for Seniors (SOS) Meals on Wheels, for the continued provision of Paratransit services in FY 2016 through Measure B/BB funds.
- 4) Authorizes the City Manager to execute an agreement with the Alameda County Transportation Commission (ACTC) to engage Nelson\Nygaard Consulting Associates to conduct a Taxi Program ID/Debit Card feasibility study funded through Measure B/BB; and
- 5) Authorizes the City Manager to sign a Memorandum of Understanding with the Cities of Berkeley, Fremont, Oakland and San Leandro to jointly fund and implement a Taxi Program ID/Debit Card regional pilot project authorized by the Alameda County Transportation Commission with Measure B/BB funds.

BACKGROUND

Each year, the City of Hayward submits an Annual Paratransit Program Plan to ACTC detailing the

proposed parameters of paratransit service. In FY 2016, the Hayward Operated Paratransit (HOP) program will provide paratransit and related services to eligible enrolled riders and their attendants who live in Hayward, the unincorporated areas of Castro Valley, San Lorenzo, Ashland and Cherryland.

The HOP program is administered in Hayward by the Library and Community Services Department. The program is funded in its entirety by Alameda County Measure B and Measure BB half cent sales tax revenues administered by the Alameda County Transportation Commission (ACTC). Hayward paratransit service is a complement and supplement to the Alameda County-wide mandated ADA Paratransit Service, also known as the East Bay Paratransit Service (EBP).

DISCUSSION

The Hayward Operated Paratransit (HOP) program engages subcontractors to carry out all services in its Annual Paratransit Program Plan, subject to Measure B/BB pass-through funding availability. More detail about each of these programs is available in Attachment II and summaries are provided below:

- The primary means of paratransit service is through standard sedans and accessible van taxi, offered on demand as a curb-to-curb service and contracted through St. Mini Cab, Inc.
- MV Transportation and Alzheimer's Services of the East Bay (ASEB) provide door-to-door paratransit service with lift equipped vehicles on a shared ride basis.
- Community Resources for Independent Living (CRIL) provides travel training workshops to the mobility challenged through excursions on various modes of Bay Area transportation (including BART, AC Transit and the HOP).
- Service Opportunities for Seniors (SOS) Meals on Wheels provides homebound seniors with nutritious meals delivered by volunteer drivers.

Additional funding for non-ADA paratransit service was authorized by Alameda County voters in November 2014 with the passage of Measure BB. Working with ACTC, staff has identified three new pilot projects to expand transportation options for eligible riders to improve their independence and provide respite to their families and friends who are often responsible for providing transit:

1. LIFE Eldercare, a senior serving nonprofit, has introduced the VIP Rides program to the Hayward area. The program matches screened volunteers driving their own personal vehicles with senior and non-senior disabled adults. The volunteers provide "door-through-door" service, acting as attendants who help with medical appointments, shopping and various errands. Though a Fremont-based organization, LIFE Eldercare recently leased space at the Weekes Community Center in Hayward in order to better serve HOP enrolled clients.
2. Community Resources for Independent Living (CRIL) has agreed to consider a pilot car sharing project utilizing accessible vehicles in the Hayward area. The project would operate similarly to Bay Area operated Zip Car and City Car Share systems, but be restricted to wheelchair dependent clients. Through a program grant, CRIL would lease lift equipped and specially converted vehicles

which would be housed on-site and made available to eligible consumers through a CRIL dispatched system.

3. ACTC has contracted with consulting firm Nelson\Nygaard, nationally recognized experts in paratransit service provision, to examine the feasibility of piloting an electronic identification and payment system in Central Alameda County, including Hayward. Currently, the HOP taxi program, like other programs in the county, utilizes a woefully outdated Microsoft Access database for client enrollment and a paper-based voucher system for service payments.

The multi-jurisdictional pilot project to implement an electronic payment and identification system (item #3 in the above list) caused the finalization of the FY 2016 Annual Paratransit Program to be delayed pending the implementation of a feasibility study to assess the viability of the project. Staff met with ACTC, Nelson\Nygaard and the jurisdictions of Berkeley, Fremont and Oakland on multiple occasions to determine planning costs and implementation timelines for inclusion in the Annual Paratransit Program Plan:

- 3/31/15: Initial concept meeting with City/County of San Francisco Metropolitan Paratransit Transportation program to review their electronic id/paratransit fare system.
- 6/11/15: ACTC proposal to engage Nelson\Nygaard for Pilot Research study funded through Measure BB on behalf of Hayward, Berkeley, Fremont and Oakland.
- 8/12/15: Award of contract to Nelson\Nygaard to complete a two phase study (feasibility and implementation).
- 9/18/15: Kick-off jurisdictional meeting with Nelson\Nygaard to develop study schedule.

ECONOMIC IMPACT

The Hayward Operated Paratransit Program will be supported 100% by Alameda County Measure B/BB funds. Eligible enrolled riders and their attendants (attendants ride free of charge) are offered three options for service in the Hayward, Castro Valley, San Lorenzo and unincorporated areas. The service offers convenient, cost-effective transportation alternatives for residents who cannot take regular public transit due to age or disability.

FISCAL IMPACT

The proposed FY 2016 Annual Paratransit Program Plan has no impact to the City's General Fund. The program costs, including City staff and administrative costs, are 100% offset by the City's Measure B/BB Paratransit special revenue fund derived from Measure B/BB sales tax revenues administered by ACTC.

PUBLIC CONTACT

Staff presented the FY 2016 Paratransit Program Plan, including the three proposed pilot programs, to the ACTC Paratransit Advisory and Planning Committee (PAPCO) and the City of Hayward Paratransit Advisory Committee (PAC) for review and approval on the following dates:

- 9/16/14: PAC Meeting

- 12/16/14: PAC Meeting
- 3/14/15: Public presentation at Hayward Mobile Country Club
- 3/17/15: PAC Meeting
- 5/20/15: Community Services Commission
- 6/16/15: PAC Meeting

Additional public feedback was solicited by staff regarding the discontinuance of MV Transportation door-to-door and the move to 100% taxi service as shown below:

- 3/17/15: Proposal to the PAC - following review and discussion approved as suggested 6/16/15;
- 7/13/15: Notice to all clients of impending service change effective August 1, 2015;
- 7/21/15; Survey to all standing order (recurring scheduled ride) MV clients informing them of change and requesting feedback and offering assistance if needed;
- 8/21/15: Thirty-five (35) surveys distributed - 12 returned by requested deadline (8/21/15) - no opposition.

NEXT STEPS

Staff recommends that Council adopts the attached resolution approving the FY 2016 Annual Paratransit Program Plan and authorizing the City Manager to negotiate and execute all agreements necessary for program implementation. Should Council adopt the resolution, staff will meet with representatives from each contracting agency to facilitate contract execution so that there will be a continuation of delivery of Paratransit services.

Prepared by: Dana Bailey, Senior Property Rehabilitation Specialist
Dawn Jaeger, Community Services Manager

Recommended by: Sean Reinhart, Director of Library and Community Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I
Attachment II

Resolution
FY 2015-16 Hayward Paratransit Program Plan -
Executive Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT AN ANNUAL PARATRANSIT PLAN AND NEGOTIATE AND EXECUTE ALL DOCUMENTS RELATED TO AND IN SUPPORT OF PARATRANSIT ACTIVITIES INCLUDING THE ADMINISTRATION OF THE CENTRAL COUNTY SAME DAY TRANSPORTATION PROGRAM.

WHEREAS, voters approved the 20-year Measure B half-cent transportation sales tax on November 7, 2002 and the funding agreement of the measure between the Alameda County Transportation Commission and the City of Hayward; and

WHEREAS, voters approved the 20-year Measure BB half-cent transportation sales tax on November 4, 2014;

NOW, THEREFORE BE IT RESOLVED that the Hayward City Council authorizes and directs the City Manager on behalf of the City of Hayward to implement an Annual Paratransit Plan submitted to the Alameda County Transportation Commission in according with the terms of the City's contract with the Alameda County Transportation Commission (ACTC) for Measure B and BB paratransit funds;

BE IT FURTHER RESOLVED that the City Manager shall have the authority to negotiate and execute new one-year contracts with St. Mini Cab, Inc., MV Transportation Inc., Alzheimer's Services of the East Bay (ASEB), Community Resources for Independent Living (CRIL), Service Opportunities for Seniors (SOS) Meals on Wheels and Life Elder Care –VIP Rides;

BE IT FURTHER RESOLVED that the Hayward City Council authorizes and directs the City Manager on behalf of the City of Hayward to approve and amend current service contracts and execute purchase orders as necessary to deliver the service to Central Alameda County participants.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

FY 2014-15 Hayward Paratransit Program Plan

Executive Summary

Summary of Components of the Hayward Paratransit Program Plan

The City's "Base" Paratransit Program consists of five paratransit service components, each of which are carried out through different service provider contracts. These include:

Base Program Service Component A: Individual and Group Door-to-Door Paratransit Services:

The primary service component of the Hayward Paratransit Program is currently provided under contract with MV Transportation, Inc. (MV Transportation). MV Transportation provides both individual and group door-to-door paratransit services.

- Subsidized accessible transportation for individual passengers includes those who require an attendant to travel; attendants are allowed to ride along at no additional cost to the passenger. Lift-equipped vans are utilized to provide this service. Enrolled program participants are issued vouchers for door-to-door service (at no charge); vouchers are issued when a program participant must rely on the City's program for regular and frequent medical appointments (i.e., to radiation, dialysis, physical therapy, etc.) that cannot be accommodated routinely by East Bay Paratransit (EBP) the county non-ADA mandated service.
- This service is provided from 8:00am to 6:00pm Monday through Saturday. Pre-scheduled trip reservations are required, from one week to twenty-four hours in advance.
- Individual passengers are charged one program voucher plus \$4.00 for each one-way trip up to 12 miles in length. An additional voucher and an additional \$4.00 are charged for each trip of 13 - 20 miles. Passengers are also charged for all bridge tolls and parking fees incurred during a trip. Passenger fares are the same for ambulatory and non-ambulatory passengers, regardless of the time of day that the trip is provided. During FY 2012-13 approximately 7,222 trips were provided.
- Group trips are also offered through the contract with MV Transportation. Lift - equipped vans provide this service. Residents of over 30 Skilled Nursing Facilities, seven affordable senior housing complexes, seven affordable complexes for people who have disabilities, four mobile home parks for seniors, and numerous neighborhood groups benefit from this service. Facilities are offered the opportunity to schedule "standing order" group trips on the same day each week or month for ease in planning and to meet additional transportation needs. Group trips usually take place between 8:00am and 6:00pm, Monday through Saturday; however, during the holiday season evening trips are provided so that passengers can view seasonally decorated homes and businesses. Trips to other special events and destinations may be accommodated outside of regular service hours and established service areas as capacity allows. During FY

2012-13, 231 group trips were provided. It is anticipated that 260 group trips will be provided in FY 2013-14.

The City's Base Paratransit program also provides four additional specialized paratransit services to cover local needs of paratransit program participants not addressed under the contract with MV Transportation. These specialized services are provided through three separate paratransit contracts.

Base Program Service Component B: Central County Same Day Transportation Service

Central County Same Day Transportation Service (taxi) was launched by ACTC as a companion pilot program to the South County Same Day Transportation Service provided by Fremont. The service contract with St. Mini Cab Taxi, a Hayward-based company, is currently administered by ACTC, but will be managed directly by Hayward paratransit in 2014. Taxi is a subsidized, accessible, curb-to-curb service available 24 hours a day, 7 days a week via contracted taxi drivers to the Hayward service area. Taxi allows eligible enrolled riders to use taxi at a reduced fare by providing vouchers which can be used to cover a portion (up to \$14) of the fare. The program is intended for situations when riders cannot make their trip on a pre-scheduled basis through the primary service (MV Transportation). It is meant to be a "premium" safety net service, not a routine service to be used on a daily basis. Upon verification of eligibility and enrollment, riders are issued 24 vouchers at no charge; subsequent vouchers are available for purchase in increments of ten for \$3.50 each.

Base Program Service Component C: Alzheimer's Services of the East Bay (ASEB)

The City contracts with Alzheimer's Services of the East Bay (ASEB) to provide transportation services to and from its Hayward adult day care program; a non-residential program that serves adults with dementia. It is necessary for ASEB to operate its own transportation service because ASEB paratransit drivers act as part of the multidisciplinary team of professionals employed by ASEB. Drivers participate in care-plan meetings for the agency's program participants, and are an important liaison between the participant's home and the program environment. Drivers receive special training to work with this population, and are able to provide a consistent routine that is very important for the stabilization of those who are served. This consistency is impossible to provide through other traditional paratransit services. Drivers also work with other ASEB professionals to address behavioral and/or familial issues that they become aware of during the course of providing transportation services. In FY 2012 -13, 6,164 one-way trips were provided, and a total of 34,012 miles were traveled. Program participants do not pay for this service.

Base Program Service Component D: Meals on Wheels

The City contracts with Service Opportunities for Seniors, Inc. (SOS) to provide a "Meals on Wheels" delivery service. Under this contract, the City subsidizes 90% of the contractor's transportation costs of delivering hot, nutritious meals to older adults who are (unable due to a medical or disabling condition) to prepare their own meals or leave their homes to attend congregate meal sites, food pantries, or grocery stores. Those served must meet all the other Hayward Paratransit Program eligibility requirements. While meals are delivered five days per week, two additional meals, one frozen meal to be microwaved, and a sack lunch to be eaten cold are provided

to accommodate weekend needs. In addition to providing nutritious meals, the daily check-in by a familiar driver alleviates loneliness and offers reassurance to participants and their families. In FY 2012-13, 1,461 clients were served a total of 36,315 meals. It is anticipated that service will increase in FY 2013-14.

Base Component Service E: “Hayward on the Go” Travel Trainer

Mobility management workshops and classes through the Community Resources for Independent Living (CRIL) dedicated Travel Trainer is a new component to the Hayward paratransit program. Through “Hayward on the Go”, CRIL’s extremely knowledgeable trainer incorporates para- and public transportation transit travel training skills and practice for seniors and residents with disabilities. She provides information, resources, and hands-on experience in order to increase knowledge, ability and confidence when accessing the many transit options available here in Alameda County, effectively improving levels of independence and community interaction. Specifically, the travel trainer provides monthly on site workshops that teach how to obtain a paratransit user discount card, how to enroll with paratransit, and how to use 511 for route planning, and safety tips. Trainings in Spanish are also available. All services are free of charge to the participants, including requisite AC bus and BART tickets for group and individual excursions. The travel trainer conducts ongoing outreach and presentations to residents, local senior and disabled housing complexes, senior/community centers, mobile home parks and agencies that serve developmentally delayed adults.

Anticipated Paratransit Service Components:

The Alameda County Transportation Commission (ACTC) currently administers the Central County Same Day Transportation Program (taxi) however administrative duties for this program will transition to the Hayward Paratransit Program August 1, 2014. ACTC agreed to administer the program as a pilot project for the initial two years, and transfer all duties to local control with the FY 14-15 program year. The taxi program has proven very successful, exceeding projected goals by 8% each month of operation. Consistent with the Memorandum of Understanding (MOUA11-0092), ACTC provides \$173,256 in Measure B pass through transportation funds to underwrite the program. This request will authorize the City Manager to amend current service contracts and execute purchase orders as necessary to deliver the same day transportation service to Central Alameda County participants.

Kaiser Hospital Hayward is expected to transition the majority of its medical services to the new Kaiser Hospital San Leandro site in July 2014. Paratransit eligible riders currently provided medical services in Hayward will have to modify their travel, potentially adding 30 to 90 minutes of travel time via public transportation and involve numerous transportation mode transfers as they cross jurisdictions. A task force to determine the potential impact of the move on paratransit eligible riders is reviewing travel alternatives, including the addition of shuttle service specifically for Kaiser visits.

The program is in the final development stages of a brand strategy to deliver a cohesive and easily recognizable brand message across all five component models. Branding distribution channels, to include signage on all Hayward paratransit vehicles, play a key role in the 2013-14 brand strategy to communicate visually and materially to eligible and potentially eligible riders. Consistent, strategic branding leads to a strong brand equity, which means added value to Hayward and Hayward paratransit riders.



CITY OF HAYWARD

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Staff Report

File #: CONS 15-253

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT
City Procurement Policy Update

RECOMMENDATION

That Council adopts a Resolution to approve changes to City procurement policies.

SUMMARY

The City's procurement policies have not been updated in close to twenty-five years. In an effort to align the City's policies and procedures with how the City transacts business today and with current best practices, staff has updated its Procurement Policies & Guidelines manual. While the manual is a staff document that provides guidance to internal City operations, the procurement policies are established through City Council approval.

Staff is recommending that Council consider changes to several key policies, including the threshold and expenditure authority levels required for competitive bidding and the levels for which the City Manager can execute certain City contracts. The recommended changes attempt to correct for inflation while improving effectiveness, efficiency, and consistency in City procurement processes while maintaining appropriate oversight and controls. In addition, staff provides clarification and offers a possible modification to its Local Preference procurement policy. These changes are in keeping with the related provisions of the City Charter, Article XIII, Sections 1302, 1303, and 1304.

BACKGROUND

On March 13, 2015, the Council Budget & Finance Committee (CB&FC) held a discussion regarding the City's procurement policies and possible changes to the current policies. On July 1, 2015, staff brought to the CB&FC a version of this report for feedback on the proposed changes to the City's procurement policy. This report is inclusive of the feedback received by Committee members and is now being presented to the full Council for approval.

There have been no significant changes to the City's purchasing and procurement policies for nearly twenty-five years. Moreover, threshold limits on bid requirements and City Manager/City Council approval remain at levels set nearly forty years ago in some cases. The last review of bid thresholds was

in 1989, with an update in 1992; these levels are still in place today. Given inflation that has occurred in the intervening periods, an adjustment to these levels is warranted to give the Council and staff the same operating parameters as when the levels were last updated.

DISCUSSION

The procurement policies provide the framework for the City's procurement process. There are four primary policy areas that staff is recommending to update:

1. Inclusion of principles to uphold the values, goals, and objectives set forth by Council
2. Bid requirements
3. Thresholds for City Council vs. City Manager approval of certain contracts/agreements
4. Local preference

This policy update includes the areas of: 1) General Supplies & Equipment, 2) Repair, Maintenance & Routine Work, and 3) External Services (consultants and contractors). A subsequent update to the procurement policy will focus on modernizing the Public Projects element of procurement.

Overarching City Procurement Principles

It is the City's responsibility to promote Council Priorities while meeting the service needs of the citizens of Hayward. In all purchasing and procurement decisions, staff shall consider the current needs of the City while bearing in mind the impact of each purchase on long term fiscal stability. In updating the procurement policies, staff offers the following procurement principles for Council consideration, which will be present in all procurement actions the City takes:

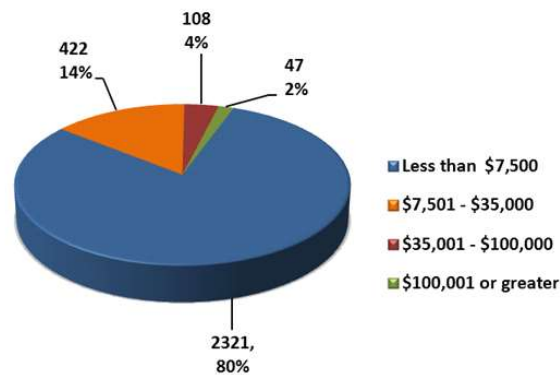
- Providing for ethical and accountable stewardship of public funds
- Assuring fair, open, and transparent competition in procurement processes
- Providing the residents of Hayward the best value possible
- Supporting City Council Priorities
- Stimulating the local economy by extending preferences to local Hayward vendors as appropriate

Changes to Bid Requirements

The City's procurement policy establishes levels to determine the type of competitive process necessary to make a purchase. The proposed changes increase the threshold for formal bidding, thereby increasing operational efficiency and reducing staff time by eliminating the volume of time-intensive procurement procedures for lower dollar expenditures.

Attachment II reflects a comparison of procedures and thresholds between what is currently in place and what staff is proposing as a change. These changes are in keeping with procurement best practices and are similar to levels employed by other local cities.

Chart 1 - FY 2014 Purchase Order Breakdown (2,898 total)



As seen in Chart I above, of the 2,898 purchase orders issued in FY 2014, all but forty-seven of them were for goods or services less than \$100,000, with eighty percent of all purchases falling below \$7,500. Under the proposed changes, most purchases would still require an informal process in which staff will ensure competitive pricing. Purchases greater than \$50,000 for Supplies and Equipment, Repairs and Maintenance and External Services (consultants & contractors) will require more stringent and formal processes for which one of the following two methods of solicitation will be employed:

- Competitive Bid: Focuses on obtaining the lowest possible price
- Competitive Process: Focuses on obtaining the best possible value

Competitive Bids are for purchases where pricing dictates formal competition, and utilizes an Invitation to Bid (ITB) as the solicitation package. A Request for Proposal is the solicitation method where value and competence are the primary drivers. . Both require a minimum response period of ten calendar days for vendor responses; however, common practice allows for longer response time to increase the volume and quality of bids received.

Council Approval Thresholds

The City's procurement policy - as partially re-authorized each year in the annual budget resolution - establishes that the City Manager may approve professional services contracts up to \$25,000 without Council approval. Hayward has one of the lowest Council approval thresholds relative to neighboring East Bay municipalities. This comparative discrepancy is understandable considering the threshold today was enacted forty years ago. When adjusted for inflation, \$25,000 in 1975 dollars is equal to \$109,947.77 in present day dollars. Put another way, \$25,000 in present day dollars is equal to \$5,684.72 in 1975 dollars. The Council approval thresholds no longer provide the monetary threshold originally intended. An increase will provide efficiency in contract processing without jeopardizing fiscal oversight.

Staff is requesting that the threshold for all contracts except those related to Public Projects (as defined by PCC 22002 PW CIP, Non-Maintenance Work) requiring Council approval be increased from \$25,000 to \$75,000 as depicted in Attachment 2. The proposed changes will increase the approval level for contracts related to Supplies and Equipment, Repairs and Maintenance as well as External Services (consultants & contractors).

Table 1: Council Approval Thresholds

Municipality	Council Approval Threshold
Alameda	\$75,000
Berkeley	\$100,000
Fremont	\$100,000
Livermore	\$100,000
Oakland	\$150,000
<i>Hayward</i>	<i>\$25,000</i>

Along with adjusting the current threshold for inflation, this proposed change will allow for increases in operational efficiency and faster provision of services to the residents of Hayward. Staff will be able to achieve project objectives and Council priorities more expeditiously as a result of eliminating time intensive procedures while still upholding the overarching principles noted above.

Local Preference

Council has expressed a desire for a local preference element to be built into the City's procurement policies. The City currently employs such a policy for the purchase of goods. Article 9 of the Hayward Municipal Code establishes a Business Enterprise Preference System. Under the provisions of this article, a 'Local' business is a business firm with fixed offices or locally taxable distribution points within the City of Hayward, holds a valid City business license and has a Hayward street address. In accordance with the Municipal Code <<https://www.fremont.gov/73/Municipal-Code>>, the City supports businesses located in Hayward by offering a Local preference of 5% with a maximum of \$10,000 for purchases of personal property over \$35,000 (whichever is less). The 5% preference is for the purchase of personal property such as goods, supplies, and equipment.

Aside from the limitations set forth in Hayward Municipal Code Chapter 2 Section 9.01-9.03, there are no other known (internal or external) statutory limitations for Council when establishing percentage or dollar limitations for local preference. As a point of reference, demonstrated below are the varying local preferences used in procurement by neighboring cities.

- The cities of Fremont, San Leandro, Berkeley, and Concord allow for a local preference that ranges from 2.5 percent to 5 percent (with a not-to-exceed dollar amount) for goods and non-professional services only.
- The City of Oakland uses a complex Local & Small Local Business Program to provide preference to vendors that meet the standards set-forth by the City of Oakland Local and Small Local Business Program. Their program extends preference points based on specific criteria set forth by policy. These points are then tallied and a corresponding bid discount is applied based on number of criteria met. Oakland's program allows for a maximum discount of 5%.
- The Cities of Union City, Pleasanton, and Richmond do not offer a preference to local vendors.

While staff has considered the application of a local preference policy for services, it is a far more

complicated application. Often, these types of contracts are not entirely a “low bid” selection process. Other variables such as experience, quality, and ability to provide the requested service(s), are key considerations in making a selection. Staff does propose a more formal policy stating that if two vendors are almost identical in all areas of the proposal including qualifications and pricing and one of them is a Hayward vendor, the local vendor should be selected.

In addition, the staff Procurement Manual has been updated to require broad distribution of information about bidding and proposal opportunities with the City of Hayward. A new section has been added to ensure that this occurs particularly where local vendors or providers are known or are likely to exist, so that extra effort is made to assure that local businesses are made aware of business opportunities with the City.

There may be other ways Council could design a local preference program. However, as such a program becomes more complex, it becomes increasingly difficult to consistently and appropriately use and administer. Staff will collect relevant data over the next year and report back on the ‘demographics’ of the City’s vendors/consultants/contractors, etc. to inform consideration of possible modifications or enhancements to a local preference policy.

FISCAL IMPACT

The proposed changes to the purchasing and procurement policy will not have a fiscal impact on the City’s budget except to increase efficiency of operations. Adoption of the budget by Council grants authority to staff to use budgeted amounts to achieve Council priorities and objectives. The changes outlined in this report attempt to update and adjust thresholds for inflation and increased efficiency in operations and service provision, not increase expenditure or appropriation levels.

NEXT STEPS

Once Council approves changes to the City’s procurement policies, City staff will implement the policy and related procedural changes. Staff will initiate an update to the Public Projects section of the procurement policy this winter.

Prepared by: Tracy Vesely, Director of Finance; Dustin Claussen, Deputy Director of Finance; Maria Carrillo, Purchasing Manager

Recommended by: Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

File #: CONS 15-253

Attachments:

Attachment I
Attachment II

Resolution
Summary of Threshold & Approval Levels
(Current and Proposed)

HAYWARD CITY COUNCIL

RESOLUTION NO. 15- _____

Introduced by Council Member _____

A RESOLUTION UPDATING THE CITY'S PROCUREMENT POLICIES THAT INCLUDES INCREASING THE APPROVAL THRESHHOLD FOR THE CITY MANAGER TO EXECUTE CONTRACTS; MODIFYING BID THRESHOLD REQUIREMENTS; AND UPDATING THE CITY'S LOCAL PREFERENCE POLICY

WHEREAS, the Hayward City Charter, Article XIII, Sections 1302 establishes the authority for the City to use centralized purchasing for all City departments, offices and agencies; and

WHEREAS, the Hayward City Charter, Article XIII, Sections 1303 establishes requirements and procedures for competitive bidding upon and award of contracts for public works, which related policies have not been modified since 1992; and

WHEREAS, Pursuant to current City Council Resolution No. 92-238, the City Manager may execute certain consultant and contractor contracts up to \$25,000 without City Council authority, which has not been modified since 1992; and

WHEREAS, pursuant to the Hayward Municipal Code, the current procurement policies and include provisions for Local Preference for goods.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Resolution No. 92-238 is amended to increase the level for which the City Manager can execute contracts pursuant to Exhibit A, including contracts up to \$75,000 for Supplies and Equipment, Repairs and Maintenance and External Services (consultants and contractors) without additional City Council approval.

BE IT FURTHER RESOLVED that the City's bidding threshold requirements are amended pursuant to Exhibit A.

BE IT FURTHER RESOLVED that in addition to the local preferences established by Article 9 of the Hayward Municipal Code, City Council establishes a Business Enterprise Preference System the City shall consider for services that in circumstances when vendors that are very similar in all areas of the proposal, including qualifications and pricing; the local vendor should be selected.

BE IT FURTHER RESOLVED that the City's procurement process shall be established on these overarching principles: ethical and accountable stewardship of public funds; fair and open competition in procurement processes; provision of the best value and highest quality

possible to the citizens of Hayward; support of City Council Priorities; and as appropriate, stimulating the local economy by extending preferences to local Hayward vendors.

IN COUNCIL, HAYWARD, CALIFORNIA November 3, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

Miriam Lens

City Clerk of the City of Hayward

APPROVED AS TO FORM:

Michael Lawson

City Attorney of the City of Hayward

Threshold	Requirement	Approval Authority
-----------	-------------	--------------------

Supplies & Equipment General Purchases

\$7,500 or less	Verbal quotations from competitive suppliers	Department Director
\$7,501-\$50,000	Solicitation of at least three sources	Department Director
\$50,001-\$75,000	Three or more written quotations based on City specifications	Department Director & City Manager
\$75,001 or greater	Formal bid procedure required	City Manager & Council

Repair, Maintenance, Routine Work (as defined by PCC 20161, 20162 & 20656)

\$7,500 or less	Prevailing Market	Department Director
\$7,501-\$50,000	Solicitation of at least three sources	Department Director
\$50,001-\$75,000	Three or more written proposals based on City specifications	Department Director & City Manager
\$75,001 or greater	Formal bid procedure required	City Manager & Council

External Services (Consultants & Contractors)

N/A	Verbal quotations from competitive suppliers	Department Director
\$50,000 or less	Solicitation of at least three sources	Department Director & City Manager
\$50,001-\$75,000	Three or more written proposals based on City specifications	Department Director & City Manager
\$75,001 or greater	Formal bid procedure required	City Manager & Council

Public Projects (as defined by PCC 22002 PW CIP, Non-Maint. Work)

No Change	Verbal quotations from competitive suppliers	No Change
No Change	Solicitation of at least three sources generally	No Change
No Change	Three or more written quotations based on City specifications	No Change
No Change	Formal bid procedure required	No Change

Summary of Threshold & Approval Levels

Current Policy Threshold	Proposed Threshold	Requirement	Current Approval Authority	Proposed Approval Authority
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Supplies & Equipment General Purchases

\$2,500 or less	\$7,500 or less	Verbal quotations from competitive suppliers	Department Director	Department Director
\$2,501-\$15,000	\$7,501-\$50,000	Solicitation of at least three sources	Department Director	Department Director
\$15,001-\$35,000	\$50,001-\$75,000	Three or more written quotations based on City specifications	Department Director & City Manager	Department Director & City Manager
\$35,001 or greater	\$75,001 or greater	Formal bid procedure required	City Manager & Council	City Manager & Council ^ψ

Repair, Maintenance, Routine Work (as defined by PCC 20161, 20162 & 20656)

\$2,500 or less	\$7,500 or less	Prevailing Market	Department Director	Department Director
\$2,501-\$15,000	\$7,501-\$50,000	Solicitation of at least three sources	Department Director	Department Director
\$15,001-\$35,000	\$50,001-\$75,000	Three or more written proposals based on City specifications	Department Director & City Manager	Department Director & City Manager
\$35,001 or greater	\$75,001 or greater	Formal bid procedure required	City Manager & Council	City Manager & Council ^ψ

External Services (Consultants & Contractors)

\$25,000 or less	N/A	Verbal quotations from competitive suppliers	Department Director	Department Director
N/A	\$50,000 or less	Solicitation of at least three sources	Department Director	Department Director & City Manager
N/A	\$50,001-\$75,000	Three or more written proposals based on City specifications	Department Director & City Manager	Department Director & City Manager
\$25,001 or greater	\$75,001 or greater	Formal bid procedure required	City Manager & Council	City Manager & Council ^ψ

Public Projects (as defined by PCC 22002 PW CIP, Non-Maint. Work)

\$2,500 or less	No Change	Verbal quotations from competitive suppliers	Department Director	No Change
\$2,501-\$15,000	No Change	Solicitation of at least three sources generally	Department Director	No Change
\$15,001-\$35,000	No Change	Three or more written quotations based on City specifications	Department Director & City Manager	No Change
\$35,001 or greater	No Change	Formal bid procedure required	City Manager & Council	No Change

^ψ Items or services explicitly identified and approved by Council previously do not require re-approval



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-292

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT

Resolutions Authorizing the City Manager to Enter Into an Agreement with Alliant Insurance Services, Inc. to Provide Group Insurance Broker and Advisory Services, Include the City of Hayward with the CSAC Excess Insurance Authority Municipality Pools for Delta Dental, VSP, and Cigna Life/Disability Insurance, and Move the City of Hayward's Transit and Flexible Spending Account Benefits, COBRA and Retiree Dental Administration to Priselac & Associates, Inc.

RECOMMENDATION

That the City Council adopts the attached Resolutions authorizing the City Manager to:

- 1) Enter into an agreement with Alliant Insurance Services, Inc. ("Alliant") for group insurance broker and advisory services; and
- 2) Enter into an agreement with Alliant for dental, vision and life/disability coverage for City of Hayward ("City") employees through the CSAC Excess Insurance Authority ("CSAC EIA") Municipality Pools; and
- 3) Move the administration of the City's transit and flexible spending account benefit plans, COBRA and retiree dental administration to Priselac & Associates, Inc. ("P & A Group").

BACKGROUND

The City provides a competitive package of non-medical benefits for its qualified employees and their eligible dependents as agreed upon in the applicable Resolutions and Memoranda of Understanding. To administer the benefit plans in the most cost effective and efficient manner, the City requires the services of a group insurance broker and advisor to assist with its benefit programs by providing special services and the advice of specially trained personnel. In 2011, the City entered into an agreement with Wells Fargo (the City's former benefits broker); this agreement expired on June 30, 2014. In May 2014, the City solicited proposals through a competitive bid process for group insurance broker services.

Because of its excellent reputation as California's largest public agency consultant and benefits broker and ability to provide superior services at a reduced cost, Alliant was selected to provide broker services for the non-medical benefits for a three (3) year term, beginning July 1, 2014. Alliant is one of the largest public entity broker/consultants in California working with over 1,000 public entity clients including counties, special districts, community college districts, K-12 public schools, and other cities in Northern

California such as Alameda, Concord, Fremont, Livermore, Mountain View, Pleasanton, Richmond, San Leandro, South San Francisco, Sunnyvale, Vacaville, and Walnut Creek . Alliant offers a dedicated team of seven (7) individuals with extensive experience working with public agency groups.

Alliant has also developed a Smartphone application (Ben IQ), proving the company's commitment to the next generation of employee benefit plans. The application is designed to provide employees with access to their health plan information, assist employees with finding in-network providers, store and organize plan ID cards, and track health and wellness plan progress. Alliant offers additional services including: developing communication, education and training as needed by the City; web-based tools and communications including designing a City benefit summary/brochure, newsletters and an employee handbook; and assistance with building and constructing an effective wellness program.

The City of Hayward is fully insured for vision, life, and disability; and self-insured for dental coverage. Therefore, the City pays for actual services its employees receive versus paying insurance premiums for a specific coverage level based on enrollment status. To contain costs and essentially spread the risk associated with claims amongst a larger group of participants, as well as take advantage of group discounts, self-insured municipalities often select an administrator and join a pool that includes multiple municipalities.

The City is currently a part of the Wells Fargo Municipality Pool for Delta Dental coverage. The City has a vision plan through VSP and participates in their Signature Network; life/disability insurance is contracted directly through Cigna. Other non-medical benefits offered by the City are administered through additional vendors: transit benefit and flexible spending accounts are administered through Total Administrative Services Corporation ("TASC"); and COBRA and retiree dental are administered through Eflex Group ("Eflex").

DISCUSSION

Over the past six months, staff has been working with Alliant to combine brokerage services and administrative services for dental and vision plans as well as other non-medical benefits including life/disability insurance, transit benefits, flexible spending accounts and COBRA and retiree dental administration. These selections will reduce administrative costs for the City and improve the level of service provided to employees while expanding and improving technical benefits services, all with no additional brokerage fees and a reduction in administrative fees for the City.

In an effort to improve the City's administrative services and reduce costs associated with employee benefit programs, Alliant conducted a marketing analysis for the City's current non-medical benefits including dental, vision, life/disability, transit, employee assistance, flexible spending accounts, and COBRA. As a result of the marketing analysis, the City has opted to move from the Wells Fargo Municipality Pool to the CSAC EIA Municipality Pool for Delta Dental coverage effective January 1, 2016. There will be an immediate savings in premiums for the City in the amount of approximately \$75,000 annually. Additionally, EIA provides an administrative platform for program members; Preferred Benefits Insurance Administrators ("PBIA") will be the primary administrative platform for the EIA program membership. PBIA offers a complete online system that will allow the City to manage eligibility

and make changes as needed online and will also provide billing and eligibility to Delta Dental on behalf of the City.

The City has opted to switch VSP vision coverage from direct to the CSAC EIA Municipality Pool and participate in their Choice Network effective January 1, 2016. For an additional cost of \$22,000 annually, which is offset by the savings in administrative fees, the City will be able to provide qualified employees and their eligible dependents with an increased annual allowance of one hundred and fifty dollars (\$150.00) for frames or contacts. Additionally, VSP offers a variety of enhancements including discounts on certain frame and contact lens brands.

Effective July 1, 2015, the City elected to move from current life/disability insurance coverage directly through Cigna to the CSAC EIA Municipality Pool. Coverage will continue to be provided by Cigna, but through the CSAC EIA pool instead of on a direct basis. By moving to CSAC EIA, the current rate guarantee through January 1, 2016 will be extended to July 1, 2017. The rate guarantee is to the City's advantage in that it avoided potential renewal rate cost increases that would have been effective January 1, 2016. There will be no increase in cost to the City or those employees currently participating in voluntary life insurance through at least July 1, 2017.

In addition to the aforementioned changes for dental, vision, and life/disability insurance, Alliant's marketing analysis also identified opportunities for savings by switching vendors for administration of the City's transit benefit, flexible spending accounts, COBRA, and retiree dental. These changes will result in overall lower administration fees and an increase in rate guarantees from one year to five years.

As part of the combined brokerage and administrative services and execution of this agreement, Alliant has offered the City additional services which include: 1) assistance with open enrollment events and processing of forms; 2) assistance with employee communication and education regarding health and wellness including a customized benefit booklet, and a health management smart phone application; 3) enhanced technical assistance and research related to compliance of the Affordable Care Act; 4) the redesign of employee benefit programs, including support to the negotiation team; and 5) other communications and online trainings (seminars and webinars) regarding legislative updates and compliance.

FISCAL IMPACT

The proposed agreement with Alliant reduces costs associated with administering non-medical employee benefits, while maintaining competitive and quality benefit options for City of Hayward employees and increasing administrative assistance for the Human Resources function at no additional cost. It is estimated that by partnering with Alliant, and implementing the changes discussed above, the City will save approximately \$61,200 annually in the provision and administration of its non-medical benefits while maintaining and/or increasing benefits.

These savings will be achieved as follows:

Proposed Change	Savings/Cost
Move Delta Dental coverage from Wells Fargo Pool to CSAC EIA Pool	\$75,000 annual savings
Move vision plan from VSP Signature Network (Direct) to VSP Choice Network (CSAC EIA Pool)	\$22,000 annual cost
Move administration of COBRA and retiree dental from Eflex to P & A Group	\$8,200 annual savings
Total annual savings	\$61,200

Additionally, the City currently pays the Wells Fargo Municipality Pool an administrative fee of 9.3% of the paid claims for Delta Dental benefits. Through the CSAC EIA Municipality Pool the administrative fee will be reduced to 8.66% of the paid claims for the same services. This fee of 8.66% is currently inflated due to a penalty for switching from the Wells Fargo Municipality Pool; it is anticipated that the administrative fee will be reduced to 7.2% of the paid claims for Dental benefits, after the penalty period, which is approximately two years.

There is no increase in cost for switching Life/Disability Insurance from direct to the CSAC EIA Municipality Pool. Similarly, there is no increase in cost associated with changing vendors for the administration of the City's transit benefit and flexible spending accounts.

Prepared by: Vanessa Lopez, Senior Human Resources Analyst

Recommended by: Nina S. Collins, Director of Human Resources

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Authorizing the City Manager to Enter Into an Agreement with Alliant
Attachment II	Resolution to Join Municipality Pools for Dental, Vision and Life/Disability
Attachment III	Resolution to Move Administration of Transit and Flexible Spending Account Plans, and COBRA and Retiree Dental

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT WITH ALLIANT INSURANCE SERVICES, INC. FOR GROUP
INSURANCE BROKER AND ADVISORY SERVICES

WHEREAS, the City of Hayward is self-insured and provides dental, vision, employee assistance, life insurance, short and long-term disability and voluntary insurance coverage to its employees and their eligible dependents and requires the services of a group insurance broker and advisor to assist with regards to its group benefit programs; and

WHEREAS, the City's agreement with Wells Fargo Insurance Services for group insurance and advisory services expired on June 30, 2014; and

WHEREAS, the City solicited proposals through a competitive bid process for group insurance broker services in May 2014 and staff recommends entering into an agreement to Alliant Insurance Services, Inc. for a three year period ending on January 31, 2018; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to extend the agreement with Alliant Insurance Services, Inc. for group insurance broker and advisory services for a three year period, ending on January 31, 2018 in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ALLIANT INSURANCE SERVICES, INC. FOR DENTAL, VISION, AND LIFE AND DISABILITY INSURANCE COVERAGE TO CITY OF HAYWARD EMPLOYEES THROUGH THE CSAC EXCESS INSURANCE AUTHORITY MUNICIPALITY POOL

WHEREAS, the City of Hayward is self-insured and provides benefits for dental, vision, and life and disability insurance to its employees and their eligible dependents and requires the services of a group insurance broker and advisor to assist with regards to its group benefit programs; and

WHEREAS, the City of Hayward currently contracts with the Wells Fargo Municipality Pool to provide the Delta Dental coverage administration at a cost of 9.3% of claims paid;

WHEREAS, the City of Hayward currently contracts with VSP to provide the vision coverage administration; and

WHEREAS, the City of Hayward currently contracts with Cigna to provide life and disability insurance administration; and

WHEREAS, staff partnered with Alliant Insurance Services, Inc. and it was determined that the City could reduce costs by joining the CSAC Excess Insurance Authority Municipality Pool for dental, vision and life and disability insurance; and

WHEREAS, the City and Wells Fargo have negotiated an agreement that will reduce the rate of Delta Dental Coverage administration to a rate of 8.6% of paid claims.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to enter into an agreement with Alliant Insurance Services, Inc. for administration of its coverage for Delta Dental, vision, and life and disability coverage plan and join the CSAC Excess Insurance Authority Municipality Pool, effective January 1, 2016.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO MOVE THE ADMINISTRATION OF THE CITY'S TRANSIT AND FLEXIBLE SPENDING ACCOUNT BENEFIT PLANS, AND COBRA AND RETIREE DENTAL TO P & A ADMINISTRATIVE SERVICE, INC.

WHEREAS, the City of Hayward is self-insured and provides benefits for dental, vision, and life and disability insurance to its employees and their eligible dependents and requires the services of a group insurance broker and advisor to assist with regards to its group benefit programs; and

WHEREAS, the City of Hayward currently contracts with Eflex Group for administration of transit and flexible spending account benefit plans, and COBRA and retiree dental;

WHEREAS, staff partnered with Alliant Insurance Services, Inc. and it was determined that the City could reduce costs by moving administration of COBRA and retiree dental to P & A Administrative Services, Inc.; and

WHEREAS, the City and Alliant have negotiated an agreement with P & A that will reduce the cost by \$8,200 annually.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to move administration of the City's transit and flexible spending account benefit plans, and COBRA and retiree dental to P & A Administrative Services, Inc. effective October 1, 2015.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-299

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 - Districts 1 & 8: Award of Construction Contract

RECOMMENDATION

That Council adopts the attached resolution (Attachment I):

1. Increasing the Administrative Change Order amount from \$54,545 to \$171,411; and
2. Awarding the contract to AJW Construction, in the amount of \$580,000.

BACKGROUND

The Sidewalk Rehabilitation Program for the repair of damaged concrete sidewalks consists of two components. One is the removal of tripping hazards from sidewalk displacements or offsets that are less than 1^{3/4} inches. These hazards are removed by saw cutting or grinding the uplifted sidewalk panel across the width of the sidewalk to produce a smooth and uniform surface that meets ADA slope requirements. The trip hazard removal is performed under a separate purchase order contract. Under that contract, the Contractor submits a report to the City which identifies the locations of sidewalk offsets that are larger than 1^{3/4} inches and cannot be repaired by saw cut or grinding.

The other component of the Sidewalk rehabilitation program removes and replaces, with new concrete, all sidewalk displacements exceeding 1^{3/4} inches. This work is included in the award covered by this report. Pursuant to Division 7, Part 3, Chapter 27 of the Streets and Highways Code, sidewalk repair is the responsibility of the property owners. However, property owners may choose to complete the work themselves or to have the repairs completed by the City's contractor, with the payment of a flat fee of \$550 per single family property.

On September 15, 2015, Council approved the plans and specifications for the Sidewalk Rehabilitation and Wheelchair Ramps FY 2016 - Districts 1 and 8 project and called for bids to be received on October 13, 2015.

DISCUSSION

This year's Sidewalk Rehabilitation Program will repair damaged sidewalks in the Downtown Area

(District 1) and Sleepy Hollow-Depot Area (District 8). See Attachments II and III for project location maps. The project also includes the installation and upgrading of handicap access ramps to meet ADA standards, repair of offset or raised concrete curb and gutter, as well as tree trimming and root pruning of existing trees. As part of the project, the contractor will retain an arborist to examine conditions of existing trees and inspect the root pruning work. New trees will be planted where street trees are absent or where an existing tree must be removed because of disease or is in imminent danger of falling. Based on preliminary inspection, staff anticipates removing three trees and planting nine trees in various locations. Approximately 90 separate locations of damaged sidewalks comprising a total of 10,000 square feet or 2% of total area in the City, will be repaired with this project. In addition, 135 new wheelchair ramps will be installed or upgraded to bring the wheelchair ramps into compliance with current ADA standards.

On October 13, 2015, seven bids were received for the Sidewalk Rehabilitation Project. AJW Construction of Oakland submitted the low bid in the amount of \$408,589, which is 31.9% below the Engineer's Estimate of \$600,000. JJR Construction of San Mateo submitted the second lowest bid in the amount of \$528,463.68, which is 11.9% lower than the Engineer's Estimate. The bids ranged from \$408,589 to \$731,412.65.

The low bid received provides an opportunity to repair additional damaged sidewalk locations in the same districts, and install additional wheelchair ramps that otherwise would not have been included, due to limited funds. Therefore, staff recommends increasing the Administrative Change Order amount of the bid by \$116,866 to \$171,411 to cover this extra work.

All bid documents and licenses are in order. Staff recommends award of contract to the low bidder, AJW Construction, in the amount of \$580,000.

COMPLETE STREETS

The project provides for the following improvements in the public right-of-way in compliance with City Council's Complete Streets Policy:

1. One hundred thirty-five wheelchair ramps will be installed or upgraded to comply with current ADA standards; and
2. Landscape improvements are being implemented to the sidewalk planters by adding nine new trees.

PUBLIC CONTACT

Owners of the affected properties have received certified letters regarding the program along with a response form to return to the City indicating if they want to make the repairs themselves or pay the \$550 fee to have the City complete the work. On the response form, property owners are given two payment choices: a \$550 lump sum payment or an installment plan of twelve monthly payments. The response form also includes a choice of replacement trees. Additional outreach methods, such as phone calls and site visits by staff, are being implemented to ensure that all property owners are clearly aware of the program and the options available to them.

FISCAL IMPACT

The estimated project costs are as follows:

Construction Contract	\$580,000
Trip Hazard Removal (completed under separate contract)	150,000
Design and Administration	95,000
Construction Survey, Inspection, and Testing	95,000
TOTAL	\$920,000

The Adopted FY 2016 Capital Improvement Program (CIP) includes \$800,000 for the Sidewalk Rehabilitation Project in the Street System Improvements Fund. The Adopted FY 2016 CIP also includes \$120,000 in the Gas Tax Fund for the Wheelchair Ramps construction. The total appropriation for the two projects is \$920,000. Reimbursement from property owners for the sidewalk rehabilitation is estimated to be approximately \$82,000. Transportation Development Act funds will reimburse the full amount (\$120,000) of the Wheelchair Ramps project.

NEXT STEPS

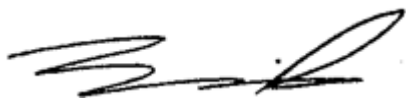
Begin Work
Complete Work

December 7, 2015
April 7, 2016

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution
Attachment II	Location Map - District 1
Attachment III	Location Map - District 8
Attachment IV	Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-____

Introduced by Council Member _____

RESOLUTION INCREASING THE ADMINISTRATIVE CHANGE ORDER
AMOUNT FOR THE SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS
FY 2016 – DISTRICTS 1 & 8 PROJECT, PROJECT NOS. 05267 AND 05121, AND
AWARDING THE CONSTRUCTION CONTRACT TO AJW Construction.

WHEREAS, by resolution on September 15, 2015, the City Council approved the plans and specifications for the Sidewalk Rehabilitation and Wheelchair Ramp FY 2016 – Districts 1 & 8 Project, Project No. 05267 and 05121, and called for bids to be received on October 13, 2015; and

WHEREAS, on October 13, 2015, seven bids were received ranging from \$408,589 to \$731,412.65; AJW Construction of Oakland, California submitted the lowest bid in the amount of \$408,589, which is 31.9% below the Engineer's Estimate of \$600,000; and

WHEREAS, the low bid provides an opportunity to increase the Administrative Change Order amount in order to repair more sidewalks and ramps; therefore, staff recommends increasing the Administrative Change Order amount from \$54,545 to \$171,411; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that AJW Construction is the lowest responsible bidder whose bid complies with the specifications and is hereby awarded the construction contract for the Sidewalk Rehabilitation and Wheelchair Ramp FY 2016 – Districts 1 & 8 Project, Project Nos. 05267 and 05121, for the amount of \$580,000, and in accordance with the aforementioned plans and specifications on file in the office of the City Clerk of the City of Hayward. All other bids are hereby rejected.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the Director of Public Works is authorized to expend up to \$920,000 for project design, construction, project administration, and contingency costs to complete the project.

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

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

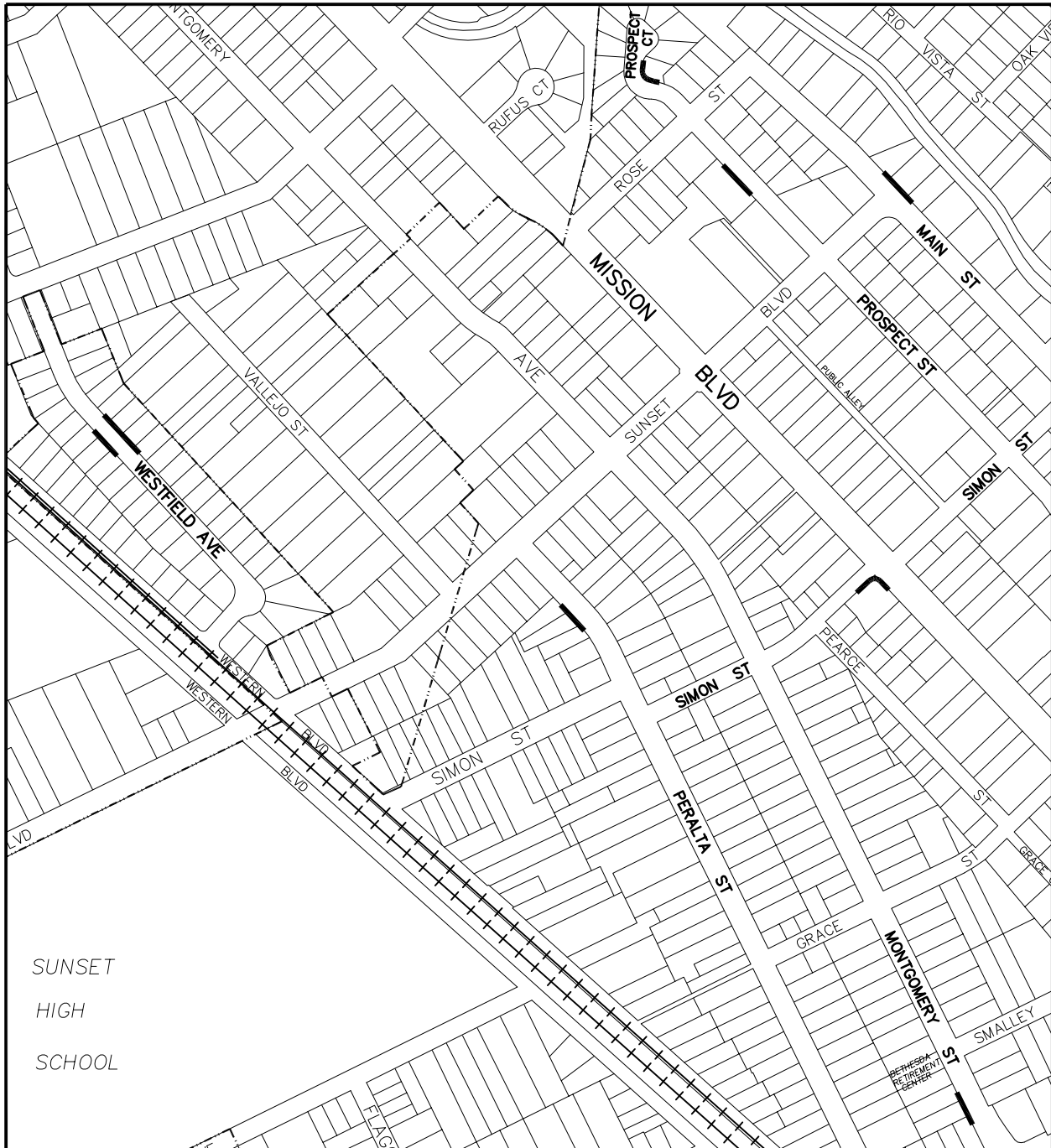
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

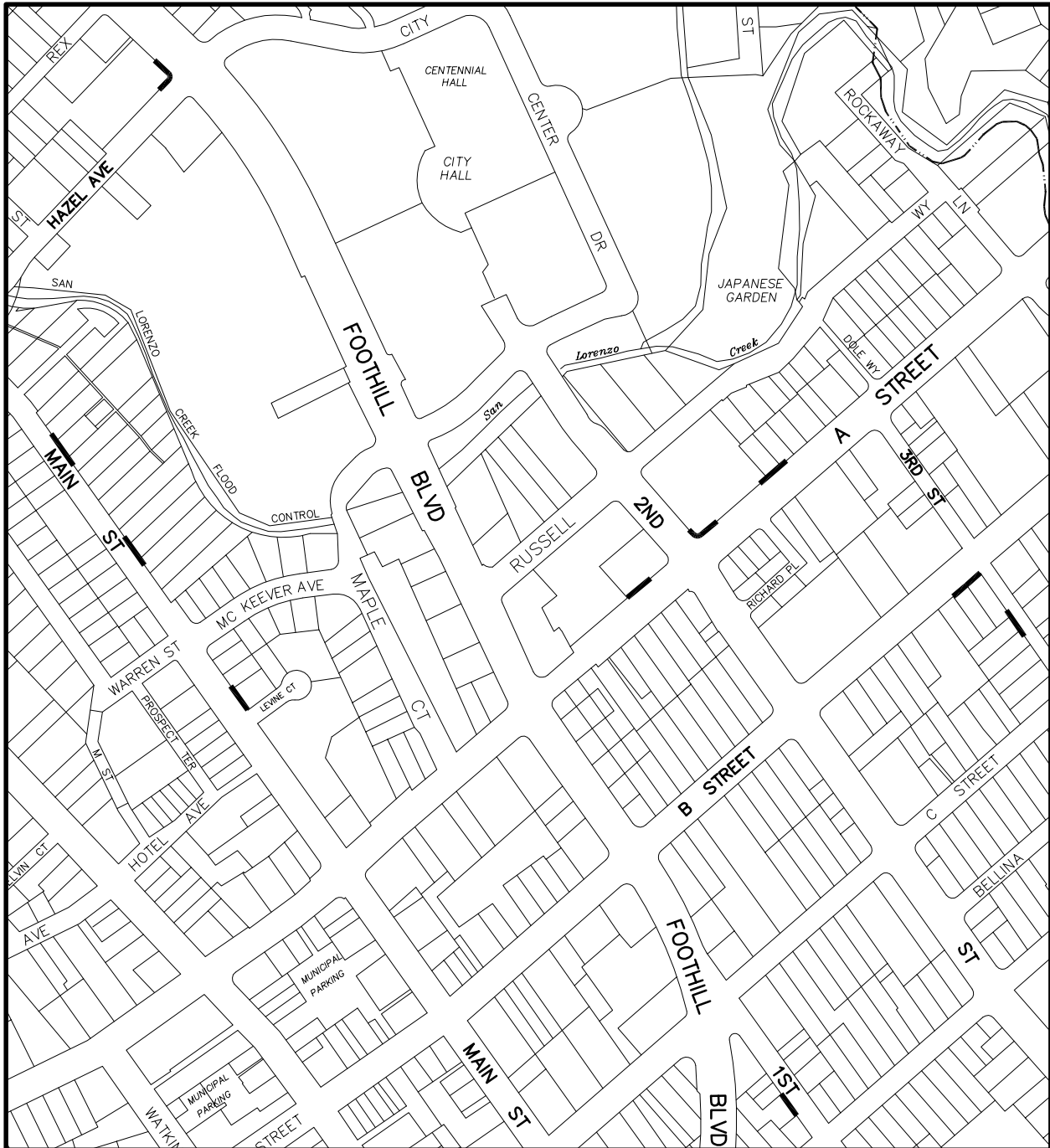
APPROVED AS TO FORM:

City Attorney of the City of Hayward



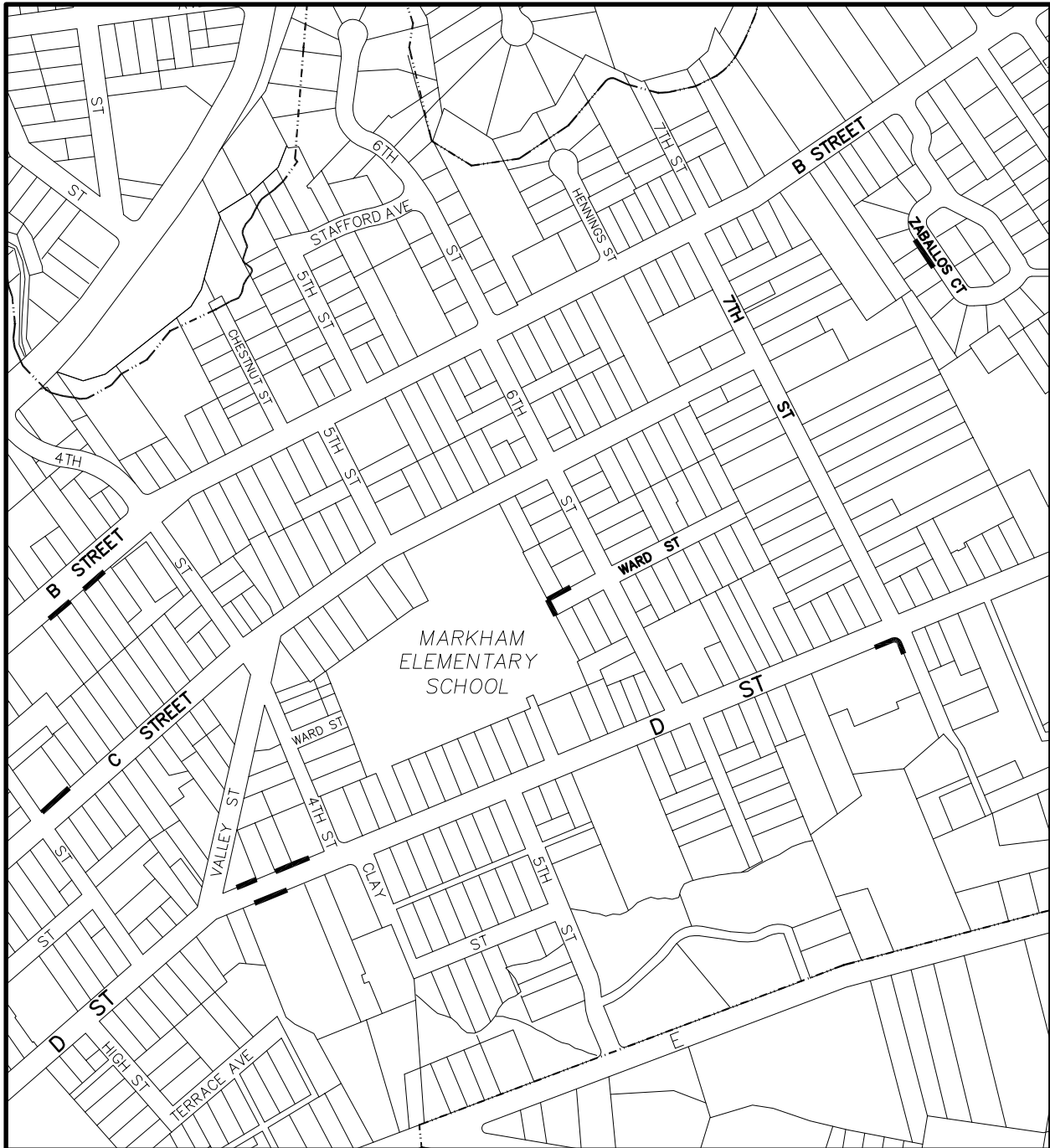
— INDICATES THE BLOCKS
TO BE REPAIRED

**LOCATION MAP
SIDEWALK REHABILITATION FY16
DOWNTOWN AREA
DISTRICT 1 - PROJECT NO. 05267**



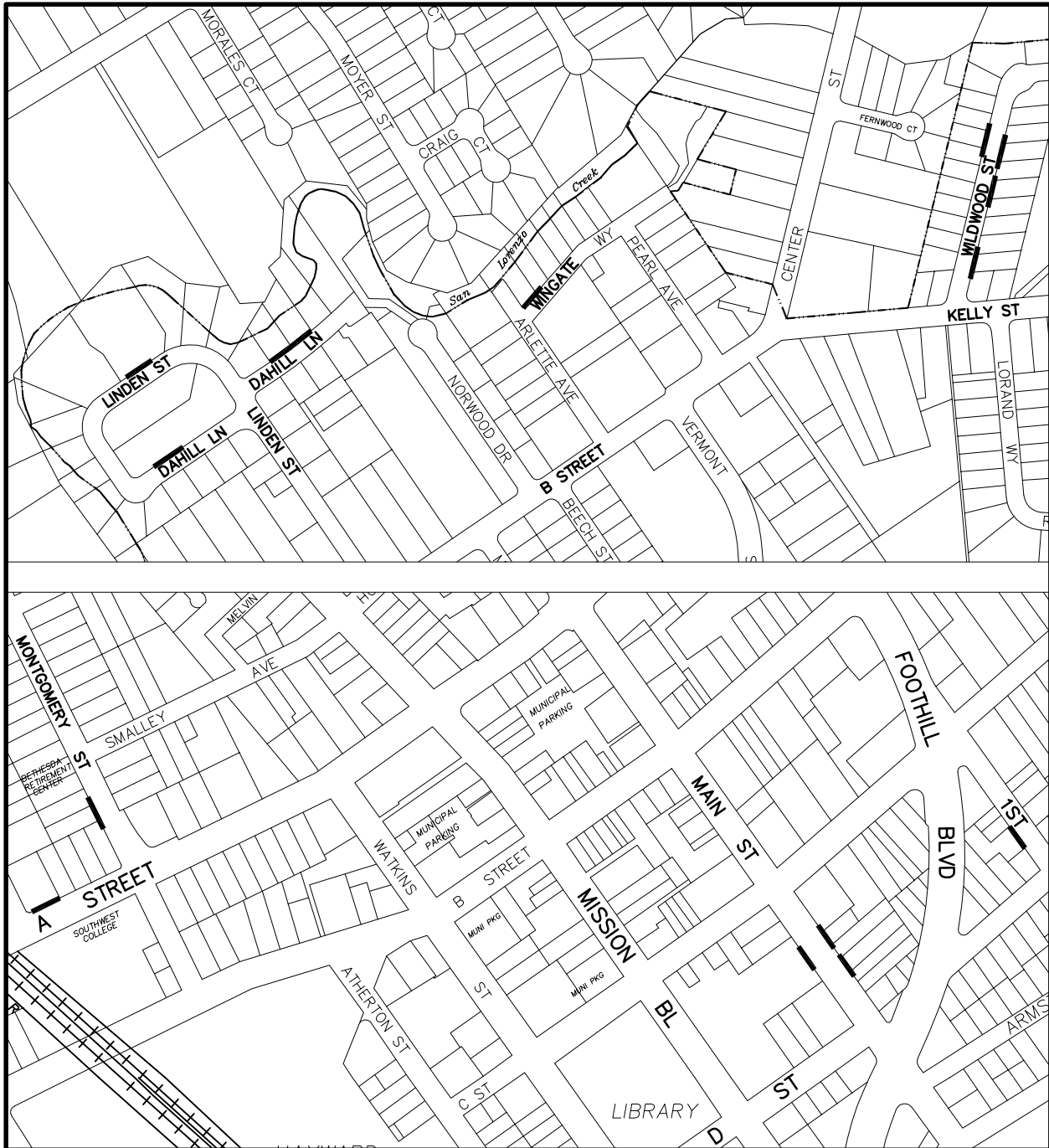
— INDICATES THE BLOCKS
TO BE REPAIRED

**LOCATION MAP
SIDEWALK REHABILITATION FY16
DOWNTOWN AREA
DISTRICT 1 - PROJECT NO. 05267**



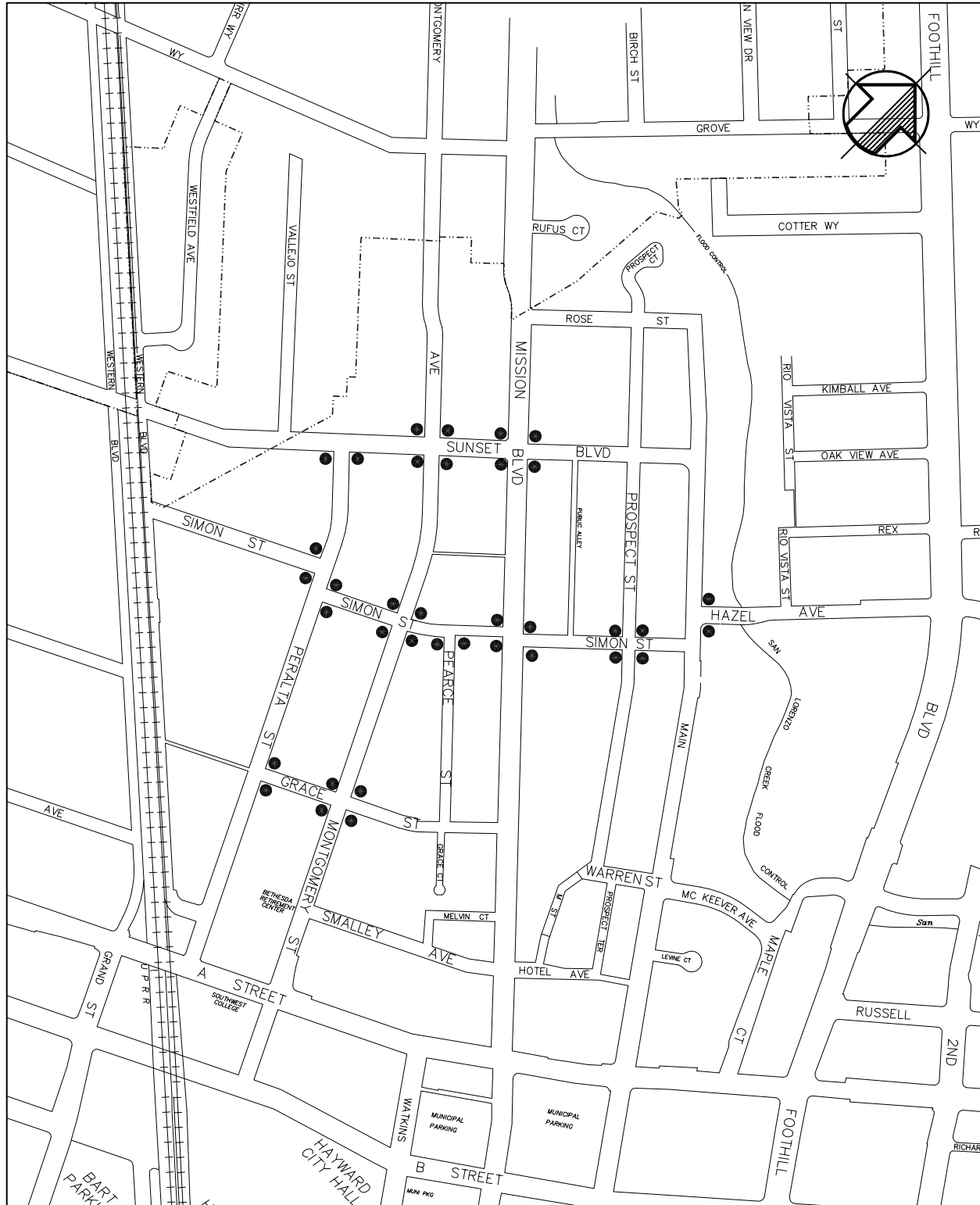
— INDICATES THE BLOCKS
TO BE REPAIRED

**LOCATION MAP
SIDEWALK REHABILITATION FY16
DOWNTOWN AREA
DISTRICT 1 - PROJECT NO. 05267**

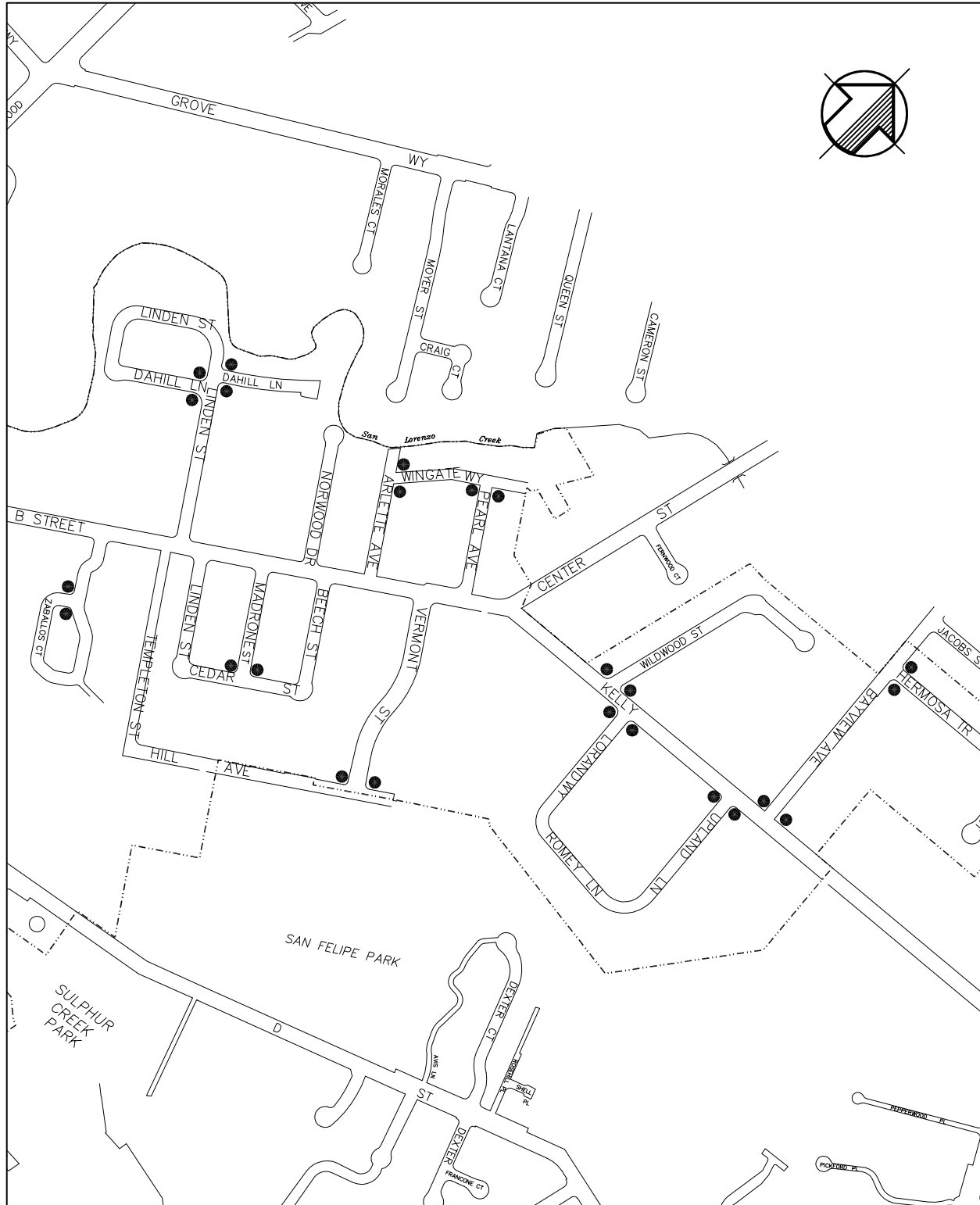


— INDICATES THE BLOCKS
TO BE REPAIRED

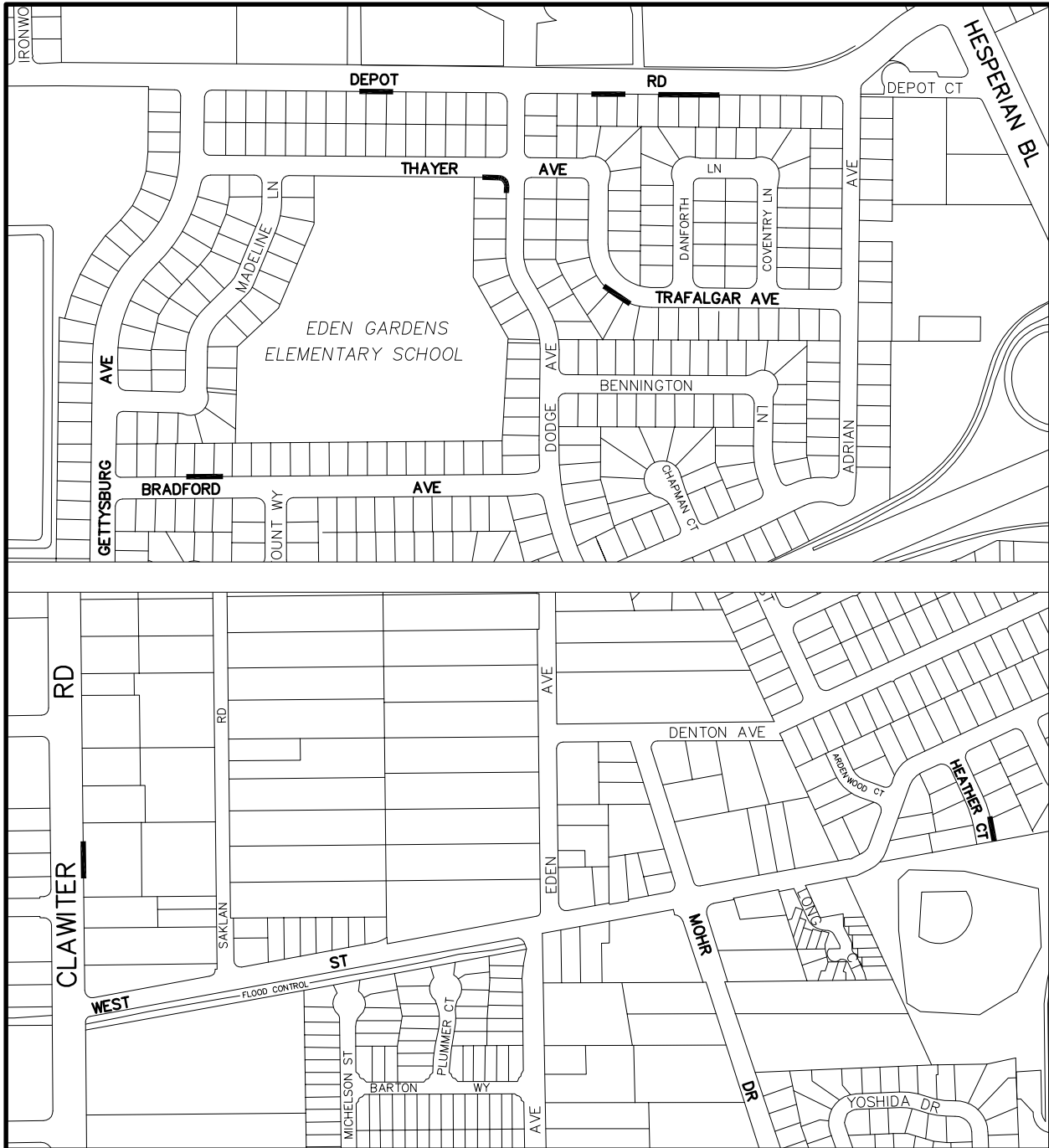
**LOCATION MAP
SIDEWALK REHABILITATION FY16
DOWNTOWN AREA
DISTRICT 1 - PROJECT NO. 05267**



LOCATION MAP
WHEELCHAIR RAMPS FY16
DOWNTOWN AREA
DISTRICT 1 - PROJECT NO. 05121



**LOCATION MAP
WHEELCHAIR RAMPS FY16
DOWNTOWN AREA
DISTRICT 1 - PROJECT NO. 05121**



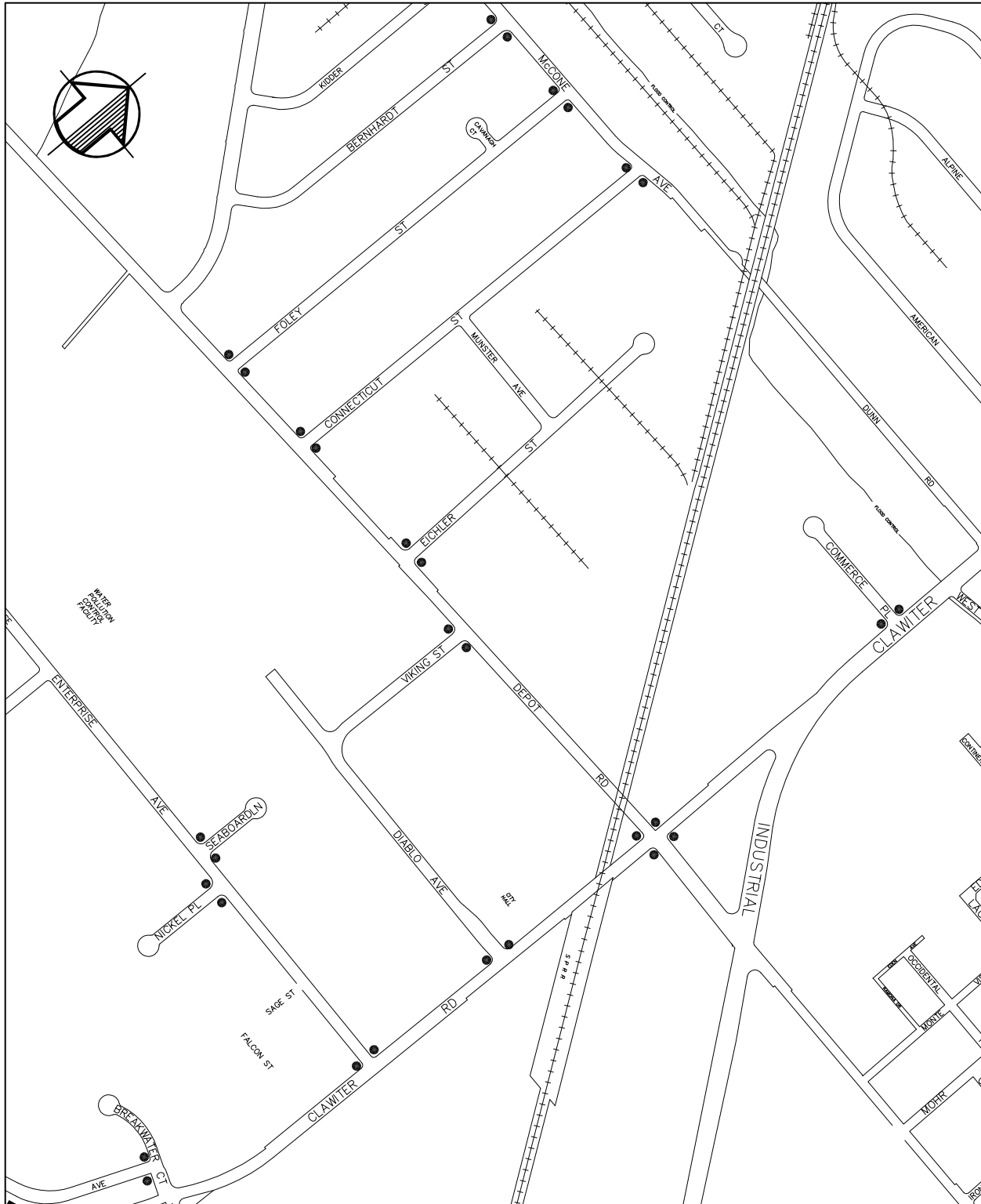
— INDICATES THE BLOCKS
TO BE REPAIRED

**LOCATION MAP
SIDEWALK REHABILITATION FY16
SLEEPY HOLLOW-DEPOT AREA
DISTRICT 8 - PROJECT NO. 05267**

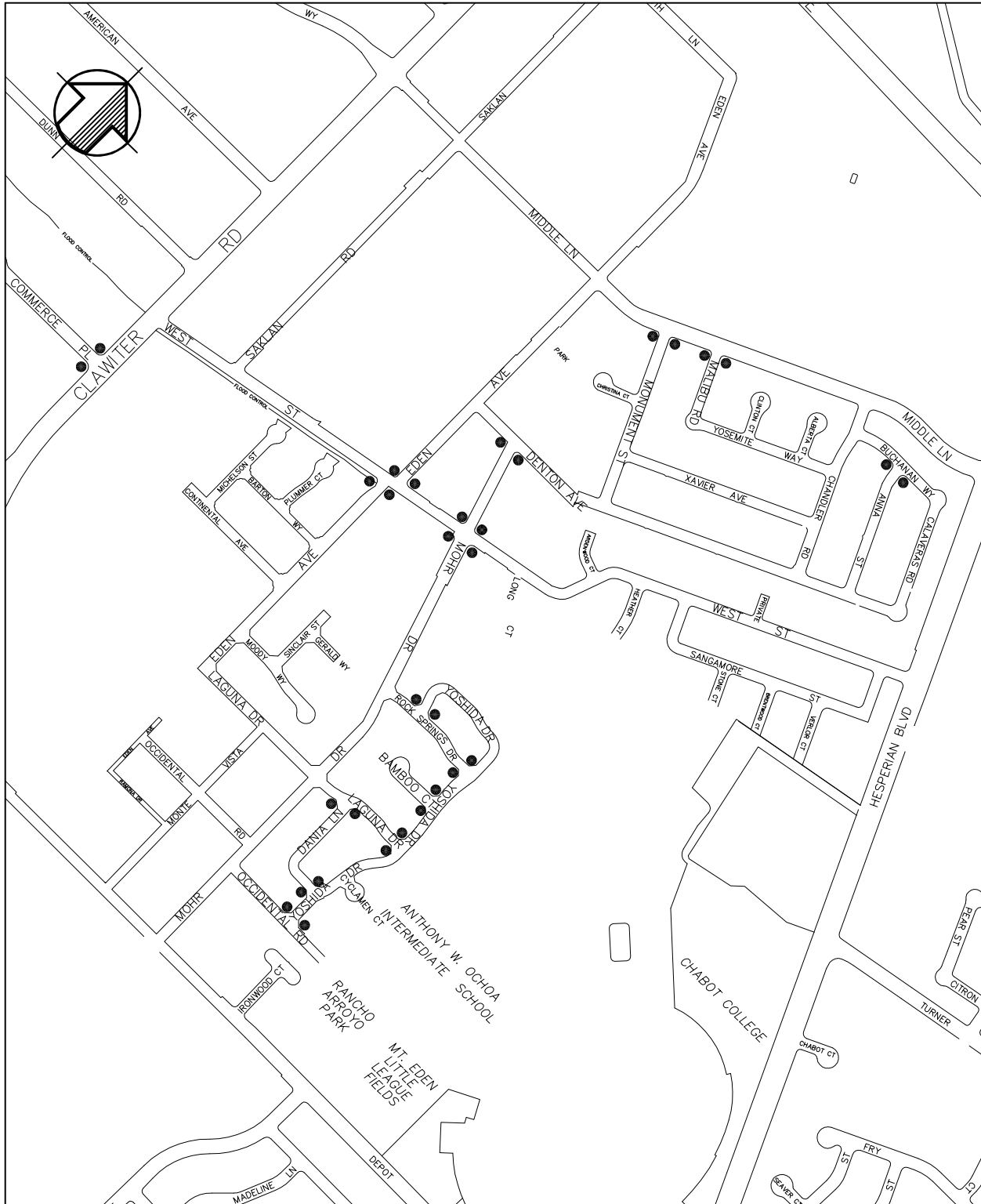


— INDICATES THE BLOCKS
TO BE REPAIRED

**LOCATION MAP
SIDEWALK REHABILITATION FY16
SLEEPY HOLLOW-DEPOT AREA
DISTRICT 8 - PROJECT NO. 05267**



LOCATION MAP
WHEELCHAIR RAMPS FY16
SLEEPY HOLLOW-DEPOT AREA
DISTRICT 8 - PROJECT NO. 05121



**LOCATION MAP
WHEELCHAIR RAMPS FY16
SLEEPY HOLLOW-DEPOT AREA
DISTRICT 8 - PROJECT NO. 05121**

CITY OF HAYWARD
 CONSTRUCTION OF SIDEWALK REHABILITATION & WHEELCHAIR RAMPS FY 2016 - DISTRICTS 1 & 8
 PROJECT NOS. 05267 & 05121
 BIDS OPENED: 10/13/15
 (NUMBER OF BIDS RECEIVED - 7)

BID SUMMARY				ENGINEER'S ESTIMATE		AJW CONSTRUCTION	
						966 81ST AVENUE	
						OAKLAND, CA 94621	
						(510) 568-2300	
						(510) 639-1578	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	4516	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	\$13.00	\$58,708.00	\$9.50	\$42,902.00
2	476	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	\$15.00	\$7,140.00	\$11.00	\$5,236.00
3	248	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	\$45.00	\$11,160.00	\$40.00	\$9,920.00
4	82	SF	MINOR CONCRETE (REMOVE AND REPLACE ROLLED CONCRETE CURB AND GUTTER)	\$60.00	\$4,920.00	\$45.00	\$3,690.00
5	203	SF	4-INCH DEEP AC CONFORM	\$10.00	\$2,030.00	\$7.00	\$1,421.00
6	1	EA	STUMP AND ROOT REMOVAL	\$400.00	\$400.00	\$350.00	\$350.00
7	880	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	\$12.00	\$10,560.00	\$3.50	\$3,080.00
8	321	SF	SALVAGE AND SPREAD DECORATIVE STONES	\$6.00	\$1,926.00	\$4.00	\$1,284.00
9	9	EA	24-INCH BOX SIZE TREE	\$400.00	\$3,600.00	\$615.00	\$5,535.00
10	383	LF	ROOT BARRIER INSTALLATION	\$7.00	\$2,681.00	\$7.00	\$2,681.00
11	126	SF	TURF (SOD)	\$5.00	\$630.00	\$5.00	\$630.00
12	5	CY	IN-PLACE COMPACTED TOPSOIL	\$300.00	\$1,500.00	\$100.00	\$500.00
13	3	EA	TREE REMOVAL	\$1,000.00	\$3,000.00	\$1,380.00	\$4,140.00
14	27	EA	ROOT PRUNE EXISTING TREE	\$180.00	\$4,860.00	\$250.00	\$6,750.00
15	31	EA	TREE TRIMMING	\$450.00	\$13,950.00	\$350.00	\$10,850.00
16	69	LF	IRRIGATION PIPE AND SPRINKLER HEADS	\$4.00	\$276.00	\$5.00	\$345.00
17	23820	SF	MINOR CONCRETE CURB RAMP WITH TRUNCATED DOME	\$17.00	\$404,940.00	\$12.50	\$297,750.00
18	8	EA	RETROFIT EXISTING CURB RAMPS WITH DETECTABLE WARNING	\$40.00	\$320.00	\$500.00	\$4,000.00
19	540	SF	GRIND AC PAVEMENT	\$15.00	\$8,100.00	\$10.00	\$5,400.00
20	27	EA	ARBORIST (SUPERVISION EACH LOCATION)	\$150.00	\$4,050.00	\$75.00	\$2,025.00
21	1	LS	RECYCLING IMPLEMENTATION	\$703.50	\$703.50	\$100.00	\$100.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS				
TOTAL					\$545,454.50		\$408,589.00

CITY OF HAYWARD
 CONSTRUCTION OF SIDEWALK REHABILITATION & WHEELCHAIR RAMPS FY 2016 - DISTRICTS 1 & 8
 PROJECT NOS. 05267 & 05121
 BIDS OPENED: 10/13/15
 (NUMBER OF BIDS RECEIVED - 7)

BID SUMMARY				ENGINEER'S ESTIMATE		JJR CONSTRUCTION, INC 1120 NINTH AVENUE SAN MATEO, CA 94402 (650) 343-6109 (650) 343-6207		ROSAS BROTHERS CON. 4731 COLISEUM WAY OAKLAND, CA 94601 (510) 534-1077 (510) 534-5077	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	4516	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	\$13.00	\$58,708.00	\$13.75	\$62,095.00	\$11.50	\$51,934.00
2	476	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	\$15.00	\$7,140.00	\$16.45	\$7,830.20	\$13.00	\$6,188.00
3	248	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	\$45.00	\$11,160.00	\$52.10	\$12,920.80	\$55.00	\$13,640.00
4	82	SF	MINOR CONCRETE (REMOVE AND REPLACE ROLLED CONCRETE CURB AND GUTTER)	\$60.00	\$4,920.00	\$52.50	\$4,305.00	\$70.00	\$5,740.00
5	203	SF	4-INCH DEEP AC CONFORM	\$10.00	\$2,030.00	\$10.75	\$2,182.25	\$12.50	\$2,537.50
6	1	EA	STUMP AND ROOT REMOVAL	\$400.00	\$400.00	\$220.00	\$220.00	\$500.00	\$500.00
7	880	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	\$12.00	\$10,560.00	\$10.75	\$9,460.00	\$6.50	\$5,720.00
8	321	SF	SALVAGE AND SPREAD DECORATIVE STONES	\$6.00	\$1,926.00	\$10.00	\$3,210.00	\$6.25	\$2,006.25
9	9	EA	24-INCH BOX SIZE TREE	\$400.00	\$3,600.00	\$587.00	\$5,283.00	\$850.00	\$7,650.00
10	383	LF	ROOT BARRIER INSTALLATION	\$7.00	\$2,681.00	\$13.85	\$5,304.55	\$8.00	\$3,064.00
11	126	SF	TURF (SOD)	\$5.00	\$630.00	\$6.38	\$803.88	\$8.00	\$1,008.00
12	5	CY	IN-PLACE COMPACTED TOPSOIL	\$300.00	\$1,500.00	\$205.00	\$1,025.00	\$500.00	\$2,500.00
13	3	EA	TREE REMOVAL	\$1,000.00	\$3,000.00	\$1,265.00	\$3,795.00	\$2,000.00	\$6,000.00
14	27	EA	ROOT PRUNE EXISTING TREE	\$180.00	\$4,860.00	\$242.00	\$6,534.00	\$300.00	\$8,100.00
15	31	EA	TREE TRIMMING	\$450.00	\$13,950.00	\$330.00	\$10,230.00	\$550.00	\$17,050.00
16	69	LF	IRRIGATION PIPE AND SPRINKLER HEADS	\$4.00	\$276.00	\$12.00	\$828.00	\$15.00	\$1,035.00
17	23820	SF	MINOR CONCRETE CURB RAMP WITH TRUNCATED DOME	\$17.00	\$404,940.00	\$15.35	\$365,637.00	\$16.00	\$381,120.00
18	8	EA	RETROFIT EXISTING CURB RAMPS WITH DETECTABLE WARNING	\$40.00	\$320.00	\$675.00	\$5,400.00	\$600.00	\$4,800.00
19	540	SF	GRIND AC PAVEMENT	\$15.00	\$8,100.00	\$24.50	\$13,230.00	\$20.00	\$10,800.00
20	27	EA	ARBORIST (SUPERVISION EACH LOCATION)	\$150.00	\$4,050.00	\$210.00	\$5,670.00	\$200.00	\$5,400.00
21	1	LS	RECYCLING IMPLEMENTAITON	\$703.50	\$703.50	\$2,500.00	\$2,500.00	\$100.00	\$100.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS						
TOTAL					\$545,454.50		\$528,463.68		\$536,892.75

CITY OF HAYWARD
 CONSTRUCTION OF SIDEWALK REHABILITATION & WHEELCHAIR RAMPS FY 2016 - DISTRICTS 1 & 8
 PROJECT NOS. 05267 & 05121
 BIDS OPENED: 10/13/15
 (NUMBER OF BIDS RECEIVED - 7)

BID SUMMARY				ENGINEER'S ESTIMATE		SPENCON CONSTRUCTION		GOLDEN BAY CONSTRUCT.	
						4115 BLACKHAWK PLAZA DANVILLE, CA 94506 (925) 984-2581 (925) 984-2583		3826 DEPOT ROAD HAYWARD, CA 94545 (510) 783-2960 (510) 783-2971	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	4516	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	\$13.00	\$58,708.00	\$12.00	\$54,192.00	\$14.00	\$63,224.00
2	476	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	\$15.00	\$7,140.00	\$14.00	\$6,664.00	\$15.00	\$7,140.00
3	248	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	\$45.00	\$11,160.00	\$55.00	\$13,640.00	\$56.00	\$13,888.00
4	82	SF	MINOR CONCRETE (REMOVE AND REPLACE ROLLED CONCRETE CURB AND GUTTER)	\$60.00	\$4,920.00	\$55.00	\$4,510.00	\$32.00	\$2,624.00
5	203	SF	4-INCH DEEP AC CONFORM	\$10.00	\$2,030.00	\$8.00	\$1,624.00	\$18.00	\$3,654.00
6	1	EA	STUMP AND ROOT REMOVAL	\$400.00	\$400.00	\$250.00	\$250.00	\$230.00	\$230.00
7	880	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	\$12.00	\$10,560.00	\$6.00	\$5,280.00	\$4.00	\$3,520.00
8	321	SF	SALVAGE AND SPREAD DECORATIVE STONES	\$6.00	\$1,926.00	\$5.00	\$1,605.00	\$4.50	\$1,444.50
9	9	EA	24-INCH BOX SIZE TREE	\$400.00	\$3,600.00	\$550.00	\$4,950.00	\$613.00	\$5,517.00
10	383	LF	ROOT BARRIER INSTALLATION	\$7.00	\$2,681.00	\$13.00	\$4,979.00	\$15.00	\$5,745.00
11	126	SF	TURF (SOD)	\$5.00	\$630.00	\$5.00	\$630.00	\$7.00	\$882.00
12	5	CY	IN-PLACE COMPACTED TOPSOIL	\$300.00	\$1,500.00	\$110.00	\$550.00	\$246.00	\$1,230.00
13	3	EA	TREE REMOVAL	\$1,000.00	\$3,000.00	\$1,150.00	\$3,450.00	\$1,323.00	\$3,969.00
14	27	EA	ROOT PRUNE EXISTING TREE	\$180.00	\$4,860.00	\$250.00	\$6,750.00	\$253.00	\$6,831.00
15	31	EA	TREE TRIMMING	\$450.00	\$13,950.00	\$300.00	\$9,300.00	\$345.00	\$10,695.00
16	69	LF	IRRIGATION PIPE AND SPRINKLER HEADS	\$4.00	\$276.00	\$10.00	\$690.00	\$13.00	\$897.00
17	23820	SF	MINOR CONCRETE CURB RAMP WITH TRUNCATED DOME	\$17.00	\$404,940.00	\$18.00	\$428,760.00	\$21.50	\$512,130.00
18	8	EA	RETROFIT EXISTING CURB RAMPS WITH DETECTABLE WARNING	\$40.00	\$320.00	\$600.00	\$4,800.00	\$948.00	\$7,584.00
19	540	SF	GRIND AC PAVEMENT	\$15.00	\$8,100.00	\$12.00	\$6,480.00	\$14.00	\$7,560.00
20	27	EA	ARBORIST (SUPERVISION EACH LOCATION)	\$150.00	\$4,050.00	\$190.00	\$5,130.00	\$219.00	\$5,913.00
21	1	LS	RECYCLING IMPLEMENTAITON	\$703.50	\$703.50	\$100.00	\$100.00	\$8,509.00	\$8,509.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS						
			TOTAL		\$545,454.50		\$564,334.00		\$673,186.50

CITY OF HAYWARD
 CONSTRUCTION OF SIDEWALK REHABILITATION & WHEELCHAIR RAMPS FY 2016 - DISTRICTS 1 & 8
 PROJECT NOS. 05267 & 05121
 BIDS OPENED: 10/13/15
 (NUMBER OF BIDS RECEIVED - 7)

BID SUMMARY				ENGINEER'S ESTIMATE		SPOSETO ENGINEERING, INC.		FBD VANGUARD	
						4558 CONTRACTORS PLACE LIVERMORE, CA 94551 (925) 443-4200 (925) 443-5800		651 ENTERPRISE COURT LIVERMORE, CA 94550 (925) 245-1300 (925) 245-1007	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	4516	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE SIDEWALK)	\$13.00	\$58,708.00	\$14.60	\$65,933.60	\$17.15	\$77,449.40
2	476	SF	MINOR CONCRETE (REMOVE AND REPLACE CONCRETE DRIVEWAY AND CONFORMS)	\$15.00	\$7,140.00	\$17.00	\$8,092.00	\$20.00	\$9,520.00
3	248	LF	MINOR CONCRETE (REMOVE AND REPLACE STANDARD CONCRETE CURB AND GUTTER)	\$45.00	\$11,160.00	\$63.00	\$15,624.00	\$83.00	\$20,584.00
4	82	SF	MINOR CONCRETE (REMOVE AND REPLACE ROLLED CONCRETE CURB AND GUTTER)	\$60.00	\$4,920.00	\$63.00	\$5,166.00	\$92.00	\$7,544.00
5	203	SF	4-INCH DEEP AC CONFORM	\$10.00	\$2,030.00	\$28.00	\$5,684.00	\$45.00	\$9,135.00
6	1	EA	STUMP AND ROOT REMOVAL	\$400.00	\$400.00	\$260.00	\$260.00	\$230.00	\$230.00
7	880	SF	REMOVE PLAIN OR EXPOSED AGGREGATE CONCRETE & BRICK TILE	\$12.00	\$10,560.00	\$6.50	\$5,720.00	\$12.00	\$10,560.00
8	321	SF	SALVAGE AND SPREAD DECORATIVE STONES	\$6.00	\$1,926.00	\$6.50	\$2,086.50	\$5.70	\$1,829.70
9	9	EA	24-INCH BOX SIZE TREE	\$400.00	\$3,600.00	\$700.00	\$6,300.00	\$613.00	\$5,517.00
10	383	LF	ROOT BARRIER INSTALLATION	\$7.00	\$2,681.00	\$17.00	\$6,511.00	\$14.50	\$5,553.50
11	126	SF	TURF (SOD)	\$5.00	\$630.00	\$7.50	\$945.00	\$6.70	\$844.20
12	5	CY	IN-PLACE COMPACTED TOPSOIL	\$300.00	\$1,500.00	\$240.00	\$1,200.00	\$214.00	\$1,070.00
13	3	EA	TREE REMOVAL	\$1,000.00	\$3,000.00	\$1,475.00	\$4,425.00	\$1,325.00	\$3,975.00
14	27	EA	ROOT PRUNE EXISTING TREE	\$180.00	\$4,860.00	\$290.00	\$7,830.00	\$253.00	\$6,831.00
15	31	EA	TREE TRIMMING	\$450.00	\$13,950.00	\$385.00	\$11,935.00	\$345.00	\$10,695.00
16	69	LF	IRRIGATION PIPE AND SPRINKLER HEADS	\$4.00	\$276.00	\$14.00	\$966.00	\$12.65	\$872.85
17	23820	SF	MINOR CONCRETE CURB RAMP WITH TRUNCATED DOME	\$17.00	\$404,940.00	\$21.00	\$500,220.00	\$22.15	\$527,613.00
18	8	EA	RETROFIT EXISTING CURB RAMPS WITH DETECTABLE WARNING	\$40.00	\$320.00	\$680.00	\$5,440.00	\$2,100.00	\$16,800.00
19	540	SF	GRIND AC PAVEMENT	\$15.00	\$8,100.00	\$44.00	\$23,760.00	\$14.35	\$7,749.00
20	27	EA	ARBORIST (SUPERVISION EACH LOCATION)	\$150.00	\$4,050.00	\$240.00	\$6,480.00	\$220.00	\$5,940.00
21	1	LS	RECYCLING IMPLEMENTAITON	\$703.50	\$703.50	\$900.00	\$900.00	\$1,100.00	\$1,100.00
22	1	LS	ADMINISTRATIVE CHANGE ORDERS						
			TOTAL		\$545,454.50		\$685,478.10		\$731,412.65



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-303

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT

Ygrene Property Assessed Clean Energy (PACE) - Authorization to operate under SB 555

RECOMMENDATION

That Council approves the attached resolution to authorize Ygrene PACE to operate under SB 555.

BACKGROUND

Property Assessed Clean Energy (PACE) programs allow property owners to finance energy and water efficiency improvements and pay off the debt through annual installments on their property tax bill. On July 7, 2015, the City Council authorized Ygrene Works, a PACE program, to serve Hayward property owners. The resolution that Council passed in July allows Ygrene to operate under AB 811. This report introduces a resolution that would allow Ygrene to also operate under SB 555. They requested this addition because they feel SB 555 gives them more flexibility.

Council has approved the five PACE programs below, which all operate under AB 811. California AB 811 (July 21, 2008) amended the Streets and Highways Code to enable PACE financing. The Code allows assessment districts to be established to pay for public improvements. AB 811 includes renewable energy facilities and energy efficiency upgrades in the list of public improvements that can be financed through an assessment district.

<u>PACE Program</u>	<u>Approved by Hayward City Council on:</u>
CaliforniaFIRST	January 5, 2010 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/rp/2010/rp010510-07.pdf>
Figtree Financial	October 28, 2014 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca102814full.pdf>
Alliance NRG	July 7, 2015 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca070715full.pdf>
HERO Program	July 7, 2015 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca070715full.pdf>
Ygrene Works	July 7, 2015 - link to staff report <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca070715full.pdf>

DISCUSSION

Ygrene Works has requested to operate under SB 555 in addition to AB 811. Staff is recommending that Council grant this request. Staff does not feel that this will pose any additional economic, fiscal, or customer risks and it is possible that it may result in benefits for Hayward customers, which are outlined below.

California SB 555 was passed in October 5, 2011 to provide a second mechanism to establish PACE programs due to some concerns about AB 811 at the time. The bill amended the Mello-Roos Community Facilities Act of 1982 to include renewable energy sources and energy and water efficiency upgrades in the list of public improvements that can be financed through a Mello-Roos Community Facility District.

Proponents of SB 555 feel that it is a better law, though from a consumer perspective, SB 555 is very similar to AB 811. Ygrene claims the following potential benefits to consumers; however, Ygrene always includes the disclaimer that they are not tax professionals and recommend that property owners consult with their tax professional regarding eligible tax write-offs.

- SB 555 allows districts to fund improvements to both public and private properties, whereas AB 811 only serves private property.
- Under SB 555, the PACE provider does not record bulk assessment liens against the title of the property. This allows customers to freely refinance their mortgage.
- Under SB 555, Ygrene would not have to generate bonds to fund their programs.
- Ygrene feels that a PACE assessment under SB 555 qualifies as fully tax deductible like a normal Mello Roos tax. Under AB 811, PACE providers record the bulk assessment lien on title, for which the IRS only allows deductibility of interest.

FISCAL IMPACT

Authorizing Ygrene to operate under SB 555 will not expose the City to financial or other liability. Participation in PACE programs does not impact the General Fund or any City funds. PACE programs use private sector capital to provide property owners with funding. JPA sponsored PACE programs offer little risk to local jurisdictions because the JPA assumes the legal liability.

NEXT STEPS

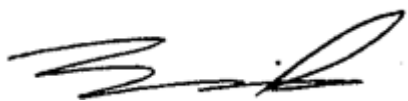
To authorize Ygrene to operate under SB 555, Council needs to adopt the attached resolution to include properties within Hayward in the Authority CFD No. 2014-1 (Clean Energy). The City is already an associate member of the Golden State Finance Authority, the sponsoring JPA for the Ygrene Program.

Prepared by: Mary Thomas, Management Analyst

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

File #: CONS 15-303

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', with a stylized, cursive script.

Fran David, City Manager

Attachments:

Attachment I

Resolution to Authorize Ygrene to Operate
Under SB 555

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD, CALIFORNIA
CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE
CALIFORNIA HOME FINANCE AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 2014-1
(CLEAN ENERGY) TO FINANCE RENEWABLE ENERGY IMPROVEMENTS, ENERGY
EFFICIENCY AND WATER CONSERVATION IMPROVEMENTS AND ELECTRIC VEHICLE
CHARGING INFRASTRUCTURE AND APPROVING ASSOCIATE MEMBERSHIP IN THE JOINT
EXERCISE OF POWERS AUTHORITY RELATED THERETO

WHEREAS, the California Home Finance Authority, a California joint powers authority, (the "Authority") has established the Community Facilities District No. 2014-1(Clean Energy) in accordance with the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code (the "Act") and particularly in accordance with sections 53313.5(l) and 53328.1(a) (the "District"); and

WHEREAS, the purpose of the District is to finance or refinance (including the payment of interest) the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property (the "Authorized Improvements"); and

WHEREAS, the Authority is in the process of amending the Authority Joint Powers Agreement (the "Authority JPA") to formally change its name to the Golden State Finance Authority; and

WHEREAS, the City of Hayward is committed to development of renewable energy generation and energy efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

WHEREAS, in the Act, the Legislature has authorized a parcel within the territory of the District to annex to the District and be subject to the special tax levy of the District only (i) if the city or county within which the parcel is located has consented, by the adoption of a resolution by the applicable city council or county board of supervisors, to the inclusion of parcels within its boundaries in the District and (ii) with the unanimous written approval of the owner or owners of the parcel when it is annexed (the "Unanimous Approval Agreement"), which, as provided in section 53329.6 of the Act, shall constitute the election required by the California Constitution; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy efficiency and water conservation and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Authorized Improvements; and

WHEREAS, the Authority has established the District, as permitted by the Act, the Authority JPA, originally made and entered into July 1, 1993, as amended to date, and the City is an Associate Member of the JPA by execution of the JPA Agreement, and is participating in the programs of the JPA to assist property owners within the incorporated area of the City in financing the cost of installing Authorized Improvements; and

WHEREAS, the City will not be responsible for the conduct of any special tax proceedings; the levy and collection of special taxes or any required remedial action in the case of delinquencies in the payment of any special taxes in connection with the District.

NOW, THEREFORE, BE IT RESOLVED

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the Authority CFD No. 2014-1 (Clean Energy) to finance the installation of the Authorized Improvements.

2. This City Council consents to inclusion in the Authority CFD No. 2014-1 (Clean Energy) of all of the properties in the incorporated area within the City and to the Authorized Improvements, upon the request of and execution of the Unanimous Approval Agreement by the owners of such properties when such properties are annexed, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.

3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the Authority CFD No. 2014-1 (Clean Energy) and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Authorized Improvements.

4. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the Authority CFD No. 2014-1 (Clean Energy) within the City, and report back periodically to this City Council on the success of such program.

This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-304

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Municipal Parking Lot Nos. 3 and 4 Improvement Project: Award of Construction Contract and Appropriation of Funds

RECOMMENDATION

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

1. Awarding a contract to Silicon Valley Paving, Inc., for the Municipal Parking Lot Improvement Project for Lot No. 3 (located on the west side of Main Street between B and C Streets) and No. 4 (located at the mid-block of B Street, between Second Street and Foothill Boulevard) in the amount of \$453,895; and
2. Appropriating \$180,000 in additional funds for this project from the Street System Improvements Fund.

BACKGROUND

This project is part of an annual pavement rehabilitation and preventive maintenance program for the City's municipal parking lots. In previous projects, the City completed the improvement of Municipal Parking Lot Nos. 5 and 6. Municipal Parking Lot No. 5 is located at the corner of A Street and Maple Court, while Municipal Parking Lot No. 6 is located on Russell Way at the mid-block between Foothill Boulevard and Second Street. The work at these two parking lots not only improved the aesthetic condition of the parking lots, but added much needed parking stalls, including accessible parking spaces and improved lighting.

On September 15, 2015, Council approved the plans and specifications for the Municipal Parking Lot Nos. 3 and 4 Improvement project, and called for bids to be received on October 8, 2015.

DISCUSSION

This project will improve the current deteriorating conditions of Municipal Parking Lot Nos. 3 and 4, including pavement repair and upgrading the parking stalls to current City and ADA standards. Other improvements will include: landscaping; improved lighting; concrete curb and gutter; sidewalk; and conduits for future electrical vehicle charging stations.

Municipal Parking Lot No. 3 provides public parking spaces for businesses and retail stores on Main Street, B Street, C Street, and Mission Boulevard. At its current configuration, it has thirty-seven non-standard public parking stalls. Due to its irregular layout, only 80% of the current number of stalls can be fully utilized. The proposed improvements, which will bring the lot into compliance with City and ADA standards, will yield thirty-six parking spaces, two of which are ADA accessible and two for future electric vehicle charging stations. The loss of one parking stall was caused by the need to create space for ADA-compliant stalls.

At its current configuration, Municipal Parking Lot No. 4 has ninety-seven non-standard parking spaces. It is located at the mid-block of B Street, between Second Street and Foothill Boulevard. The proposed improvements and parking stall reconfiguration will provide twenty additional parking stalls or a total of 117 spaces, five of which are ADA accessible and two for future electric vehicle charging stations.

As mentioned above, the improvements to the parking lots will also include landscaping. Most of the existing trees in the parking lots will remain except for those that have been identified to be in poor health, which will be replaced in kind or with drought tolerant species suitable for the surrounding environment.

Other improvements include improved lighting in Municipal Parking Lot No. 3. Currently, it has four single-arm LED light fixtures, which will be replaced with a higher LED type to increase lighting intensity. At Municipal Parking Lot No. 4, the existing four double-arm LED light fixtures provide sufficient lighting.

During the bidding period, Addendum No. 1 was issued for minor revisions to the specifications and to add a pre-bid conference.

On October 8, 2015, the City received four bids for the Municipal Parking Lot Nos. 3 & 4 Improvement Project. Silicon Valley Paving, Inc., of San Jose submitted the lowest bid in the amount of \$453,895, which is 18.8% above the Engineer's Estimate of \$382,344. O'Grady Paving, Inc., of Mountain View submitted the second lowest bid in the amount of \$498,280 (as corrected), which is 30.4% higher than the Engineer's Estimate. The bids ranged from \$453,895 to \$702,360.

All the bid documents and licenses are in order, and staff recommends award of the construction contract to the low bidder, Silicon Valley Paving, Inc.

PUBLIC CONTACT

Because of the temporary inconvenience that is expected to be caused by the necessary partial closure of each parking lot during the improvement work, a preliminary notice explaining the project will be distributed to the businesses adjacent to the affected closure. After the construction work has been scheduled, businesses will be notified at least seventy-two hours prior to commencement of work, indicating the date and time of work for each parking lot.

FISCAL IMPACT

The Adopted FY 2016 Capital Improvement Program includes \$404,000 for the Municipal Parking Lot Nos. 3 & 4 Improvement Project in the Street System Improvements Fund. However, the estimated project cost is \$584,000, as noted below. Since the original project estimate, the scope of work was expanded from just paving the lots to include drainage, lighting, and landscaping, resulting in the additional project costs. Therefore, an additional appropriation of \$180,000 is needed to complete the project. As referenced in Attachment II, staff recommends Council approve the resolution appropriating \$180,000 from the Street System Improvements Fund to complete the project. The Street System Improvements Fund contains adequate fund balance to accommodate this additional appropriation. The estimated project costs are as follows:

Construction Contract	\$453,895
Striping & Landscaping – City Staff	35,000
Construction Contingency	45,000
Design and Administration	50,000
Total	<u>\$584,000</u>

NEXT STEPS

Begin Work
Complete Work

January 4, 2016
March 2, 2016

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution - Award of Contract
Attachment II	Resolution - Appropriation of Funds
Attachment III	Location Map
Attachment IV	Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-

Introduced by Council Member _____

RESOLUTION AWARDING THE CONSTRUCTION CONTRACT FOR THE MUNICIPAL PARKING LOT NOS. 3 AND 4 IMPROVEMENT PROJECT, PROJECT NO. 05273, TO SILICON VALLEY PAVING, INC.

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

WHEREAS, by resolution on September 15, 2015, the City Council approved the plans and specifications for the Municipal Parking Lot Nos. 3 and 4 Improvement Project, Project No. 05273, and called for bids to be received on October 8, 2015; and

WHEREAS, on September 23, 2015, Addendum No. 1 was issued for minor revisions to the specifications and to add a pre-bid conference; and

WHEREAS, on October 8, 2015, four bids were received ranging from \$453,895 to \$702,360; Silicon Valley Paving, Inc. of San Jose, California submitted the lowest bid in the amount of \$453,8895, which is 18.8% above the Engineer's Estimate of \$382,391.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Silicon Valley Paving, Inc. is the lowest responsible bidder whose bid complies with the specifications and is hereby awarded the construction contract for the Municipal Parking Lot Nos. 3 and 4 Improvement Project, Project No. 05273, for the amount of \$453,895, and in accordance with the aforementioned plans and specifications on file in the office of the City Clerk of the City of Hayward. All other bids are hereby rejected.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the Director of Public Works is authorized to expend up to \$584,000 for project design, construction, project administration, and contingency costs to complete the project.

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

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 15-116, AS AMENDED, THE BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2016, RELATING TO AN APPROPRIATION OF FUNDS FROM THE STREET SYSTEM IMPROVEMENTS FUND (FUND 450) TO THE MUNICIPAL PARKING LOT NOS. 3 AND 4 IMPROVEMENT PROJECT, PROJECT NO. 05273

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 15-116, as amended, the Budget Resolution for Capital Projects for Fiscal Year 2016, is hereby amended by approving an additional appropriation of \$180,000 from the Street System Improvements Fund (Fund 450) to the Municipal Parking Lot Nos. 3 and 4 Improvement Project, Project No. 05273.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

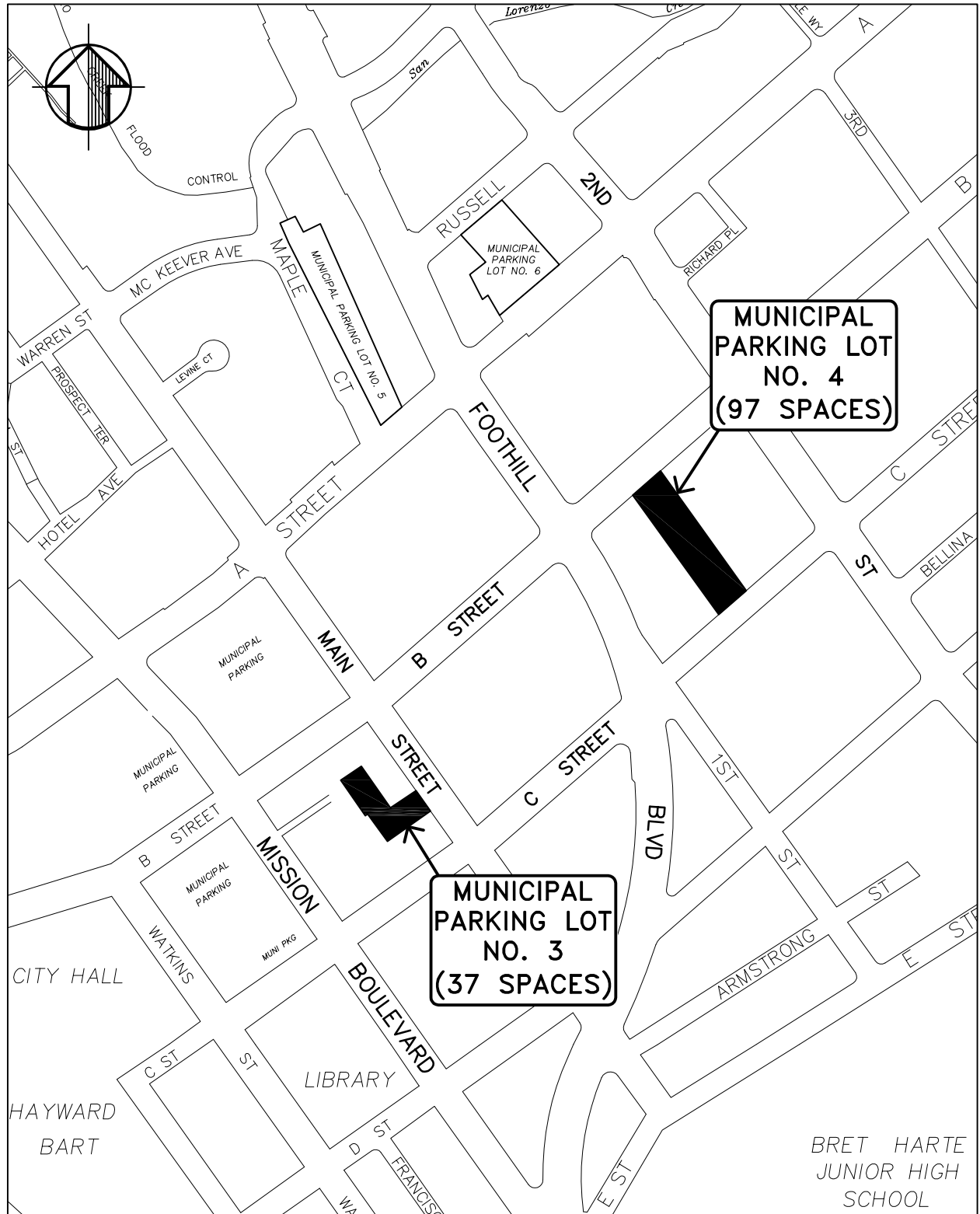
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



**MUNICIPAL PARKING LOT NOS. 3 AND 4
IMPROVEMENT PROJECT
PROJECT NO. 05273
LOCATION MAP**

CITY OF HAYWARD
 CONSTRUCTION OF MUNI LOTS 3 & 4 IMPROVEMENT PROJECT
 PROJECT NO. 05273
 BIDS OPENED: 10/8/15

(NUMBER OF BIDS RECEIVED - 4)

BID SUMMARY				ENGINEER'S ESTIMATE		SILICON VALLEY PAVING		O'GRADY PAVING, INC.	
						1530 OAKLAND ROAD, #140 SAN JOSE, CA 95112 (408) 286-9101 (408) 286-2488		2513 WYANDOTTE STREET MOUNTAIN VIEW, CA 94043 (650) 966-1926 (650) 966-1946	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	\$15,000.00	\$15,000.00	\$16,000.00	\$16,000.00	\$10,000.00	\$10,000.00
2	1	LS	TRAFFIC CONTROL	\$8,000.00	\$8,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
3	1	LS	POTHOLING / SOIL EXPLORATION	\$2,000.00	\$2,000.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00
4	342	LF	CONCRETE CURB & GUTTER REMOVAL	\$10.00	\$3,420.00	\$20.00	\$6,840.00	\$22.00	\$7,524.00
5	1590	SF	CONCRETE SIDEWALK REMOVAL	\$2.00	\$3,180.00	\$5.00	\$7,950.00	\$7.00	\$11,130.00
6	1269	SF	CONCRETE DRIVEWAY REMOVAL	\$5.00	\$6,345.00	\$8.00	\$10,152.00	\$7.00	\$8,883.00
7	76	CY	EXISTING LANDSCAPE STALL REMOVAL	\$25.00	\$1,900.00	\$100.00	\$7,600.00	\$150.00	\$11,400.00
8	1	LS	REMOVE, SALVAGE & REINSTALL ROADSIDE SIGNS	\$800.00	\$800.00	\$1,000.00	\$1,000.00	\$5,000.00	\$5,000.00
9	157	LF	3" X 5" RECTANGULAR DRAIN C.I. PIPE	\$30.00	\$4,710.00	\$60.00	\$9,420.00	\$40.00	\$6,280.00
10	6	EA	AREA DRAIN	\$500.00	\$3,000.00	\$2,000.00	\$12,000.00	\$500.00	\$3,000.00
11	1	EA	ADJUST AREA DRAIN TO GRADE	\$250.00	\$250.00	\$500.00	\$500.00	\$1,000.00	\$1,000.00
12	79	LF	10" DUCTILE IRON PIPE WITH 6" MIN. CONCRETE CAP	\$70.00	\$5,530.00	\$110.00	\$8,690.00	\$125.00	\$9,875.00
13	3	EA	STANDARD TYPE "A" STORM WATER INLET	\$4,000.00	\$12,000.00	\$4,250.00	\$12,750.00	\$6,500.00	\$19,500.00
14	5797	SY	COLD PLANE ASPHALT CONCRETE PAVEMENT (2" MINIMUM)	\$10.00	\$57,970.00	\$4.00	\$23,188.00	\$6.00	\$34,782.00
15	1	PS	BASE CORRECTION	\$20,000.00	\$20,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
16	2200	SY	PAVEMENT REINFORCING FABRIC	\$5.00	\$11,000.00	\$7.10	\$15,620.00	\$9.00	\$19,800.00
17	722	TN	2" THICK HMA OVERLAY (TYPE A - 1/2" AGGREGATE)	\$110.00	\$79,420.00	\$225.00	\$162,450.00	\$175.00	\$126,350.00
18	689	LF	CONCRETE CURB & GUTTER	\$10.00	\$6,890.00	\$48.00	\$33,072.00	\$65.00	\$44,785.00
19	1844	SF	CONCRETE SIDEWALK	\$25.00	\$46,100.00	\$14.00	\$25,816.00	\$13.00	\$23,972.00
20	902	SF	CONCRETE DRIVEWAY	\$15.00	\$13,530.00	\$16.50	\$14,883.00	\$15.00	\$13,530.00
21	425	LF	6" ISLAND CURB FOR LANDSCAPE PLANTER	\$35.00	\$14,875.00	\$37.00	\$15,725.00	\$85.00	\$36,125.00
22	697	SF	2" CONCRETE VALLEY GUTTER	\$18.00	\$12,546.00	\$12.00	\$8,364.00	\$42.00	\$29,274.00
23	4	EA	UPGRADE LED LIGHT WATTAGE (550W)	\$1,500.00	\$6,000.00	\$2,500.00	\$10,000.00	\$2,500.00	\$10,000.00

CITY OF HAYWARD
 CONSTRUCTION OF MUNI LOTS 3 & 4 IMPROVEMENT PROJECT
 PROJECT NO. 05273
 BIDS OPENED: 10/8/15
 (NUMBER OF BIDS RECEIVED - 4)

BID SUMMARY				ENGINEER'S ESTIMATE		SILICON VALLEY PAVING		O'GRADY PAVING, INC.	
						1530 OAKLAND ROAD, #140 SAN JOSE, CA 95112 (408) 286-9101 (408) 286-2488		2513 WYANDOTTE STREET MOUNTAIN VIEW, CA 94043 (650) 966-1926 (650) 966-1946	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
24	1	LS	ELECTRICAL WORKS	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$6,000.00	\$6,000.00
25	139	EA	RUBBER WHEEL STOP INSTALLATION	\$75.00	\$10,425.00	\$125.00	\$17,375.00	\$130.00	\$18,070.00
26	3	EA	CITY PARKING SIGN MARKER	\$8,500.00	\$25,500.00	\$500.00	\$1,500.00	\$5,000.00	\$15,000.00
27	1	LS	RECYCLING IMPLEMENTATION	\$2,000.00	\$2,000.00	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00
28	1	LS	ADMINISTRATIVE CHANGE ORDERS						
			TOTAL		382,391.00		453,895.00		498,280.00

CITY OF HAYWARD
 CONSTRUCTION OF MUNI LOTS 3 & 4 IMPROVEMENT PROJECT
 PROJECT NO. 05273
 BIDS OPENED: 10/8/15

(NUMBER OF BIDS RECEIVED - 4)

BID SUMMARY				ENGINEER'S ESTIMATE		ALANIZ CONSTRUCTION		INTERSTATE GRADING & PAVING	
						7160 STEVENSON BLVD FREMONT, CA 94538 (510) 770-5000 (510) 770-5070		128 SOUTH MAPLE AVENUE S SAN FRANCISCO, CA 94080 (650) 952-7333 (650) 952-6851	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	1	LS	MOBILIZATION	\$15,000.00	\$15,000.00	\$12,000.00	\$12,000.00	\$12,600.00	\$12,600.00
2	1	LS	TRAFFIC CONTROL	\$8,000.00	\$8,000.00	\$8,700.00	\$8,700.00	\$10,800.00	\$10,800.00
3	1	LS	POTHOLING / SOIL EXPLORATION	\$2,000.00	\$2,000.00	\$4,500.00	\$4,500.00	\$6,000.00	\$6,000.00
4	342	LF	CONCRETE CURB & GUTTER REMOVAL	\$10.00	\$3,420.00	\$35.89	\$12,274.38	\$105.00	\$35,910.00
5	1590	SF	CONCRETE SIDEWALK REMOVAL	\$2.00	\$3,180.00	\$6.89	\$10,955.10	\$15.00	\$23,850.00
6	1269	SF	CONCRETE DRIVEWAY REMOVAL	\$5.00	\$6,345.00	\$11.16	\$14,162.04	\$10.00	\$12,690.00
7	76	CY	EXISTING LANDSCAPE STALL REMOVAL	\$25.00	\$1,900.00	\$115.33	\$8,765.08	\$120.00	\$9,120.00
8	1	LS	REMOVE, SALVAGE & REINSTALL ROADSIDE SIGNS	\$800.00	\$800.00	\$2,000.00	\$2,000.00	\$8,400.00	\$8,400.00
9	157	LF	3" X 5" RECTANGULAR DRAIN C.I. PIPE	\$30.00	\$4,710.00	\$185.35	\$29,099.95	\$160.00	\$25,120.00
10	6	EA	AREA DRAIN	\$500.00	\$3,000.00	\$3,358.67	\$20,152.02	\$2,400.00	\$14,400.00
11	1	EA	ADJUST AREA DRAIN TO GRADE	\$250.00	\$250.00	\$1,300.00	\$1,300.00	\$1,500.00	\$1,500.00
12	79	LF	10" DUCTILE IRON PIPE WITH 6" MIN. CONCRETE CAP	\$70.00	\$5,530.00	\$246.20	\$19,449.80	\$200.00	\$15,800.00
13	3	EA	STANDARD TYPE "A" STORM WATER INLET	\$4,000.00	\$12,000.00	\$8,333.33	\$24,999.99	\$2,700.00	\$8,100.00
14	5797	SY	COLD PLANE ASPHALT CONCRETE PAVEMENT (2" MINIMUM)	\$10.00	\$57,970.00	\$7.29	\$42,260.13	\$13.00	\$75,361.00
15	1	PS	BASE CORRECTION	\$20,000.00	\$20,000.00	\$6,000.00	\$6,000.00	\$68,000.00	\$68,000.00
16	2200	SY	PAVEMENT REINFORCING FABRIC	\$5.00	\$11,000.00	\$6.59	\$14,498.00	\$5.00	\$11,000.00
17	722	TN	2" THICK HMA OVERLAY (TYPE A - 1/2" AGGREGATE)	\$110.00	\$79,420.00	\$160.00	\$115,520.00	\$195.00	\$140,790.00
18	689	LF	CONCRETE CURB & GUTTER	\$10.00	\$6,890.00	\$55.72	\$38,391.08	\$83.00	\$57,187.00
19	1844	SF	CONCRETE SIDEWALK	\$25.00	\$46,100.00	\$17.08	\$31,495.52	\$17.00	\$31,348.00
20	902	SF	CONCRETE DRIVEWAY	\$15.00	\$13,530.00	\$31.28	\$28,214.56	\$20.00	\$18,040.00
21	425	LF	6" ISLAND CURB FOR LANDSCAPE PLANTER	\$35.00	\$14,875.00	\$52.35	\$22,248.75	\$68.00	\$28,900.00
22	697	SF	2" CONCRETE VALLEY GUTTER	\$18.00	\$12,546.00	\$34.38	\$23,962.86	\$72.00	\$50,184.00
23	4	EA	UPGRADE LED LIGHT WATTAGE (550W)	\$1,500.00	\$6,000.00	\$1,775.00	\$7,100.00	\$2,400.00	\$9,600.00

CITY OF HAYWARD
 CONSTRUCTION OF MUNI LOTS 3 & 4 IMPROVEMENT PROJECT
 PROJECT NO. 05273
 BIDS OPENED: 10/8/15
 (NUMBER OF BIDS RECEIVED - 4)

BID SUMMARY				ENGINEER'S ESTIMATE		ALANIZ CONSTRUCTION		INTERSTATE GRADING & PAVING	
						7160 STEVENSON BLVD FREMONT, CA 94538 (510) 770-5000 (510) 770-5070		128 SOUTH MAPLE AVENUE S SAN FRANCISCO, CA 94080 (650) 952-7333 (650) 952-6851	
ITEM	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
24	1	LS	ELECTRICAL WORKS	\$10,000.00	\$10,000.00	\$4,800.00	\$4,800.00	\$6,000.00	\$6,000.00
25	139	EA	RUBBER WHEEL STOP INSTALLATION	\$75.00	\$10,425.00	\$150.00	\$20,850.00	\$140.00	\$19,460.00
26	3	EA	CITY PARKING SIGN MARKER	\$8,500.00	\$25,500.00	\$666.67	\$2,000.01	\$700.00	\$2,100.00
27	1	LS	RECYCLING IMPLEMENTATION	\$2,000.00	\$2,000.00	\$700.00	\$700.00	\$100.00	\$100.00
28	1	LS	ADMINISTRATIVE CHANGE ORDERS						
			TOTAL		382,391.00		526,399.27		702,360.00



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-306

DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT

Pavement Rehabilitation Gas Tax FY15: Amend Construction Contract

RECOMMENDATION

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

1. Amending the construction contract with Graham Contractors, Inc., by increasing the Administrative Change Order amount from \$102,000 to \$156,784 for the Pavement Rehabilitation Gas Tax FY15 project; and
2. Appropriating an additional \$17,421 for this project from the Gas Tax Fund.

BACKGROUND

On June 17, 2014, Council awarded the contract for the Pavement Rehabilitation Gas Tax FY15 project to Graham Contractors, Inc., and increased the Administrative Change Order amount from \$40,000 to \$102,000. The request for additional funds was to slurry seal additional streets that otherwise would not be included due to limited funds.

DISCUSSION

The previous Council-approved increase in the Administrative Change Order amount for additional slurry seal covered Harder Road, West A Street, and Golf Course Road. Additionally, staff included slurry seal of portions of the Police Administration Building parking lots. At that time, staff assumed the available balance from the low bid would allow for the additional streets to be completed. However, work quantities, specifically, localized pavement repairs and damaged detector loop replacement, exceeded the assumed quantities. As a result, the final construction cost exceeded the contract amount by \$54,784.

As referenced in Attachment I, staff recommends Council approve the resolution increasing the Administrative Change Order amount by \$54,784, for a contract total not-to-exceed amount of \$873,396.

FISCAL IMPACT

The project costs are as follows:

	Estimated at Award	Final Costs	Difference
Construction Contract	\$818,612	\$873,396	(\$54,784)
Design & Administration	32,388	24,957	7,431
Construction Engineering, Inspection, and Testing	69,000	35,068	33,932
Striping by City Crew	80,000	84,000	(4,000)
Total Project Cost	1,000,000	\$1,017,421	(\$17,421)

The Adopted FY 2016 Capital Improvement Program includes \$1,000,000 for the Pavement Rehabilitation Gas Tax FY15 project in the Gas Tax Fund. However, an additional appropriation of \$17,421 is needed to complete the project. As referenced in Attachment II, staff recommends Council approve the resolution appropriating \$17,421 from the Gas Tax Fund to complete the project. The Gas Tax Fund contains adequate fund balance to accommodate this additional appropriation.

Prepared by: Yaw Owusu, Assistant City Engineer

Recommended by: Morad Fakhrai, Director of Public Works

Approved by:



Fran David, City Manager

Attachments:

Attachment I
Attachment II

Resolution - Amend Contract
Resolution - Appropriation of Funds

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-____

Introduced by Council Member _____

RESOLUTION AMENDING THE CONSTRUCTION CONTRACT WITH GRAHAM CONTRACTORS, INC., FOR THE PAVEMENT REHABILITATION GAS TAX FY15 PROJECT, PROJECT NO. 05191

WHEREAS, on June 17, 2014, Council approved the contract for the Pavement Rehabilitation Gas Tax FY15 project to Graham Contractors, Inc., and increased the Administrative Change Order amount from \$40,000 to \$102,000 to include additional streets; and

WHEREAS, the actual work quantities exceeded the contract amount by \$54,784; and

WHEREAS, staff recommends increasing the Administrative Change Order amount by \$54,784, from \$102,000 to \$156,784 to cover these costs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the construction contract with Graham Contractors, Inc., be amended by increasing the Administrative Change Order amount by \$54,784, for a revised contract total not-to-exceed amount of \$873,396.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 15-116, AS AMENDED, THE BUDGET
RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2016,
RELATING TO AN APPROPRIATION OF FUNDS FROM GAS TAX FUND (FUND 210)
TO THE PAVEMENT REHABILITATION GAS TAX FY15 PROJECT, PROJECT NO.
05191

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 15-116,
as amended, the Budget Resolution for Capital Projects for Fiscal Year 2016, is hereby
amended by approving an additional appropriation of \$17,421 from the Gas Tax Fund
(Fund 210) to the Pavement Rehabilitation Gas Tax FY15 Project, Project No. 05191.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-309

DATE: November 3, 2015

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201500856 Relating to the Construction of Twenty-four Detached Single-Family Homes at 23645 and 23653 Eden Avenue

RECOMMENDATION

That the City Council adopts the Ordinance introduced on October 27, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Mendall at the October 27, 2015, special meeting of the City Council with the following vote:

AYES: Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez
Mayor Halliday
NOES: Council Members: None
ABSENT: Council Members: None
ABSTAIN: Council Members: None

The Ordinance was approved with an amendment that would remove Mitigation Measure 6 from the Mitigation Monitoring and Reporting Program and add it to the Conditions of Approval as Condition of Approval No. 131 to read as follows:

Condition of Approval No. 131 "The developer shall cause to be recorded an avigation easement for each unit to the satisfaction of the Public Works Director, prior to occupancy."

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, October 31, 2015. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

File #: CONS 15-309

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', with a stylized flourish at the end.

Fran David, City Manager

Attachments:

Attachment I Summary of Ordinance Published on 10/31/15

PUBLIC NOTICE OF AN INTRODUCTION OF ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD
MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION
WITH ZONE CHANGE APPLICATION NO. 201500856 RELATING TO THE
CONSTRUCTION OF TWENTY-FOUR DETACHED SINGLE-FAMILY HOMES AT
23645 AND 23653 EDEN AVE.

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the properties located at 23645 and 23653 Eden Avenue (APNs: 441-0095-009-02 and 441-0095-008-02) from Medium Density Residential (RM) to Planned Development (PD) District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held October 27, 2015, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on November 3, 2015, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: October 31, 2015
Miriam Lens, City Clerk
City of Hayward



CITY OF HAYWARD

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

Staff Report

File #: CONS 15-310

DATE: November 3, 2015

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201400543 Relating to a Residential Development at 24178 and 24180 Saklan Road

RECOMMENDATION

That the City Council adopts the Ordinance introduced on October 27, 2015.

BACKGROUND

The Ordinance was introduced by Council Member Peixoto at the October 27, 2015, special meeting of the City Council with the following vote:

AYES: Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez
Mayor Halliday
NOES: Council Members: None
ABSENT: Council Members: None
ABSTAIN: Council Members: None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, October 31, 2015. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

Fran David, City Manager

Attachments:

Attachment I Summary of Ordinance Published on 10/31/15

PUBLIC NOTICE OF AN INTRODUCTION OF ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD
MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH
ZONE CHANGE APPLICATION NO. 201400543 RELATING TO A RESIDENTIAL
DEVELOPMENT AT 24178 AND 24180 SAKLAN ROAD

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 24178 and 24180 Saklan Avenue (APNs: 441-0087-018-02, 441-0087-017-04) from Medium Density Residential (RM) to Planned Development (PD) District.

Section 2. Severance.

Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held October 27, 2015, the above-entitled Ordinance was introduced by Council Member Peixoto.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on November 3, 2015, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: October 31, 2015
Miriam Lens, City Clerk
City of Hayward



CITY OF HAYWARD

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

Staff Report

File #: LB 15-031

DATE: November 3, 2015

TO: Mayor and City Council

FROM: City Attorney and City Clerk

SUBJECT: Regulations Requiring Greater Disclosure of Contributors to City Measures and Recalls, and Clarification of Loans Candidates Make to Their Own Campaigns

RECOMMENDATION

That the City Council introduces an ordinance repealing Sections 2-13.00 to 2-13.07 of the Hayward Municipal Code; and adding a new Chapter 2, Article 13, to the Hayward Municipal Code regarding greater disclosure of major contributors to City measures and recall campaigns, and clarifying loans candidates make to their campaigns.

SUMMARY

The proposed ordinance, if enacted, would require campaigns in support of or opposition to City measures and recalls of the Mayor or members of the City Council to prominently display the names of contributors on campaign communications, as defined in the ordinance. The proposed ordinance, if enacted, would also clarify that candidates for mayor or City Council are permitted to loan funds to their own campaigns without such loans being defined as contributions.

BACKGROUND

On June 16, 2015, the City Council conducted a work session to consider possible regulations requiring greater disclosure of contributors to candidates for mayor and City Council, as well as contributors to campaigns in support of or in opposition to measures. The Council also discussed the regulations which define loans candidates make to their own campaigns as contributions. As a result of the work session, direction was given to prepare updated regulations which would accomplish the following:

1. Require campaigns by independent political action committees in support of or in opposition to candidates, measures, and recalls to disclose the four top contributors on campaign communications such as mailers, television commercials, e-mails, flyers, door hangers, and Internet advertising;
2. Require that independent committees disclose all sponsoring entities or parent corporations; and
3. Clarify that candidates for Mayor and City Council could loan funds to their campaigns or controlled committees without such loans constituting contributions.

With respect to disclosure of top contributors to candidates for mayor and City Council, the Council acknowledged the transparency of existing regulations which already disclose the identities of major contributors.

DISCUSSION

The City enacted Section 2 - 13.00, et seq., of the Hayward Municipal Code Article 13 regarding campaign contribution limits and expenditure limitations in 2002. This ordinance established a voluntary expenditure limit of \$50,000 with annual CPI adjustments for local municipal elections and varying contribution limits for candidates. A contribution cap of \$250 was set for those candidates who do not accept the voluntary expenditure limit and a cap of \$1,000 was set for candidates who voluntarily agree to the expenditure limit.

The City amended Article 13 in 2005. This amendment provided a definition for the term “contribution” and the term “in-kind” donations. No amendments have been made since.

Over time, the regulations have proved beneficial to voters and the community in general by persuading, but not mandating, voluntary controls on the amount of money candidates could raise in an election cycle and the amount of money candidates could spend in an election cycle. Since 2002, all candidates for the office of Mayor and all candidates for the Council have voluntarily agreed to limit contributions to their campaigns, and all have agreed to limit expenditures for such campaigns.

Nevertheless, the work session identified some weaknesses that could be exploited, if not addressed. For example, the current regulations do not require the prominent disclosure of top contributors to campaign communications; nor do the current regulations reach independent expenditure committees, which have become enormously influential in political campaigns at all levels of government. In addition, the current regulations do not provide clear rules on the propriety of allowing candidates to loan their own funds to their controlled committees. These weaknesses are addressed in the proposed ordinance with updated definitions. These definitions are consistent with state and federal case law and in accordance with the California Political Reform Act (Government Code §81000, et al.).

Expenditure Limits

Sections 2-13.02 and 2-13.04 regulate voluntary expenditure limitations for elective office campaigns. The primary change to these sections are that the proposed ordinance sets an expenditure limit of \$66,009, and limits contributions to candidates at \$1,295, both of which reflect the present day CPI adjusted caps.

Section 2-13.03 sets the contribution limits for candidates who do not accept the voluntary contribution limits. Contributions to these candidates are currently capped at \$315.

Personal Loans

A major upgrade from the current ordinance is that the proposed ordinance clearly codifies that candidates may take out personal loans to fund their respective campaigns. The current ordinance is ambiguous as to this issue, and candidates have had to navigate this issue without any clear regulatory direction.

The proposed ordinance provides an abundance of information on this issue. In short, for candidates who

accept the voluntary expenditure limits, personal loans are capped at the CPI adjusted voluntary expenditure limit (which is currently \$66,009). These loans would not technically be considered “contributions,” but would still be calculated as part of the candidate’s voluntary expenditure limit. For candidates who do not accept the voluntary expenditure limits, personal loans are capped at \$100,000. Any personal loans taken out by candidates must be disclosed to the City Clerk.

Recall Elections

Section 2-13.09 allows candidates to use and raise funds to oppose a recall petition. There are no restrictions regarding the financing of an opposition to a recall petition. However, if the recall petition qualifies, the candidates of the recall election will be required to choose either to be bound to the expenditure limitations of either Section 2-13.02 (voluntary expenditure limits), or be bound to the expenditure regulations of Section 2-13.03 for candidates who do not accept the voluntary expenditure limits.

Prohibition of Anonymous Contributions

The proposed ordinance does not allow any anonymous donations, of any amount, to a candidate. This is in keeping with the over-arching concept of transparency.

Campaign Disclosures

Citizens desire to know who fund their local campaigns and legislative reforms. In this spirit, the proposed ordinance would allow citizens to know upfront who funds the campaign materials sent by independent committees they receive in the mail, that they see on television commercials or web advertisements, or in campaign promotions citizens hear on the radio.

In fashioning the campaign disclosure portion of the proposed ordinance, staff has largely modeled the proposed disclosure provision on the City of Berkeley’s Fair Campaign Practices Ordinance, though staff has also reviewed similar ordinance provisions in the San Francisco and San Jose municipal codes. The proposed Section 2-13.11 seeks to accomplish the following:

Subsection a -- This subsection requires that an independent committee disclose the top four contributors who give over \$1000 to an independent committee. This section also provides the format by which the disclosure should be presented in campaign materials, which includes the phrase “Major Funding Provided By” immediately followed by the name of the contributor, the contributor’s city of domicile, and the total cumulative sum of contributions by each of the top four contributors.

The following is an example of a compliant disclosure:

Paid for by Citizens for Ferrets, Yes on Measure C Committee.

Major Funding Provided by: Ferret Lovers of America Committee, funded by FURRY, Inc., San Francisco, \$5000; Ferrets for All, funded by John Doe and The Ferret Club, Piedmont, \$3000; Jon Doe, Berkeley, \$1800; Jane Smith, Oakland, \$1001.

Subsection b -- This subsection discusses the format and chronology of how contributors should be listed in a campaign communication. Furthermore, this subsection defines “campaign communication.”

Additionally, this subsection requires independent committees to disclose the root source of the funding, such as parent corporations or individual financiers. Committees may not simply hide major funders by creating a shell corporation or claim that a committee's funding is provided by a different, separate committee. The primary source of funding behind a campaign communication, piercing through all veils, corporation or individual, must be disclosed to the public.

Subsection c -- This subsection provides the definition of "campaign communication" and lists what is not considered a campaign communication. Generally, items that are too small to fit the disclosure are not defined as a "campaign communication" such as campaign pens, mugs, and yard signs.

Subsection d -- This subsection focuses on changes to an independent committee's contribution list, and requires that a committee update campaign communications within a specified time period. The goal of this provision is to ensure campaign disclosures accurately reflect who consist of the committee's current top four contributors over \$1000, as a committee's top four contributors may change over the course of a campaign.

Subsection e -- This subsection allows a campaign disclosure to be encompassed in rollover content along with an ad link for website advertisements under a certain size. This provision is included because some web banners are too small to include the entire disclosure within the actual visible advertisement.

Subsection f -- This subsection requires only the top contributor to an independent committee be disclosed in a television advertisement that is one minute or under in duration. Television advertisements over this duration are required to disclose the top four contributors to the candidate.

Subsection g -- This subsection requires all candidates and committees to abide by the campaign communication rules, for all elections and ballot measures, or be subject to enforcement and possible penalties.

Subsection h -- This subsection requires all independent committees to file with the City Clerk a "Committee Disclosure Statement" consisting of Forms 410 and 460 of the California Fair Political Practices Commission ("FPPC"), as well as all other relevant and appropriate FPPC forms. The identity of the sponsoring entity or parent company funding the committee must be disclosed via declaration.

Subsection i -- This subsection requires independent committees to amend a Committee Disclosure Statement if any information concerning the committee changes.

Subsection j -- This subsection prohibits committees from engaging in any campaign communications until a Committee Disclosure Statement is filed.

Enforcement of Violations

Sections 2-13.12 through 2-13.14 discuss the various penalties and procedures for violations of the proposed ordinance. These penalties and processes in the proposed ordinance are identical to the current ordinance in effect presently.

ANALYSIS

A work session on the issue of campaign contribution practices was held at the June 16, 2015 City Council meeting.

Members of the Council noted that the issue, at its heart, is one of transparency. Council members suggested that major donors are currently able to operate under the guise of ambiguous independent political action committees. These committees provide no information as to the political interests or identities of the major donors supporting those committees. The proposed ordinance addresses this issue. All political committees, whether for ballot measures or candidate elections, must file a Committee Disclosure Statement with the City Clerk. Additionally, declarations will be required that disclose the identity of the sponsoring entity and parent corporations funding an independent committee. Committee Disclosure Statement forms and declaration forms will be available to the public via the City Clerk's Office and/or FPPC website. Though the proposed ordinance, anyone who desires to know the persons or entities behind independent committees can readily access that information.

Additionally, subsection 2-13.11(k) provides a catch-all provision, allowing the City to institute penalties against any candidate or committee engaging in conduct detrimental to the purposes of the proposed ordinance, or trying to somehow circumvent the purposes of the proposed ordinance.

Members of the Council also indicated that the \$500 threshold proposed for the disclosure of top contributors is too low. Members stated that the ordinance should reveal larger contributors hoping to influence elections or measures, not smaller donations which have little impact on the political process. Based on this recommendation, the proposed ordinance raises the top contributor disclosure threshold to \$1000. It was noted that it may be laborious for committees to continually update their top contributor lists. The proposed ordinance makes this task simple: the top four contributors who contribute over \$1000 to a campaign or ballot measure are to be disclosed in specific campaign communications. If donors have identical contribution amounts, the most recent contributor takes priority on the list. Certain campaign materials where disclosure is impracticable, like pens or pins, are exempt from the disclosure requirements.

Concerning the issue of personal bank loans or self-funded campaigns, members of the Council were split. Some stated that it would be better for candidates to have bank loan limits, while others argued that bank loans should be unrestricted. The proposed ordinance presents a cap on bank loans self-funding to candidates, though a very high cap. Candidates who ascribe to the voluntary expenditure limits will be able to take out an amount equal to the voluntary expenditure limit in bank loans, while candidates who do not accept the expenditure limits will have a bank loan maximum of \$100,000. The \$100,000 figure governing candidates who do not accept the expenditure limits is modeled after the California state limits, which are codified in the California Code of Regulations § 18530.8.

FISCAL IMPACT

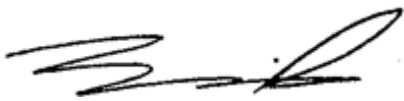
The proposed regulation will increase staff time. These costs will be potentially balanced by the potential for the collection of penalties payable to the general fund for violations.

Staff proposes that it report back to Council in twelve months concerning its analysis of the proposed ordinance's financial impacts on the City.

Prepared by: Justin Nishioka, Deputy City Attorney II

Recommended by: Michael Lawson, City Attorney
Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'Fran David', with a stylized flourish at the end.

Fran David, City Manager

Attachments:

Attachment I

Proposed Ordinance Campaign Contribution
Limits and Expenditure Limitations Ordinance
June 16, 2015 Work Session PowerPoint

Attachment II

ORDINANCE NO.

AN ORDINANCE REPEALING SECTION 2-13.00 TO SECTION 2-13.07 OF THE CITY OF HAYWARD MUNICIPAL CODE AND ADDING CHAPTER 2, ARTICLE 13 TO THE HAYWARD MUNICIPAL CODE REGARDING CAMPAIGN CONTRIBUTION PRACTICES FOR CITY ELECTIVE OFFICES AND BALLOT MEASURES

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Upon the effective date of this ordinance, Hayward Municipal Code Sections 2-13.00 through 2-13.07 are hereby repealed and Article 13 of Chapter 2 of the Hayward Municipal Code is hereby enacted to read in full as follows:

ARTICLE 13

CAMPAIGN CONTRIBUTION PRACTICES FOR CITY
ELECTIVE OFFICES AND BALLOT MEASURES

Section	Subject Matter
2-13.00	PURPOSE
2-13.01	DEFINITIONS
2-13.02	VOLUNTARY EXPENDITURE LIMITS FOR CAMPAIGNS FOR CITY ELECTIVE OFFICES
2-13.03	LIMITATION OF CONTRIBUTIONS FOR CANDIDATES WHO DO NOT ACCEPT VOLUNTARY EXPENDITURE LIMITS
2-13.04	CONTRIBUTION LIMITATIONS FOR CANDIDATES ACCEPTING EXPENDITURE LIMITATIONS
2-13.05	AGGREGATION OF CONTRIBUTIONS
2-13.06	PERSONAL LOANS
2-13.07	NOTIFICATION TO VOTERS
2-13.08	ELECTION CONTEST AND ELECTION TERM
2-13.09	RECALL ELECTIONS

- 2-13.10 NO ANONYMOUS CONTRIBUTIONS
- 2-13.11 MANDATORY DISCLOSURES ON CAMPAIGN COMMUNICATIONS OF CERTAIN CONTRIBUTIONS AND LOANS
- 2-13.12 ENFORCEMENT AND PENALTIES
- 2-13.13 CIVIL LIABILITY FOR VIOLATIONS
- 2-13.14 VIOLATION OF TITLE; PROBABLE CAUSE; HEARING; NOTICE; ORDER

SEC. 2-13.00. PURPOSE.

- a. Through their elected representatives, the people hereby enact the ordinance codified in this chapter in the hopes that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. The ordinance codified in this chapter also seeks to create transparency concerning persons or entities that provide significant financial support for City of Hayward (“City”) ballot measures. Receipts and expenditures in municipal election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.
- b. Local government should serve the needs and respond to the wishes of all citizens equally, without regard to wealth.

SEC. 2-13.01. DEFINITIONS.

- a. “Campaign Communications,” for the purposes of this chapter, means one thousand (1,000) or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers; paid advertisements, including but not limited to advertisements in newspapers, magazines, radio and television promotions, and on the internet; one thousand (1,000) or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month. “Campaign communication” does not include small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard signs, skywriting, and similar items; communications that are the content of a newspaper, radio show, television show, or other recognized news medium; and communications from an organization to its members.
- b. “Candidate,” for the purposes of this chapter, means a candidate for a Hayward municipal elective office. “Candidate” means an individual who is listed on the ballot or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination for or election to any elective office, or who receives a contribution, or makes an expenditure, or gives his or her consent for any other person to receive a contribution or make an expenditure with a view to bringing about his or her nomination or election to any elective office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time. “Candidate” also includes any office-holder who is the subject of a recall election and any candidate for his or her office, but does not include the proponents or opponents of a recall. The proponents or opponents of a recall are for the purposes of this chapter the proponents or opponents of a measure.

- c. “Committee” means any person or combination of persons that directly or indirectly receives contributions which total more than two hundred fifty dollars (\$250) in a calendar year or makes expenditures exceeding more than two hundred fifty dollars (\$250) in a calendar year for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party.
- d. “Contribution” means a gift, subscription, loans not subject to Section 2-13.06, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term “contribution” includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events: a candidate’s own money or property used on behalf of his or her candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this chapter. The term “contribution” further includes a transfer, gift, loans not subject to Section 2-13.06, advance, deposit, forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term “contribution” shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term “contribution” include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars (\$50), nor shall it include food and beverages the value of which for any one event is no more than fifty dollars (\$50).
- e. “Controlled Committee” means a committee either directly or indirectly controlled by a candidate or committee, or which acts jointly with a candidate or controlled committee in the making of expenditures or the receipt or solicitation of contributions. A committee is deemed controlled if another committee or candidate exercises significant influence over its actions or decisions. A committee may be controlled with respect to one or more candidates and independent with respect to other candidates.
- f. “Elective office” means the offices of Members of the City Council and Mayor.
- g. “Entity” means any person other than an individual.

- g. “Independent Committee” means a committee that makes an independent expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate, or the passage or defeat of a measure, and which is made independently from a candidate’s campaign. To be considered independent, the communication may not be made with the cooperation, consultation or in concert with, or at the request or suggestion of, any candidate or his or her authorized committees or a political party, or any of their agents. While there is no limit on how much an independent committee may spend, an independent committee must file a Committee Disclosure Statement and declaration with the City Clerk and disclose the sources of the funds it uses in accordance with Section 2-13.11.
- h. “Majority Owned” shall mean ownership of over fifty percent (50%).
- i. “Measure” means any City Charter amendment, ordinance or other proposition submitted to a popular vote at an election, whether by initiative, referendum or recall procedure or otherwise, or circulated for the purposes of submission to a popular vote at any election, whether or not the proposition qualifies for the ballot.
- j. “Personal Loans” mean a loan or loans, including advances, made to a candidate, where the proceeds of the loan are used in connection with a candidate’s campaign for election. Personal loans also include loans made to a candidate’s controlled committee(s).
- k. “Persons” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.
- l. “Sponsoring Entity” is any person, organization, corporation, or association that contributes at least thirty three percent (33%) of the total funding of the political committee.

SEC. 2-13.02. VOLUNTARY EXPENDITURE LIMITS FOR CAMPAIGNS FOR CITY ELECTIVE OFFICES.

- a. A voluntary expenditure limit of sixty-six thousand nine dollars (\$66,009) per candidate or controlled committee is hereby established for each election to City elective office. The amount established by this section shall be annually adjusted by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the expenditure limit in a visible place in the City Clerk’s Office and on the City’s website.
- b. Prior to accepting any contribution for a campaign, each candidate for City elective office or controlled committee shall file with the Hayward City Clerk a statement of acceptance

or rejection of the voluntary expenditure limit established herein with regard to that campaign.

- c. No candidate for City elective office who accepts the voluntary expenditure limit established herein and no controlled committee of such a candidate shall make campaign expenditures cumulatively in excess of the voluntary expenditure limit established herein.
- d. Each candidate for City elective office or controlled committee who rejects the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in section 2-13.03 of this Article as that section may be amended from time to time.

SEC. 2-13.03 LIMITATION OF CONTRIBUTIONS FOR CANDIDATES WHO DO NOT ACCEPT VOLUNTARY CONTRIBUTION LIMITS

- a. Except as provided hereafter in section 2-13.04 of this Article, no person shall make to any candidate for City elective office, a contribution or contributions totaling more than three hundred fifteen dollars (\$315) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
- b. Except as provided hereafter in section 2-13.04 of this Article, no candidate running for City elective office, or the candidate's controlled committee, shall accept a contribution or contributions totaling more than three hundred fifteen dollars (\$315) per contributor for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
- d. The amounts established by this section shall be adjusted annually by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the contribution limit in a visible place in the City Clerk's Office and on the City's website.
- e. Violation of any of the provisions of this section is subject to the penalties set forth in Section 2-13.12.

SEC. 2-13.04 CONTRIBUTION LIMITATIONS FOR CANDIDATES ACCEPTING EXPENDITURE LIMITATIONS.

- a. If a candidate accepts the expenditure limit set forth in section 2-13.02 of this Article, no person shall make to any candidate for City elective office, or the candidate's controlled committee, a contribution or contributions totaling more than one thousand two hundred ninety-five dollars (\$1,295) for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.
- b. If a candidate accepts the expenditure limit set forth in section 2-13.02 of this Article, no candidate running for City elective office, or the candidate's controlled committee, shall

accept a contribution or contributions totaling more than one thousand two hundred ninety-five (\$1,295) per person for each election in which the candidate is attempting to be on the ballot or is a write-in candidate.

- c. The amounts established by this section shall be adjusted annually by a percentage equal to the San Francisco Bay Area All Urban Consumer Price Index (CPI). The City Clerk shall calculate such increase and post the contribution limit in a visible place in the City Clerk's Office and on the City's website.

SEC. 2-13.05 AGGREGATION OF CONTRIBUTIONS.

- a. The contributions of an entity whose contributions are directed and controlled by any person shall be aggregated with contributions made by that person and any other entity whose contributions are directed and controlled by the same person.
- b. Contributions that are made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person.
- c. Contributions made by a husband and wife shall not be aggregated.

SEC. 2-13.06 PERSONAL LOANS.

- a. A candidate may take out personal bank loans for campaign purposes. Withdrawal of funds from a candidate's personal bank account or savings account does not constitute a bank loan. If a candidate has accepted the voluntary expenditure limits pursuant to Section 2-13.02, any bank loans taken out by the candidate will count towards his or her voluntary expenditure limit.
- b. If any person, including a relative or friend of the candidate, gives or loans the candidate money in connection with his or her campaign, these funds are considered a contribution from the donor to the candidate's campaign, and is subject to the campaign expenditure limits set forth in Sections 2-13.02 and 2-13.03. This is true even if the candidate uses the funds for personal living expenses while campaigning.
- c. Personal bank loans are not considered contributions from the bank. Such loans must be taken out solely in the name of the candidate from a commercial lending institution. If a person cosigns or guarantees a loan with a candidate, even if a relative or friend, that loan would be considered a contribution and subject to the expenditure limits set forth in Sections 2-13.03 and 2-13.04. The candidate must file notice of the loan with the City Clerk within seven (7) days of receiving the loan proceeds. Both the candidate and the commercial lending institution must be disclosed as the sources of the loan.

- d. A candidate who does not accept the voluntary expenditure limits of Section 2-13.02 may make a series of personal loans to his or her campaign as long as the outstanding balance does not exceed one hundred thousand dollars (\$100,000) at the time of making the loans. If a candidate's personal loan balance has reached the one hundred thousand dollar (\$100,000) limit, the loan balance must be reduced before the candidate may make any additional loans to his or her campaign.
- e. Candidates who accept the voluntary expenditure limits of Section 2-13.02 may make a series of personal bank loans to his or her campaign as long as the outstanding balance does not exceed sixty-six thousand nine dollars (\$66,009), or whatever amount constitutes the current voluntary expenditure limit as calculated by the City Clerk, at the time of making the loans. If a candidate's personal bank loan balance has reached the voluntary expenditure limit, the loan balance must be reduced before the candidate may make any additional bank loans to his or her campaign.

SEC. 2-13.07 NOTIFICATION TO VOTERS.

The City Clerk shall publish a listing of candidates for office and indicate whether such candidates have agreed to the voluntary spending limit. This list will be published on the City's website.

SEC. 2-13.08 ELECTION CONTEST AND ELECTION TERM.

- a. The provisions of this Article are applicable to each City of Hayward Municipal election contest for City Elective Office as defined in Section 2-13.01. For the purposes of this Article an election contest shall commence the day following a municipal election for City Elective Office and terminate on the day of the next election for the same City Elective Office.
- b. Notwithstanding subdivision a. of this section, an election contest term may be extended for a period not to exceed one hundred eighty (180) days to allow a candidate to collect funds for the purpose of retiring unpaid debt from the previous election contest. A candidate desiring to extend an election term must file a written notice with the City Clerk within ten (10) days of the election for which the candidate desires to have the term extended. All funds collected to retire the debt referred to in this subdivision shall be subject to the contribution limitations established for the election contest whose term is being extended.
- c. Surplus funds collected and not expended by a candidate for a City Elective Office may be utilized in any subsequent election for a City Elective Office. Such funds shall not be counted as contributions for the purposes of this Article until the election for which the surplus funds are used.

SEC. 2-13.09 RECALL ELECTIONS.

A City officeholder who is the subject of a recall may set up a separate committee to oppose the qualification of the recall measure and, if the recall petition qualifies, the recall election. Neither contribution limits nor voluntary expenditure ceilings apply to the candidate or controlled committee to oppose the recall by the officeholder who is the target of the recall attempt. Candidates running to replace an officeholder who is the target of a recall is subject to Section 2-13.03, unless, within three (3) days of the City Council's call for election, the candidate accepts the voluntary expenditure limits set forth in Section 2-13.02.

SEC. 2-13.10 NO ANONYMOUS CONTRIBUTIONS.

No person shall make an anonymous contribution or contributions to a candidate, committee, or any other person supporting a candidate or ballot measure. An anonymous contribution shall not be kept by the intended recipient, but instead shall be promptly paid to the City Clerk for deposit in the General Fund of the City.

SEC. 2-13.11 MANDATORY DISCLOSURES ON CAMPAIGN COMMUNICATIONS OF CERTAIN CONTRIBUTIONS AND LOANS.

- a. Campaign communications supporting or opposing any candidate or measure that is funded by an independent committee shall include the name of the committee and the phrase "Major Funding Provided By" immediately followed by the legal name of the contributor, the contributor's city of domicile, and the total cumulative sum of contributions by each of the top four (4) contributors over one thousand dollars (\$1,000) to the committee funding the expenditure. Committees shall aggregate contributions from the same person or entity when determining the total cumulative sum of contributions from a contributor.
- b. The disclosures required by this section shall list contributors in descending order by the cumulative total amount of their contributions and shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. For all communications, the complete name of the contributor must be listed. No acronyms may be used. When disclosing the top four contributors, the name of the sponsoring entity must be listed in addition to the contributor's legal name, city of domicile, and total sum of contributions. When listing the sponsoring entity, the sponsoring entity may not be listed as a subsidiary of a larger organization or corporation, but rather the disclosure of the sponsoring entity must list the parent organization or corporation or root source of the contribution. If an independent committee has received two or more contributions of the same amount over one thousand dollars (\$1,000), and the contributions are from the top four donors, then the most recent contribution takes priority on the list. For purposes of this section, "campaign communication" means any of the following items:
 - 1) One thousand (1,000) or more substantially similar pieces of campaign literature, including but not limited to mailers, flyers, pamphlets, and door hangers;
 - 2) Paid advertisements, including but not limited to advertisements in newspapers, magazines, radio and television promotions, and on the internet;

- 3) One thousand (1,000) or more substantially similar e-mails or pre-recorded telephone calls made within a calendar month.
- c. For purposes of this section, “campaign communication” does not include: small promotional items such as pens, pencils, clothing, mugs, potholders, or other items on which the statement required by this section cannot be reasonably printed or displayed in an easily legible typeface; posters, yard signs, skywriting, and similar items; communications that are the content of a newspaper, radio show, television show, or other recognized news medium; and communications from an organization to its members.
 - d. When a new contribution changes the list of contributors required to be disclosed on campaign communications under subsection 2-13.11(a) or subsection 2-13.11(b), campaign communications must be updated on the following schedule:
 - 1) For printed campaign communications under subsection 2-13.11(b)(1) or subsection 2-13.11(b)(2), or for website, radio, or television advertisements, disclosures must be updated within seven calendar days to include current disclosure information every time an order to reproduce the campaign communication is placed, or any time the campaign communication is reprinted;
 - 2) For e-mails or pre-recorded telephone calls under subsection 2-13.11(b)(3), disclosures must be updated to include current disclosure information within three (3) calendar days.
 - e. All internet advertisements that have a gif weight of over twenty (20) kilobytes and a flash weight over thirty (30) kilobytes must have viewable at all times the disclosure set forth in subsection 2-13.11(a) and subsection 2-13.11(b). For internet advertisements that have a gif weight of twenty (20) kilobytes and a flash weight of thirty (30) kilobytes or under, committees are not required to display the language “major funding provided by” as stated in subsection 2-13.11(a) in the actual advertisement display, but rather, must have both rollover content viewable at all times and an ad link to the committee’s website stating the information set forth in subsection 2-13.11(a) and subsection 2-13.11(b).
 - f. For television and radio advertisements that are one minute and under in duration, the television or radio advertisements must clearly and audibly state and show “major funding provided by” immediately followed by the name of the top contributor, the city of domicile, and the total cumulative sum of contributions by the top contributor over one thousand dollars (\$1,000) to the committee funding the expenditure, as well as information set forth in subsection 2-13.11(b). Television and radio advertisements over one (1) minute in duration must audibly state and show the conditions set forth in subsections 2-13.11(a) and 2-13.11(b).
 - g. Section 2-13.11 shall be complied with by all independent committees, for campaign communications for all candidates and all ballot measures. All candidates and committees are subject to the penalties and liabilities set forth in section 2-13.13 and section 2-13.14 for any violations of this section.

- h. All committees subject to this section, and with contributions totaling two hundred fifty dollars (\$250) or more, shall file with the City Clerk a Committee Disclosure Statement within ten (10) days after it has formed as a committee. The “Committee Disclosure Statement” shall include, but is not limited to, Form 410 and Form 460 of the California Fair Political Practices Commission (“FPPC”), and other relevant FPPC forms. All committees shall also file a declaration stating the following:
 - 1) The names and addresses of all sponsoring entities and parent corporations;
 - 2) The disposition of surplus funds which will be made in the event of dissolution;
- i. A committee must file an amended Committee Disclosure Statement within ten (10) days of any change to the information required in the Committee Disclosure Statement or declaration.
- j. No person or committee shall engage in any form of campaign communication until it has filed a Committee Disclosure Statement and declaration with the City Clerk in accordance with subdivision 2-13.11(h).
- k. If there is reason to believe that a candidate or committee has engaged in conduct detrimental to the purposes of this Article, or it is found that a candidate or committee attempted to circumvent the purposes of this Article, a candidate or committee may be subject to the enforcement procedures and penalties set forth in Section 2-13.12, Section 2-13.13, and Section 2-13.14.

SEC. 2-13.12 ENFORCEMENT AND PENALTIES.

- a. Any person who knowingly or willfully violates any provision of this Article is guilty of a misdemeanor.
- b. In addition to other penalties provided by law, a fine of up to one thousand dollars (\$1,000) for each violation of this Article may be imposed.
- c. Prosecution for violations of this title must be commenced within four (4) years of the date on which the violation occurred.

SEC. 2-13.13 CIVIL LIABILITY FOR VIOLATIONS.

- a. Any person who violates any provision of this Article shall be liable in a civil action brought by either the district attorney or independent counsel, appointed by the City Attorney, for an amount up to one thousand dollars (\$1,000) per violation of this Article.
- b. No civil action alleging a violation of this Article may be filed against a person pursuant to this section if a criminal prosecution arising out of the same allegation is pending.

SEC. 2-13.14 VIOLATION OF TITLE; PROBABLE CAUSE; HEARING; NOTICE; ORDER.

- a. If evidence of a violation of this Article is presented to the City Clerk, she/he shall:
 - 1) Send written notice to the candidate or committee of the alleged violation;
 - 2) Order a candidate or committee file any reports, statements, or other documents or information pertinent to evaluating whether a violation has occurred;
 - 3) Request that the alleged violation must be corrected within three (3) calendar days of the date on the written notice;
 - 4) If no correction has been made within the allotted time, the City Clerk shall consult with the City Attorney to determine if probable cause exists to either refer the matter to the District Attorney or appoint an independent counsel to serve as a hearing officer. Such hearing officer shall not be an employee of the City.
 - 5) If after a hearing it is determined that a violation has occurred, the candidate or committee shall cease and desist all contributions, expenditures, and campaign communications, and pay a monetary penalty of up to one thousand dollars (\$1,000) per violation, or up to the amount or value of the unlawful or undisclosed contribution or expenditure, whichever is greater, to the General Fund of the City.
- b. In the event that the matter is referred to a hearing officer, notice shall be given and a hearing will be conducted in accordance with the Administrative Procedures Act contained in the California Government Code.
- c. If it is determined, after a hearing, that no violation of this Article has occurred, an order stating such shall be prepared.

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. In accordance with the provisions of Section 620 of the City Charter, this ordinance regarding elections shall become effective upon its adoption.

Section 4. This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3, of the California Code of Regulations) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) of the CEQA Guidelines (because it has no potential for resulting in physical change to the environment, directly or indirectly).

IN COUNCIL INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the __ day of __, 2015, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held
the ____ day of ____, 2015, by the following votes of members of said City Council.

AYES:
NOES:
ATTEST:
ABSENT:

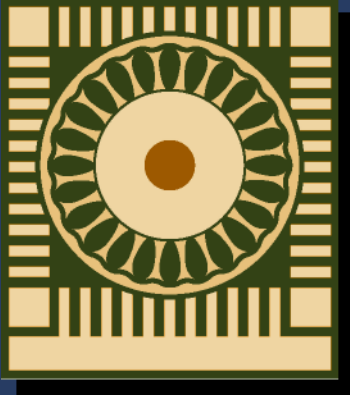
APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF
HAYWARD
HEART OF THE BAY

Discussion:

Work Session on Campaign Disclosure Practices for City Elective Offices and Ballot Measures

Presented By:

- Michael Lawson, City Attorney
- Justin Nishioka, Deputy City Attorney





The Current Regulation

- **Article 13**
- **Regulation of expenditures for Mayor and City Council**
- **\$250 Cap for those who decline voluntary expenditure limits (now \$315)**
- **Voluntary Limits= \$50K Expenditure Cap (now \$66,009) and \$1,000 (now \$1,295) Contribution Cap**
- **No Required Disclosures**





Measures Unregulated





Campaign Disclosures on Campaign Materials

- Top 4 Contributors Disclosed
(must be more than \$500)
- Contributor's City of Domicile
- Total Sum of Contributions





Example of Compliant Disclosure



ELECT **BARACK OBAMA** AS HAYWARD COMPTROLLER

Paid for by Obama for Hayward

***Major Funding Provided by: Dwayne Johnson, Los Angeles, CA, \$1000; Gene Dodaro, Washington, DC, \$1000;
Kristi Yamaguchi, Berkeley, CA \$600; Michelle Obama, Washington, DC, \$501.***





What Requires the Disclosures?

- 500 or more pieces of campaign literature (e.g. flyers, mailers, pamphlets, door hangers, etc.)
- Newspaper Ads
- Web Ads
- TV Ads
- Radio Ads
- Robocalls
- Mass emails
- Note- Still bound by FPCC requirement to make disclosures on campaign literature sent to over 200 recipients.



Required Updates to Contributor Lists

- Updates to campaign communications if a candidate or committee's top contributors change.
- Disclosure of most recent top contributors get priority.
- No Anonymous Donations.





Committees

- Person or persons who spend \$250 or more to influence election.
- Statement of Organization.
- Disclosure of top donors in campaign communications.



Personal Loans to fund Campaigns

LOAN APPLICATION

Personal Information		(First)	(Middle Initial)	Home Telephone
Name (Last)	PUBLIC	JOHN		(11)11 - 1111
Address (Mailing Address)	12345 MAIN STREET	ANYWHERE	State	Zip
E-Mail Address	JQPJQPJQP@JQPJQP		22	999999
Services needed		APPLICANTS UNDER REVIEW		
UNDER REVIEW		SUBJECT		
		REVIEW		

APPROVED



CA Fair Political Practices Commission (FPPC)

- How do the FPPC regulations interact with the proposed regulations?
- FPPC regulates State and local elections for offices and ballot measures.
- FPPC expenditure limits are only for statewide campaigns. Cities decide own expenditure limits.
- Top 10 contributors to committee must be disclosed to FPPC (for both campaigns and ballot measures). This list is posted on the FPPC website. Candidate controlled committees must be reported to FPPC. Committees must report contributions of \$5,000 or more to other committees. (CA Code of Regulations section 18422.5).
- FPPC requires a 'Statement of Organization' for committees. (18410).
- FPPC does not allow anonymous donations of \$100 or more. (18401).
- FPPC has \$100,000 personal loan maximum for candidates. (18530.8).
- FPPC requires campaign disclosures for any communication that has 200+ recipients. (18435).
- FPPC requires disclosure of major donors (donors of \$50,000 or more). If a committee is candidate controlled, then must disclose candidate's name. (18450.3 & 18450.4).
- FPPC requires disclosure of paid spokespersons (paid \$5,000 or more). (18450.11).



FPPC Compliant Disclosure





Questions to Consider

- Do the proposed campaign and contribution disclosures add effectively to transparency and provide meaningful information to voters?





Questions to Consider

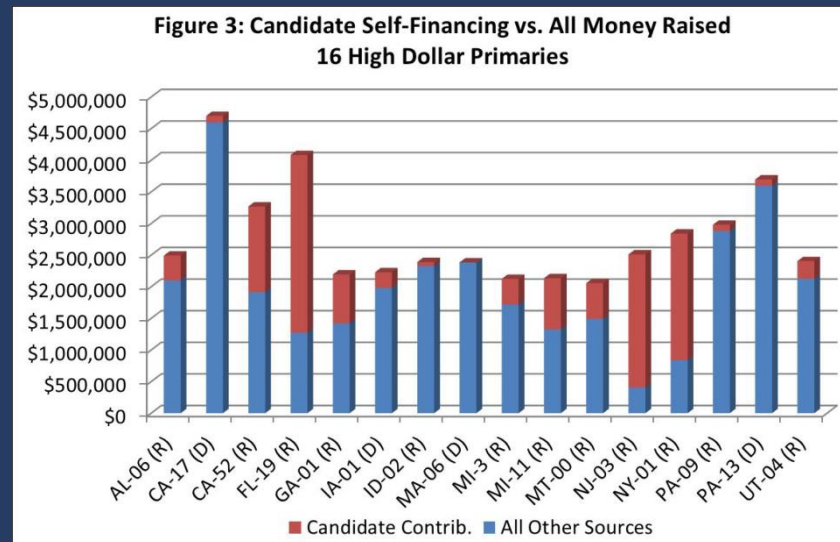
- How much money should the threshold be for what constitutes a top donor ? (currently proposed at more than \$500)





Questions to Consider

- Should candidates be able to take out loans to finance their campaigns over the \$1,295 limit? Should there be different personal loan maximums for candidates who accept the voluntary expenditure limits versus candidates who do not accept the expenditure limits? What should the maximum loan amount be?





Questions to Consider

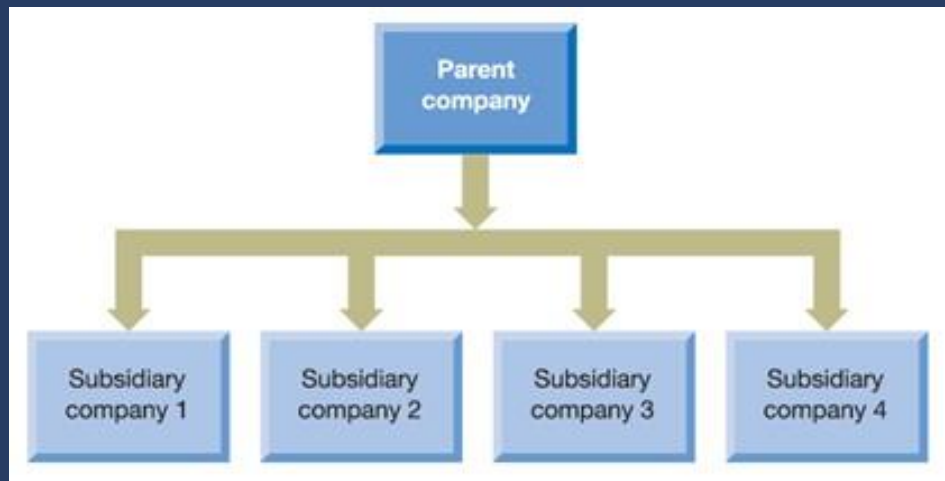
- What kinds of campaign materials should be exempt from the campaign disclosure (e.g. pens, mugs, t-shirts, etc.)?





Questions to Consider

- Should entities created specifically for the purpose of a City campaign be required to disclose the parent entity (e.g. “Cats for All” is an entity created and funded by President Barack Obama or The Rock brothers)?



Conclusion

- Freedom of expression vs. Unchecked flow of \$ to campaigns
- No silver bullet: regulations could conceivably be evaded
- This is an important issue- we are deciding what the future of our democratic system will look like.

